

AN ACT

relating to the electronic administration of certain required assessment instruments, measures to support Internet connectivity for purposes of those assessment instruments, the adoption and administration of certain optional interim assessment instruments, the review and use of the instructional materials and technology allotment, and requests for production of instructional materials.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.0211, Education Code, is amended by amending Subsections (c) and (d) and adding Subsection (d-1) to read as follows:

(c) Funds [~~Subject to Subsection (d), funds~~] allotted under this section may be used to:

(1) purchase:

(A) materials on the list adopted by the commissioner, as provided by Section 31.0231;

(B) instructional materials, regardless of whether the instructional materials are on the list adopted under Section 31.024;

(C) consumable instructional materials, including workbooks;

(D) instructional materials for use in bilingual education classes, as provided by Section 31.029;

(E) instructional materials for use in college

1 preparatory courses under Section 28.014, as provided by Section
2 31.031;

3 (F) supplemental instructional materials, as
4 provided by Section 31.035;

5 (G) state-developed open education resource
6 instructional materials, as provided by Subchapter B-1;

7 (H) instructional materials and technological
8 equipment under any continuing contracts of the district in effect
9 on September 1, 2011;

10 (I) technological equipment necessary to support
11 the use of materials included on the list adopted by the
12 commissioner under Section 31.0231 or any instructional materials
13 purchased with an allotment under this section; ~~and~~

14 (J) inventory software or systems for storing,
15 managing, and accessing instructional materials and analyzing the
16 usage and effectiveness of the instructional materials; and

17 (K) services, equipment, and technology
18 infrastructure necessary to ensure Internet connectivity and
19 adequate bandwidth; and

20 (2) pay:

21 (A) for training educational personnel directly
22 involved in student learning in the appropriate use of
23 instructional materials and for providing for access to
24 technological equipment for instructional use; ~~and~~

25 (B) for training personnel in the electronic
26 administration of assessment instruments; and

27 (C) the salary and other expenses of an employee

1 who provides technical support for the use of technological
2 equipment directly involved in student learning.

3 (d) Each biennium the commissioner shall assess the
4 technology needs for all school districts and provide an estimate
5 of the cost for these resources to the State Board of Education [~~a~~
6 ~~school district shall use the district's allotment under this~~
7 ~~section to purchase, in the following order:~~

8 [~~(1) instructional materials necessary to permit the~~
9 ~~district to certify that the district has instructional materials~~
10 ~~that cover all elements of the essential knowledge and skills of the~~
11 ~~required curriculum, other than physical education, for each grade~~
12 ~~level as required by Section 28.002; and~~

13 [~~(2) any other instructional materials or~~
14 ~~technological equipment as determined by the district].~~

15 (d-1) In purchasing technological equipment, a school
16 district shall:

17 (1) secure technological solutions that meet the
18 varying and unique needs of students and teachers in the district;
19 and

20 (2) consider:

21 (A) the long-term cost of ownership; and

22 (B) flexibility for innovation.

23 SECTION 2. Section 31.022, Education Code, is amended by
24 amending Subsection (g) and adding Subsection (i) to read as
25 follows:

26 (g) In determining the disbursement of money to the
27 available school fund and the amount of that disbursement that will

1 be used, in accordance with Section 43.001(d), to fund the
2 instructional materials and technology allotment under Section
3 31.0211, the board must consider the cost of all district
4 technology requirements, as estimated by the commissioner under
5 Section 31.0211(d), and instructional materials for that state
6 fiscal biennium. [In reviewing and adopting instructional
7 materials, the board shall consider a school district's need for
8 technology as well as instructional materials and in any biennium
9 may limit the adoption of instructional materials to provide
10 sufficient resources to purchase technology resources, including
11 digital curriculum.]

12 (i) During any state fiscal biennium beginning on or after
13 September 1, 2023, the total projected cost of instructional
14 materials under requests for production issued by the board may not
15 exceed 75 percent of the total amount used to fund the instructional
16 materials and technology allotment under Section 31.0211 for that
17 biennium.

18 SECTION 3. Subchapter B, Chapter 32, Education Code, is
19 amended by adding Section 32.037 to read as follows:

20 Sec. 32.037. GRANT PROGRAM FOR TRANSITION TO ELECTRONIC
21 ADMINISTRATION OF ASSESSMENT INSTRUMENTS. (a) The commissioner
22 may establish a matching grant program to ensure that all school
23 districts and open-enrollment charter schools have the necessary
24 infrastructure to administer assessment instruments electronically
25 in accordance with the transition plan developed under Section
26 39.02341.

27 (b) In establishing the grant program, the commissioner

1 may:

2 (1) set eligibility criteria to receive a matching
3 grant under the program; and

4 (2) contract with developers of technology as
5 necessary to ensure the most efficient and cost-effective
6 implementation of Internet connectivity infrastructure for
7 electronic administration of assessment instruments.

8 (c) In awarding grants under the grant program, the
9 commissioner:

10 (1) shall prioritize applicants seeking funding for
11 one-time investments in broadband network infrastructure; and

12 (2) if funds are available after grants are awarded to
13 each eligible applicant described by Subdivision (1), may award
14 grants to applicants seeking funding for annual bandwidth and
15 personnel costs associated with electronic administration of
16 assessment instruments.

17 (d) This section expires September 1, 2025.

18 SECTION 4. Sections 39.023(c-3), (c-8), and (o), Education
19 Code, are amended to read as follows:

20 (c-3) Except as provided by Subsection (c-7) or as otherwise
21 provided by this subsection, in adopting a schedule for the
22 administration of assessment instruments under this section, the
23 State Board of Education shall ensure that assessment instruments
24 administered under Subsection (a) or (c) are not administered on
25 the first instructional day of a week. On request by a school
26 district or open-enrollment charter school, the commissioner may
27 allow the district or school to administer an assessment instrument

1 required under Subsection (a) or (c) on the first instructional day
2 of a week if administering the assessment instrument on another
3 instructional day would result in a significant administrative
4 burden due to specific local conditions.

5 (c-8) Beginning with the 2022-2023 school year, not more
6 than 75 percent of the available points on an assessment instrument
7 developed under Subsection (a) or (c) may be attributable to [~~not~~
8 ~~present more than 75 percent of the~~] questions presented in a
9 multiple choice format.

10 (o) The agency shall adopt or develop optional interim
11 assessment instruments for each subject or course for each grade
12 level subject to assessment under this section. A school district
13 or open-enrollment charter school may not be required to administer
14 interim assessment instruments adopted or developed under this
15 subsection. An interim assessment instrument:

16 (1) must be:

17 (A) when possible, predictive of the assessment
18 instrument for the applicable subject or course for that grade
19 level required under this section; and

20 (B) administered electronically; and

21 (2) may not be used for accountability purposes.

22 SECTION 5. Section 39.0234, Education Code, is amended to
23 read as follows:

24 Sec. 39.0234. ELECTRONIC ADMINISTRATION OF ASSESSMENT
25 INSTRUMENTS. (a) Each [~~The agency shall ensure that~~] assessment
26 instrument [~~instruments~~] required under Section 39.023(a), (c), or
27 (1) must be [~~39.023 are capable of being~~] administered

1 electronically, unless otherwise provided by commissioner rule.

2 (b) The agency may recommend, but may not require, that a
3 school district make external keyboards available for student use
4 with tablet devices for the electronic administration of an
5 assessment instrument, including any portion of an assessment
6 instrument that contains constructed response or essay items.

7 SECTION 6. Sections 39.02341(a) and (b), Education Code,
8 are amended to read as follows:

9 (a) The agency, in consultation with the State Board of
10 Education, shall develop a transition plan to administer all
11 assessment instruments required under Sections 39.023(a), (c), and
12 (1) [Section 39.023] electronically beginning not later than the
13 2022-2023 school year. The plan must:

14 (1) evaluate the availability of Internet access for
15 each school district in this state;

16 (2) identify changes to state law or policy necessary
17 to improve the availability of Internet access described by
18 Subdivision (1);

19 (3) evaluate the state's experience with administering
20 online assessment instruments, including the occurrence or effects
21 of power outages or other types of disruptions of Internet service,
22 and actions taken by the state to mitigate the occurrence and effect
23 of those disruptions; and

24 (4) identify and evaluate actions taken by the state
25 to improve the administration of online assessment instruments.

26 (b) The agency shall implement the transition plan
27 beginning on September 1, 2021. [~~In order to ensure legislative~~

1 ~~approval of the transition plan, this subsection expires August 31,~~
2 ~~2021.]~~

3 SECTION 7. (a) Except as provided by Subsection (b) of this
4 section, this Act applies beginning with the 2021-2022 school year.

5 (b) Section [39.0234](#), Education Code, as amended by this Act,
6 applies beginning with the 2022-2023 school year.

7 SECTION 8. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section [39](#), Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 3261 was passed by the House on May 8, 2021, by the following vote: Yeas 136, Nays 4, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3261 on May 28, 2021, by the following vote: Yeas 143, Nays 2, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3261 was passed by the Senate, with amendments, on May 22, 2021, by the following vote: Yeas 29, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor