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AN ACT

relating to the foundation curriculum, the establishment of the instructional materials allotment, and the adoption, review, and purchase of instructional materials and technological equipment for public schools; providing penalties.

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

SECTION 1. Chapter 5, Education Code, is amended by adding Section 5.002 to read as follows:

Sec. 5.002. REFERENCES TO TEXTBOOK. In this title, a reference to a textbook means instructional material, as defined by Section 31.002.

SECTION 2. Subdivision (28), Subsection (b), Section 7.055, Education Code, is amended to read as follows:

(28) The commissioner shall perform duties relating to the funding, adoption, and purchase of instructional materials [~~textbooks~~] under Chapter 31.

SECTION 3. Subsection (f), Section 7.056, Education Code, is amended to read as follows:

(f) A school district or campus that is required to develop and implement a student achievement improvement plan under Section 39.102 or 39.103 may receive an exemption or waiver under this section from any law or rule other than:

(1) a prohibition on conduct that constitutes a criminal offense;

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- 1 (2) a requirement imposed by federal law or rule;
- 2 (3) a requirement, restriction, or prohibition
- 3 imposed by state law or rule relating to:
- 4 (A) public school accountability as provided by
- 5 Subchapters B, C, D, E, and J, Chapter 39; or
- 6 (B) educator rights and benefits under
- 7 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
- 8 A, Chapter 22; or
- 9 (4) [~~textbook~~] selection of instructional materials
- 10 under Chapter 31.

11 SECTION 4. Subdivision (23), Subsection (c), Section 7.102,
12 Education Code, is amended to read as follows:

13 (23) The board shall adopt and purchase or license
14 instructional materials [~~textbooks~~] as provided by Chapter 31 and
15 adopt rules required by that chapter.

16 SECTION 5. Subsections (a) and (c), Section 7.108,
17 Education Code, are amended to read as follows:

18 (a) A person interested in selling bonds of any type or a
19 person engaged in manufacturing, shipping, selling, or advertising
20 instructional materials [~~textbooks or otherwise connected with the~~
21 ~~textbook business~~] commits an offense if the person makes or
22 authorizes a political contribution to or takes part in, directly
23 or indirectly, the campaign of any person seeking election to or
24 serving on the board.

25 (c) In this section:

26 (1) "Instructional material" has the meaning assigned
27 by Section 31.002.

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1 (2) "Political contribution" has the meaning assigned
2 by Section 251.001, Election Code.

3 ~~[(2) "Textbook" has the meaning assigned by Section~~
4 ~~31.002.]~~

5 SECTION 6. The heading to Section 7.112, Education Code, is
6 amended to read as follows:

7 Sec. 7.112. REPRESENTATION OF [~~TEXTBOOK~~] PUBLISHER OF
8 INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

9 SECTION 7. Subsection (a), Section 7.112, Education Code,
10 is amended to read as follows:

11 (a) A former member of the State Board of Education who is
12 employed by or otherwise receives compensation from a [~~textbook~~]
13 publisher of instructional materials may not, before the second
14 anniversary of the date on which the person last served as a member
15 of the State Board of Education:

16 (1) confer with a member of the board of trustees of a
17 school district concerning instructional materials [~~a textbook~~]
18 published by that [~~textbook~~] publisher; or

19 (2) appear at a meeting of the board of trustees on
20 behalf of the [~~textbook~~] publisher.

21 SECTION 8. Subdivision (2), Subsection (c), Section 7.112,
22 Education Code, is amended to read as follows:

23 (2) "Instructional material" and "publisher"
24 [~~"Publisher" and "textbook"~~] have the meanings assigned by Section
25 31.002.

26 SECTION 9. Subsection (b), Section 11.158, Education Code,
27 is amended to read as follows:

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- 1 (b) The board may not charge fees for:
- 2 (1) instructional materials [~~textbooks~~], workbooks,
- 3 laboratory supplies, or other supplies necessary for participation
- 4 in any instructional course except as authorized under this code;
- 5 (2) field trips required as a part of a basic education
- 6 program or course;
- 7 (3) any specific form of dress necessary for any
- 8 required educational program or diplomas;
- 9 (4) the payment of instructional costs for necessary
- 10 school personnel employed in any course or educational program
- 11 required for graduation;
- 12 (5) library materials [~~books~~] required to be used for
- 13 any educational course or program, other than fines for lost,
- 14 damaged, or overdue materials [~~books~~];
- 15 (6) admission to any activity the student is required
- 16 to attend as a prerequisite to graduation;
- 17 (7) admission to or examination in any required
- 18 educational course or program; or
- 19 (8) lockers.

20 SECTION 10. Subsection (a), Section 11.164, Education Code,
21 is amended to read as follows:

22 (a) The board of trustees of each school district shall
23 limit redundant requests for information and the number and length
24 of written reports that a classroom teacher is required to prepare.
25 A classroom teacher may not be required to prepare any written
26 information other than:

- 27 (1) any report concerning the health, safety, or

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- 1 welfare of a student;
- 2 (2) a report of a student's grade on an assignment or
- 3 examination;
- 4 (3) a report of a student's academic progress in a
- 5 class or course;
- 6 (4) a report of a student's grades at the end of each
- 7 grade reporting period;
- 8 (5) a [~~textbook~~] report on instructional materials;
- 9 (6) a unit or weekly lesson plan that outlines, in a
- 10 brief and general manner, the information to be presented during
- 11 each period at the secondary level or in each subject or topic at
- 12 the elementary level;
- 13 (7) an attendance report;
- 14 (8) any report required for accreditation review;
- 15 (9) any information required by a school district that
- 16 relates to a complaint, grievance, or actual or potential
- 17 litigation and that requires the classroom teacher's involvement;
- 18 or
- 19 (10) any information specifically required by law,
- 20 rule, or regulation.

21 SECTION 11. Subsection (e), Section 19.007, Education Code,
22 is amended to read as follows:

23 (e) The district may participate in the instructional
24 materials [~~textbook~~] program under Chapter 31.

25 SECTION 12. Subsections (a) and (c), Section 26.006,
26 Education Code, are amended to read as follows:

27 (a) A parent is entitled to:

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1 (1) review all teaching materials, instructional
2 materials [~~textbooks~~], and other teaching aids used in the
3 classroom of the parent's child; and

4 (2) review each test administered to the parent's
5 child after the test is administered.

6 (c) A student's parent is entitled to request that the
7 school district or open-enrollment charter school the student
8 attends allow the student to take home any instructional materials
9 [~~textbook~~] used by the student. Subject to the availability of the
10 instructional materials [~~a textbook~~], the district or school shall
11 honor the request. A student who takes home instructional
12 materials [~~a textbook~~] must return the instructional materials
13 [~~textbook~~] to school at the beginning of the next school day if
14 requested to do so by the student's teacher. In this subsection,
15 "instructional material" [~~"textbook"~~] has the meaning assigned by
16 Section 31.002.

17 SECTION 13. Subsections (a), (c), (h), and (n), Section
18 28.002, Education Code, are amended to read as follows:

19 (a) Each school district that offers kindergarten through
20 grade 12 shall offer, as a required curriculum:

- 21 (1) a foundation curriculum that includes:
 - 22 (A) English language arts;
 - 23 (B) mathematics;
 - 24 (C) science; and
 - 25 (D) social studies, consisting of Texas, United
26 States, and world history, government, economics, with emphasis on
27 the free enterprise system and its benefits, and geography; and

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- 1 (2) an enrichment curriculum that includes:
- 2 (A) to the extent possible, languages other than
- 3 English;
- 4 (B) health, with emphasis on the importance of
- 5 proper nutrition and exercise;
- 6 (C) physical education;
- 7 (D) fine arts;
- 8 (E) [~~economics, with emphasis on the free~~
- 9 ~~enterprise system and its benefits,~~
- 10 [~~F~~] career and technology education;
- 11 (F) [~~G~~] technology applications; and
- 12 (G) [~~H~~] religious literature, including the
- 13 Hebrew Scriptures (Old Testament) and New Testament, and its impact
- 14 on history and literature.

15 (c) The State Board of Education, with the direct

16 participation of educators, parents, business and industry

17 representatives, and employers shall by rule identify the essential

18 knowledge and skills of each subject of the required curriculum

19 that all students should be able to demonstrate and that will be

20 used in evaluating instructional materials [~~textbooks~~] under

21 Chapter 31 and addressed on the assessment instruments required

22 under Subchapter B, Chapter 39. As a condition of accreditation,

23 the board shall require each district to provide instruction in the

24 essential knowledge and skills at appropriate grade levels.

25 (h) The State Board of Education and each school district

26 shall foster the continuation of the tradition of teaching United

27 States and Texas history and the free enterprise system in regular

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1 subject matter and in reading courses and in the adoption of
2 instructional materials [~~textbooks~~]. A primary purpose of the
3 public school curriculum is to prepare thoughtful, active citizens
4 who understand the importance of patriotism and can function
5 productively in a free enterprise society with appreciation for the
6 basic democratic values of our state and national heritage.

7 (n) The State Board of Education may by rule develop and
8 implement a plan designed to incorporate foundation curriculum
9 requirements into the career and technology education curriculum
10 under Subsection (a)(2)(E) [~~(a)(2)(F)~~].

11 SECTION 14. Subsections (a) and (d), Section 28.0022,
12 Education Code, are amended to read as follows:

13 (a) Not later than November 1, 2007, the agency shall
14 establish a panel under this section to:

15 (1) review and recommend revisions to the career and
16 technical education curriculum under Section 28.002(a)(2)(E)
17 [~~28.002(a)(2)(F)~~]; and

18 (2) review and recommend revisions for the program in
19 which high schools and articulated postsecondary institutions
20 allow high school students to take advanced technical credit
21 courses.

22 (d) Not later than November 1, 2008, the panel shall:

23 (1) complete the review as required by this section
24 of:

25 (A) the career and technical education
26 curriculum; and

27 (B) the program under which high schools and

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1 articulated postsecondary institutions allow high school students
2 to take advanced technical credit courses; and

3 (2) make recommendations to the State Board of
4 Education as necessary to:

5 (A) increase the academic rigor of the career and
6 technical education curriculum under Section 28.002(a)(2)(E)
7 [~~28.002(a)(2)(F)~~]; and

8 (B) improve and increase participation in the
9 program under which high schools and articulated postsecondary
10 institutions allow high school students to take advanced technical
11 credit courses.

12 SECTION 15. Subsection (b), Section 28.003, Education Code,
13 is amended to read as follows:

14 (b) In this section, "educational program" means a course or
15 series of courses in the required curriculum under Section 28.002,
16 other than a fine arts course under Section 28.002(a)(2)(D) or a
17 career and technology course under Section 28.002(a)(2)(E)
18 [~~28.002(a)(2)(F)~~].

19 SECTION 16. Subsection (c), Section 28.011, Education Code,
20 is amended to read as follows:

21 (c) A student may not be required to use a specific
22 translation as the sole text of the Hebrew Scriptures or New
23 Testament and may use as the basic instructional material
24 [~~textbook~~] a different translation of the Hebrew Scriptures or New
25 Testament from that chosen by the board of trustees of the student's
26 school district or the student's teacher.

27 SECTION 17. The heading to Chapter 31, Education Code, is

1 amended to read as follows:

2 CHAPTER 31. INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

3 SECTION 18. Section 31.001, Education Code, is amended to
4 read as follows:

5 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].
6 Instructional materials [~~Textbooks~~] selected for use in the public
7 schools shall be furnished without cost to the students attending
8 those schools. Except as provided by Section 31.104(d), a school
9 district may not charge a student for instructional material or
10 technological equipment purchased by the district with the
11 district's instructional materials allotment.

12 SECTION 19. Subdivisions (1), (1-a), (2), and (4), Section
13 31.002, Education Code, are amended to read as follows:

14 (1) "Instructional material" [~~"Electronic textbook"~~]
15 means content that conveys the essential knowledge and skills of a
16 subject in the public school curriculum through a medium or a
17 combination of media for conveying information to a student. The
18 term includes a book, supplementary materials, a combination of a
19 book, workbook, and supplementary materials, computer software,
20 [~~interactive videodisc,~~] magnetic media, DVD, CD-ROM, computer
21 courseware, on-line services, or an electronic medium, or other
22 means of conveying information to the student or otherwise
23 contributing to the learning process through electronic means,
24 including [~~an~~] open-source instructional material [~~textbook~~].

25 (1-a) "Open-source instructional material"
26 [~~textbook~~] means [~~an~~] electronic instructional material
27 [~~textbook~~] that is available for downloading from the Internet at

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1 no charge to a student and without requiring the purchase of an
2 unlock code, membership, or other access or use charge, except for a
3 charge to order an optional printed copy of all or part of the
4 instructional material [~~textbook~~]. The term includes [a]
5 state-developed open-source instructional material [~~textbook~~]
6 purchased under Subchapter B-1.

7 (2) "Publisher" includes an on-line service or a
8 developer or distributor of [~~an~~] electronic instructional
9 materials [~~textbook~~].

10 (4) "Technological equipment" means hardware, a
11 device, or equipment necessary for:

12 (A) instructional use in the classroom,
13 including to gain access to or enhance the use of [~~an~~] electronic
14 instructional materials [~~textbook~~]; or

15 (B) professional use by a classroom teacher.

16 SECTION 20. Subchapter A, Chapter 31, Education Code, is
17 amended by amending Sections 31.003 and 31.004 and adding Section
18 31.005 to read as follows:

19 Sec. 31.003. RULES. The State Board of Education may adopt
20 rules, consistent with this chapter, for the adoption, requisition,
21 distribution, care, use, and disposal of instructional materials
22 [~~textbooks~~].

23 Sec. 31.004. CERTIFICATION OF PROVISION OF [~~TEXTBOOKS,~~
24 ~~ELECTRONIC TEXTBOOKS, AND~~] INSTRUCTIONAL MATERIALS. (a) Each
25 school district and open-enrollment charter school shall annually
26 certify to the State Board of Education and the commissioner that,
27 for each subject in the required curriculum under Section 28.002,

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1 other than physical education, and each grade level, the district
2 provides each student with [~~textbooks, electronic textbooks, or~~]
3 instructional materials that cover all elements of the essential
4 knowledge and skills adopted by the State Board of Education for
5 that subject and grade level.

6 (b) To determine whether each student has instructional
7 materials that cover all elements of the essential knowledge and
8 skills as required by Subsection (a), a school district or
9 open-enrollment charter school may consider:

10 (1) instructional materials adopted by the State Board
11 of Education;

12 (2) materials adopted or purchased by the commissioner
13 under Section 31.0231 or Subchapter B-1;

14 (3) open-source instructional materials submitted by
15 eligible institutions and adopted by the State Board of Education
16 under Section 31.0241;

17 (4) open-source instructional materials made
18 available by other public schools; and

19 (5) instructional materials developed or purchased by
20 the school district or open-enrollment charter school.

21 Sec. 31.005. FUNDING FOR OPEN-ENROLLMENT CHARTER SCHOOLS.

22 An open-enrollment charter school is entitled to the instructional
23 materials allotment under this chapter and is subject to this
24 chapter as if the school were a school district.

25 SECTION 21. The heading to Section 31.021, Education Code,
26 is amended to read as follows:

27 Sec. 31.021. STATE INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~]

1 FUND.

2 SECTION 22. Section 31.021, Education Code, is amended by
3 amending Subsections (a) and (d) and adding Subsection (c) to read
4 as follows:

5 (a) The state instructional materials [~~textbook~~] fund
6 consists of:

7 (1) an amount set aside by the State Board of Education
8 from the available school fund, in accordance with Section
9 43.001(d); and

10 (2) [~~all funds accruing from the state's sale of~~
11 ~~discused textbooks; and~~

12 [~~3~~] all amounts lawfully paid into the fund from any
13 other source.

14 (c) Money in the state instructional materials fund shall be
15 used to:

16 (1) fund the instructional materials allotment, as
17 provided by Section 31.0211;

18 (2) purchase special instructional materials for the
19 education of blind and visually impaired students in public
20 schools;

21 (3) pay the expenses associated with the instructional
22 materials adoption and review process under this chapter;

23 (4) pay the expenses associated with the purchase or
24 licensing of open-source instructional material;

25 (5) pay the expenses associated with the purchase of
26 instructional material, including intrastate freight and shipping
27 and the insurance expenses associated with intrastate freight and

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1 shipping;

2 (6) fund the technology lending grant program
3 established under Section 32.201; and

4 (7) provide funding to the Texas School for the Blind
5 and Visually Impaired, the Texas School for the Deaf, and the Texas
6 Youth Commission.

7 (d) Money transferred to the state instructional materials
8 ~~[textbook]~~ fund remains in the fund until spent and does not lapse
9 to the state at the end of the fiscal year.

10 SECTION 23. Subchapter B, Chapter 31, Education Code, is
11 amended by adding Sections 31.0211, 31.0212, 31.0213, and 31.0214
12 to read as follows:

13 Sec. 31.0211. INSTRUCTIONAL MATERIALS ALLOTMENT. (a) A
14 school district is entitled to an annual allotment from the state
15 instructional materials fund for each student enrolled in the
16 district on a date during the preceding school year specified by the
17 commissioner. The commissioner shall determine the amount of the
18 allotment per student each year on the basis of the amount of money
19 available in the state instructional materials fund to fund the
20 allotment. An allotment under this section shall be transferred
21 from the state instructional materials fund to the credit of the
22 district's instructional materials account as provided by Section
23 31.0212.

24 (b) A juvenile justice alternative education program under
25 Section 37.011 is entitled to an allotment from the state
26 instructional materials fund in an amount determined by the
27 commissioner. The program shall use the allotment to purchase

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1 items listed in Subsection (c) for students enrolled in the
2 program. The commissioner's determination under this subsection is
3 final and may not be appealed.

4 (c) Subject to Subsection (d), funds allotted under this
5 section may be used to:

6 (1) purchase:

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

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

12 (C) consumable instructional materials,
13 including workbooks;

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

16 (E) supplemental instructional materials, as
17 provided by Section 31.035;

18 (F) state-developed open-source instructional
19 materials, as provided by Subchapter B-1;

20 (G) instructional materials and technological
21 equipment under any continuing contracts of the district in effect
22 on September 1, 2011; and

23 (H) technological equipment necessary to support
24 the use of materials included on the list adopted by the
25 commissioner under Section 31.0231 or any instructional materials
26 purchased with an allotment under this section; and

27 (2) pay:

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1 (A) for training educational personnel directly
2 involved in student learning in the appropriate use of
3 instructional materials and for providing for access to
4 technological equipment for instructional use; and

5 (B) the salary and other expenses of an employee
6 who provides technical support for the use of technological
7 equipment directly involved in student learning.

8 (d) Each year a school district shall use the district's
9 allotment under this section to purchase, in the following order:

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

15 (2) any other instructional materials or
16 technological equipment as determined by the district.

17 (d-1) Notwithstanding Subsection (d), for the state fiscal
18 biennium beginning September 1, 2011, a school district shall use
19 an allotment received under this section to purchase instructional
20 materials that will assist the district in satisfying performance
21 standards under Section 39.0241, as added by Chapter 895 (H.B. 3),
22 Acts of the 81st Legislature, Regular Session, 2009, on assessment
23 instruments adopted under Sections 39.023(a) and (c).

24 (d-2) Subsection (d-1) and this subsection expire August
25 31, 2013.

26 (e) Not later than May 31 of each school year, a school
27 district may request that the commissioner adjust the number of

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1 students for which the district is entitled to receive an allotment
2 under Subsection (a) on the grounds that the number of students
3 attending school in the district will increase or decrease during
4 the school year for which the allotment is provided. The
5 commissioner may also adjust the number of students for which a
6 district is entitled to receive an allotment, without a request by
7 the district, if the commissioner determines a different number of
8 students is a more accurate reflection of students who will be
9 attending school in the district. The commissioner's determination
10 under this subsection is final.

11 (f) The commissioner may adopt rules as necessary to
12 implement this section.

13 Sec. 31.0212. INSTRUCTIONAL MATERIALS ACCOUNT. (a) The
14 commissioner shall maintain an instructional materials account for
15 each school district. Each school year, the commissioner shall
16 deposit in the account for each district the amount of the
17 district's instructional materials allotment under Section
18 31.0211.

19 (b) The commissioner shall pay the cost of instructional
20 materials requisitioned by a school district under Section 31.103
21 using funds from the district's instructional materials account.

22 (c) A school district may also use funds in the district's
23 account to purchase electronic instructional materials or
24 technological equipment. The district shall submit to the
25 commissioner a request for funds for this purpose from the
26 district's account. The commissioner shall adopt rules regarding
27 the documentation a school district must submit to receive funds

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1 under this subsection.

2 (d) Money deposited in a school district's instructional
3 materials account during each state fiscal biennium remains in the
4 account and available for use by the district for the entire
5 biennium. At the end of each biennium, a district with unused money
6 in the district's account may carry forward any remaining balance
7 to the next biennium.

8 (e) The commissioner shall adopt rules as necessary to
9 implement this section. The rules must include a requirement that a
10 school district provide the title and publication information for
11 any instructional materials requisitioned or purchased by the
12 district with the district's instructional materials allotment.

13 Sec. 31.0213. CERTIFICATION OF USE OF INSTRUCTIONAL
14 MATERIALS ALLOTMENT. Each school district shall annually certify
15 to the commissioner that the district's instructional materials
16 allotment has been used only for expenses allowed by Section
17 31.0211.

18 Sec. 31.0214. ADJUSTMENT FOR HIGH ENROLLMENT GROWTH
19 DISTRICTS. (a) Each year the commissioner shall adjust the
20 instructional materials allotment of school districts experiencing
21 high enrollment growth. The commissioner shall establish a
22 procedure for determining high enrollment growth districts
23 eligible to receive an adjustment under this section and the amount
24 of the instructional materials allotment those districts will
25 receive.

26 (b) The commissioner may adopt rules as necessary to
27 implement this section.

1 SECTION 24. Section 31.022, Education Code, is amended to
2 read as follows:

3 Sec. 31.022. INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~] REVIEW AND
4 ADOPTION. (a) The State Board of Education shall adopt a review
5 and adoption cycle for instructional materials [~~textbooks~~] for
6 elementary grade levels, including prekindergarten, and secondary
7 grade levels, for each subject in the required curriculum under
8 Section 28.002. In adopting the cycle, the board:

9 (1) is not required to review and adopt instructional
10 materials for all grade levels in a single year; and

11 (2) shall give priority to instructional materials in
12 the following subjects:

13 (A) foundation curriculum subjects for which the
14 essential knowledge and skills have been substantially revised and
15 for which assessment instruments are required under Subchapter B,
16 Chapter 39, including career and technology courses that satisfy
17 foundation curriculum requirements as provided by Section
18 28.002(n);

19 (B) foundation curriculum subjects for which the
20 essential knowledge and skills have been substantially revised,
21 including career and technology courses that satisfy foundation
22 curriculum requirements as provided by Section 28.002(n);

23 (C) foundation curriculum subjects not described
24 by Paragraph (A) or (B), including career and technology courses
25 that satisfy foundation curriculum requirements as provided by
26 Section 28.002(n); and

27 (D) enrichment curriculum subjects.

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1 (b) The board shall organize the cycle for subjects in the
 2 foundation curriculum so that not more than one-fourth [~~one-sixth~~]
 3 of the instructional materials [~~textbooks~~] for subjects in the
 4 foundation curriculum are reviewed each biennium [~~year~~]. The board
 5 shall adopt rules to provide for a full and complete investigation
 6 of instructional materials [~~textbooks~~] for each subject in the
 7 foundation curriculum [~~at least~~] every eight [~~six~~] years. The
 8 adoption of instructional materials [~~textbooks~~] for a subject in
 9 the foundation curriculum may be extended beyond the eight-year
 10 [~~six-year~~] period only if the content of instructional materials
 11 [~~textbooks~~] for a subject is sufficiently current.

12 (b-1) For purposes of the cycle described by Subsection (b),
 13 the State Board of Education is considered to have adopted
 14 instructional materials for English language arts, English as a
 15 second language, and prekindergarten, as included in Proclamation
 16 2011, for the biennium beginning September 1, 2011. This
 17 subsection expires September 1, 2013.

18 (c) The board shall adopt rules to provide for a full and
 19 complete investigation of instructional materials [~~textbooks~~] for
 20 each subject in the enrichment curriculum on a cycle the board
 21 considers appropriate.

22 (d) At least 12 [~~24~~] months before the beginning of the
 23 school year for which instructional materials [~~textbooks~~] for a
 24 particular subject and grade level will be adopted [~~purchased~~]
 25 under the review and adoption cycle [~~adopted by the board~~], the
 26 board shall publish notice of the review and adoption cycle for
 27 those instructional materials [~~textbooks~~]. A request for

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1 production must allow submission of open-source instructional
2 materials that are available for use by the state without charge on
3 the same basis as instructional materials offered for sale.

4 (d-1) A notice published under Subsection (d) must state
5 that a publisher of adopted instructional materials for a grade
6 level other than prekindergarten must submit an electronic sample
7 of the instructional materials as required by Sections 31.027(a)
8 and (b) and may not submit a print sample copy.

9 (e) The board shall designate a request for production of
10 instructional materials [~~textbooks~~] in a subject area and grade
11 level by the school year in which the instructional materials
12 [~~textbooks~~] are intended to be made available in classrooms and not
13 by the school year in which the board makes the request for
14 production.

15 (f) The board shall amend any request for production issued
16 for the purchase of instructional materials [~~textbooks~~] to conform
17 to the instructional materials [~~textbook~~] funding levels provided
18 by the General Appropriations Act for the year of implementation.

19 SECTION 25. Section 31.0221, Education Code, is amended to
20 read as follows:

21 Sec. 31.0221. MIDCYCLE REVIEW AND ADOPTION OF INSTRUCTIONAL
22 MATERIALS [~~TEXTBOOKS~~]. (a) The State Board of Education shall
23 adopt rules for the midcycle review and adoption of instructional
24 material [~~a textbook~~] for a subject for which instructional
25 materials [~~textbooks~~] are not currently under review by the board
26 under Section 31.022. The rules must require:

27 (1) the publisher of the instructional material

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1 [~~textbook~~] to pay a fee to the board to cover the cost of the
2 midcycle review and adoption of the instructional material
3 [~~textbook~~];

4 (2) the publisher of the instructional material
5 [~~textbook~~] to enter into a contract with the board concerning the
6 instructional material [~~textbook~~] for a term that ends at the same
7 time as any contract entered into by the board for other
8 instructional materials [~~another textbook~~] for the same subject and
9 grade level; and

10 (3) a commitment from the publisher to provide the
11 instructional material [~~textbook~~] to school districts in the manner
12 specified by the publisher, which may include:

13 (A) providing the instructional material
14 [~~textbook~~] to any district in a regional education service center
15 area identified by the publisher; or

16 (B) providing a certain maximum number of
17 instructional materials [~~textbooks~~] specified by the publisher.

18 (b) Sections 31.023 and 31.024 apply to instructional
19 material [~~a textbook~~] adopted under this section. Section 31.027
20 does not apply to instructional material [~~a textbook~~] adopted under
21 this section.

22 SECTION 26. Section 31.023, Education Code, is amended to
23 read as follows:

24 Sec. 31.023. INSTRUCTIONAL MATERIAL LIST [~~TEXTBOOK LISTS~~].

25 (a) For each subject and grade level, the State Board of Education
26 shall adopt a list [~~two lists~~] of instructional materials
27 [~~textbooks~~]. The [~~conforming~~] list includes each instructional

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1 material [~~textbook~~] submitted for the subject and grade level that
2 meets applicable physical specifications adopted by the State Board
3 of Education and contains material covering at least half of the
4 elements [~~each element~~] of the essential knowledge and skills of
5 the subject and grade level in the student version of the
6 instructional material [~~textbook~~], as well as in the teacher
7 version of the instructional material [~~textbook~~], as determined by
8 the State Board of Education under Section 28.002 and adopted under
9 Section 31.024 [~~The nonconforming list includes each textbook~~
10 ~~submitted for the subject and grade level that:~~

11 [~~(1) meets applicable physical specifications adopted~~
12 ~~by the State Board of Education,~~

13 [~~(2) contains material covering at least half, but not~~
14 ~~all, of the elements of the essential knowledge and skills of the~~
15 ~~subject and grade level in the student version of the textbook, as~~
16 ~~well as in the teacher version of the textbook, and~~

17 [~~(3) is adopted under Section 31.024].~~

18 (a-1) The State Board of Education shall determine the
19 percentage of the elements of the essential knowledge and skills of
20 the subject and grade level covered by each instructional material
21 submitted. The board's determination under this subsection is
22 final.

23 (b) Each instructional material [~~textbook~~] on the [~~a~~
24 ~~conforming or nonconforming~~] list must be free from factual errors.

25 SECTION 27. Section 31.0231, Education Code, is amended to
26 read as follows:

27 Sec. 31.0231. COMMISSIONER'S [~~ELECTRONIC TEXTBOOK AND~~

1 ~~INSTRUCTIONAL MATERIAL~~] LIST. (a) The commissioner shall adopt a
2 list of:

3 (1) electronic instructional material [~~textbooks~~];
4 and

5 (2) [~~instructional~~] material that conveys information
6 to the student or otherwise contributes to the learning process,
7 including tools, models, and investigative materials designed for
8 use as part of the foundation curriculum for:

9 (A) science in kindergarten through grade five;
10 and

11 (B) personal financial literacy in kindergarten
12 through grade eight.

13 (b) A school district may select [~~an electronic textbook or~~
14 ~~instructional~~] material on the list adopted under Subsection (a) to
15 be funded by the district's instructional materials allotment
16 [~~state textbook fund~~] under Section 31.0211 [~~31.021~~].

17 (c) Before the commissioner places [~~an electronic textbook~~
18 ~~or instructional~~] material on the list adopted under Subsection
19 (a), the State Board of Education must be given an opportunity to
20 comment on the [~~electronic textbook or instructional~~] material. If
21 the commissioner places material on the list adopted under
22 Subsection (a), the State Board of Education may, not later than the
23 90th day after the date the material is placed on the list, require
24 the commissioner to remove the material from the list. Material [An
25 ~~electronic textbook or instructional material~~] placed on the list
26 adopted under Subsection (a):

27 (1) must be reviewed and recommended to the

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1 commissioner by a panel of recognized experts in the subject area of
2 the [~~electronic textbook or instructional~~] material and experts in
3 education technology;

4 (2) must satisfy criteria adopted for the purpose by
5 commissioner rule; and

6 (3) must meet the National Instructional Materials
7 Accessibility Standard, to the extent practicable as determined by
8 the commissioner.

9 (d) The criteria adopted under Subsection (c)(2) must:

10 (1) include evidence of alignment with current
11 research in the subject for which the [~~electronic textbook or~~
12 ~~instructional~~] material is intended to be used;

13 (2) include coverage of the essential knowledge and
14 skills identified under Section 28.002 for the subject for which
15 the [~~electronic textbook or instructional~~] material is intended to
16 be used and identify:

17 (A) each of the essential knowledge and skills
18 for the subject and grade level or levels covered by the [~~electronic~~
19 ~~textbook or instructional~~] material; and

20 (B) the percentage of the essential knowledge and
21 skills for the subject and grade level or levels covered by the
22 [~~electronic textbook or instructional~~] material; and

23 (3) include appropriate training for teachers.

24 (e) The commissioner shall update, as necessary, the list
25 adopted under Subsection (a). Before the commissioner places [~~an~~
26 ~~electronic textbook or instructional~~] material on the updated list,
27 the requirements of Subsection (c) must be met. [~~Before the~~

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1 ~~commissioner removes an electronic textbook or instructional~~
2 ~~material from the updated list, the removal must be recommended by a~~
3 ~~panel of recognized experts in the subject area of the electronic~~
4 ~~textbook or instructional material and experts in education~~
5 ~~technology.]~~

6 (f) After notice to the commissioner explaining in detail
7 the changes, the provider of [~~an electronic textbook or~~
8 ~~instructional~~] material on the list adopted under Subsection (a)
9 may update the navigational features or management system related
10 to the [~~electronic textbook or instructional~~] material.

11 (g) After notice to the commissioner and a review by the
12 commissioner, the provider of [~~an electronic textbook or~~
13 ~~instructional~~] material on the list adopted under Subsection (a)
14 may update the content of the [~~electronic textbook or~~
15 ~~instructional~~] material if needed to accurately reflect current
16 knowledge or information.

17 (h) The commissioner shall adopt rules as necessary to
18 implement this section. The rules must:

19 (1) be consistent with Section 31.151 regarding the
20 duties of publishers and manufacturers, as appropriate, and the
21 imposition of a reasonable administrative penalty; and

22 (2) require public notice of an opportunity for the
23 submission of [~~an electronic textbook or instructional~~] material.

24 SECTION 28. Section 31.024, Education Code, is amended to
25 read as follows:

26 Sec. 31.024. ADOPTION BY STATE BOARD OF EDUCATION. (a) By
27 majority vote, the State Board of Education shall:

1 (1) place each submitted instructional material on the
2 [~~textbook on a conforming or nonconforming~~] list adopted under
3 Section 31.023; or

4 (2) reject instructional material [~~a textbook~~]
5 submitted for placement on that [~~a conforming or nonconforming~~]
6 list.

7 (b) Not later than December 1 of the year preceding the
8 school year for which the instructional materials [~~textbooks~~] for a
9 particular subject and grade level will be purchased under the
10 cycle adopted by the board under Section 31.022, the board shall
11 provide the list [~~lists~~] of adopted instructional materials
12 [~~textbooks~~] to each school district. [~~Each nonconforming list must~~
13 ~~include the reasons an adopted textbook is not eligible for the~~
14 ~~conforming list.~~]

15 SECTION 29. The heading to Section 31.0241, Education Code,
16 is amended to read as follows:

17 Sec. 31.0241. ADOPTION OF OPEN-SOURCE INSTRUCTIONAL
18 MATERIALS [~~TEXTBOOKS~~].

19 SECTION 30. Subsections (b) and (c), Section 31.0241,
20 Education Code, are amended to read as follows:

21 (b) The State Board of Education shall place [~~an~~]
22 open-source instructional material [~~textbook~~] for a
23 secondary-level course submitted for adoption by an eligible
24 institution on the [~~a conforming or nonconforming~~] list adopted
25 under Section 31.023 if:

26 (1) the instructional material [~~textbook~~] is written,
27 compiled, or edited primarily by faculty of the eligible

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1 institution who specialize in the subject area of the instructional
2 material [~~textbook~~];

3 (2) the eligible institution identifies each
4 contributing author;

5 (3) the appropriate department of the eligible
6 institution certifies the instructional material [~~textbook~~] for
7 accuracy; and

8 (4) the eligible institution determines that the
9 instructional material [~~textbook~~] qualifies for placement on the
10 [~~conforming or nonconforming~~] list based on the extent to which the
11 instructional material [~~textbook~~] covers the essential knowledge
12 and skills identified under Section 28.002 for the subject for
13 which the instructional material [~~textbook~~] is written and
14 certifies that:

15 (A) for instructional material [~~a textbook~~] for a
16 senior-level course, a student who successfully completes a course
17 based on the instructional material [~~textbook~~] will be prepared,
18 without remediation, for entry into the eligible institution's
19 freshman-level course in that subject; or

20 (B) for instructional material [~~a textbook~~] for a
21 junior-level and senior-level course, a student who successfully
22 completes the junior-level course based on the instructional
23 material [~~textbook~~] will be prepared for entry into the
24 senior-level course.

25 (c) This section does not prohibit an eligible institution
26 from submitting instructional material [~~a textbook~~] for placement
27 on the [~~a conforming or nonconforming~~] list adopted under Section

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1 31.023 through any other adoption process provided by this chapter.

2 SECTION 31. Subchapter B, Chapter 31, Education Code, is
3 amended by adding Section 31.0242 to read as follows:

4 Sec. 31.0242. REVIEW OF OPEN-SOURCE INSTRUCTIONAL
5 MATERIAL. Not later than the 90th day after the date open-source
6 instructional material is submitted as provided by Section 31.0241,
7 the State Board of Education may review the instructional material.

8 The board shall:

- 9 (1) post with the list adopted under Section 31.023
- 10 comments made by the board regarding the open-source instructional
- 11 material placed on the list; and
- 12 (2) distribute board comments to school districts.

13 SECTION 32. Section 31.026, Education Code, is amended to
14 read as follows:

15 Sec. 31.026. CONTRACT; PRICE. (a) The State Board of
16 Education shall execute a contract[+

17 [~~1~~] for the purchase [~~of each adopted textbook other~~
18 ~~than an electronic textbook, and~~

19 [~~2~~ for the purchase] or licensing of each adopted
20 instructional material [~~electronic textbook~~].

21 (b) A contract must require the publisher to provide the
22 number of instructional materials [~~textbooks~~] required by school
23 districts in this state for the term of the contract, which must
24 coincide with the board's adoption cycle.

25 (c) As applicable, a contract must provide for the purchase
26 or licensing of instructional material [~~a textbook~~] at a specific
27 price, which may not exceed the lowest price paid by any other state

1 or any school or school district. The price must be fixed for the
2 term of the contract.

3 (d) [~~e~~] This section does not apply to [~~an~~] open-source
4 instructional material [~~textbook~~].

5 SECTION 33. Section 31.0261, Education Code, is amended to
6 read as follows:

7 Sec. 31.0261. CONTRACTS FOR PRINTING OF OPEN-SOURCE
8 INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The State Board of Education
9 may execute a contract for the printing of [~~an~~] open-source
10 instructional materials placed [~~textbook—listed~~] on the
11 [~~conforming or nonconforming~~] list adopted under Section 31.023.
12 The contract must allow a school district to requisition printed
13 copies of [~~an~~] open-source instructional materials [~~textbook~~] as
14 provided by Section 31.103.

15 SECTION 34. (a) If this Act takes effect immediately,
16 Section 31.027, Education Code, is amended to read as follows:

17 Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; ELECTRONIC
18 SAMPLE [~~COPIES~~]. (a) A publisher shall provide each school
19 district and open-enrollment charter school with information that
20 fully describes each of the publisher's submitted instructional
21 materials [~~adopted textbooks~~]. On request of a school district, a
22 publisher shall provide an electronic [~~a~~] sample [~~copy~~] of
23 submitted instructional material [~~an adopted textbook~~].

24 (b) A publisher shall provide an electronic [~~at least two~~]
25 sample [~~copies~~] of each submitted instructional material [~~adopted~~
26 ~~textbook~~] to be maintained at each regional education service
27 center.

1 (c) [~~d~~] This section does not apply to [~~an~~] open-source
2 instructional material [~~textbook~~].

3 (b) If this Act does not take effect immediately, Section
4 31.027, Education Code, as effective September 1, 2011, is amended
5 to read as follows:

6 Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; ELECTRONIC
7 SAMPLE. (a) A publisher shall provide each school district and
8 open-enrollment charter school with information that fully
9 describes each of the publisher's submitted instructional
10 materials [~~adopted textbooks~~]. On request of a school district, a
11 publisher shall provide an electronic sample of submitted
12 instructional material [~~an adopted textbook~~].

13 (b) A publisher shall provide an electronic sample of each
14 submitted instructional material [~~adopted textbook~~] to be
15 maintained at each regional education service center.

16 (c) [~~d~~] This section does not apply to [~~an~~] open-source
17 instructional material [~~textbook~~].

18 (c) If this Act takes effect immediately, Sections 2 and 3,
19 S.B. No. 391, Acts of the 82nd Legislature, Regular Session, 2011,
20 have no effect.

21 SECTION 35. Section 31.028, Education Code, is amended to
22 read as follows:

23 Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

24 (a) The commissioner [~~State Board of Education~~] may purchase
25 special instructional materials [~~textbooks~~] for the education of
26 blind and visually impaired students in public schools. In
27 addition, for a teacher who is blind or visually impaired, the

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1 commissioner [~~board~~] shall provide a teacher's edition in Braille
2 or large type, as requested by the teacher, for each instructional
3 material [~~textbook~~] the teacher uses in the instruction of
4 students. The teacher edition must be available at the same time
5 the student instructional materials [~~textbooks~~] become available.

6 (b) The publisher of [~~a~~] adopted instructional material
7 [~~textbook~~] shall provide the agency with computerized
8 instructional material [~~textbook~~] files for the production of
9 Braille instructional materials [~~textbooks~~] or other versions of
10 instructional materials [~~textbooks~~] to be used by students with
11 disabilities, on request of the commissioner [~~State Board of~~
12 ~~Education~~]. A publisher shall arrange computerized instructional
13 material [~~textbook~~] files in one of several optional formats
14 specified by the commissioner [~~State Board of Education~~].

15 (c) The commissioner [~~board~~] may also enter into agreements
16 providing for the acceptance, requisition, and distribution of
17 special instructional materials [~~textbooks~~] and instructional aids
18 pursuant to 20 U.S.C. Section 101 et seq. for use by students
19 enrolled in:

- 20 (1) public schools; or
- 21 (2) private nonprofit schools, if state funds, other
22 than for administrative costs, are not involved.

23 (d) In this section:

- 24 (1) "Blind or visually impaired student" includes any
25 student whose visual acuity is impaired to the extent that the
26 student is unable to read the text [~~print~~] in [~~a~~] regularly adopted
27 instructional material [~~textbook~~] used in the student's class.

1 (2) "Special instructional material [~~textbook~~]" means
2 instructional material [~~a textbook~~] in Braille, large type or any
3 other medium or any apparatus that conveys information to a student
4 or otherwise contributes to the learning process.

5 SECTION 36. Section 31.029, Education Code, is amended to
6 read as follows:

7 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS

8 [~~TEXTBOOKS~~]. (a) A school district [~~The board~~] shall purchase
9 with the district's instructional materials allotment or otherwise
10 acquire instructional materials [~~textbooks~~] for use in bilingual
11 education classes.

12 (b) The commissioner shall adopt rules regarding the
13 purchase of instructional materials under this section.

14 SECTION 37. Section 31.030, Education Code, is amended to
15 read as follows:

16 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

17 The State Board of Education shall adopt rules to ensure that used
18 instructional materials [~~textbooks~~] sold to school districts and
19 open-enrollment charter schools are not sample copies that contain
20 factual errors. The rules may provide for the imposition of an
21 administrative penalty in accordance with Section 31.151 against a
22 seller of used instructional materials [~~textbooks~~] who knowingly
23 violates this section.

24 SECTION 38. The heading to Section 31.035, Education Code,
25 is amended to read as follows:

26 Sec. 31.035. SUPPLEMENTAL INSTRUCTIONAL MATERIALS

27 [~~TEXTBOOKS~~].

1 SECTION 39. Subsections (a) through (d) and (f), Section
2 31.035, Education Code, are amended to read as follows:

3 (a) Notwithstanding any other provision of this subchapter,
4 the State Board of Education may adopt supplemental instructional
5 materials [~~textbooks~~] that are not on the [~~conforming or~~
6 ~~nonconforming~~] list adopted under Section 31.023. The State Board
7 of Education may adopt [~~a~~] supplemental instructional material
8 [~~textbook~~] under this section only if the instructional material
9 [~~textbook~~]:

10 (1) contains material covering one or more primary
11 focal points or primary topics of a subject in the required
12 curriculum under Section 28.002, as determined by the State Board
13 of Education;

14 (2) is not designed to serve as the sole instructional
15 material [~~textbook~~] for a full course;

16 (3) meets applicable physical specifications adopted
17 by the State Board of Education; and

18 (4) is free from factual errors.

19 (b) The State Board of Education shall identify the
20 essential knowledge and skills identified under Section 28.002 that
21 are covered by [~~a~~] supplemental instructional material [~~textbook~~]
22 adopted by the board under this section.

23 (c) Supplemental instructional material [~~A supplemental~~
24 ~~textbook~~] is subject to the review and adoption cycle provisions,
25 including the midcycle review and adoption cycle provisions, of
26 this subchapter.

27 (d) A school district or open-enrollment charter school may

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1 requisition [~~a~~] supplemental instructional material [~~textbook~~]
 2 adopted under this section only if the district or school[+
 3 [~~(1) uses textbook credits received under Section~~
 4 ~~31.1011 to purchase the supplemental textbook, or~~
 5 [~~(2) instead of requisitioning a textbook on the~~
 6 ~~conforming list under Section 31.023 for a course in the foundation~~
 7 ~~curriculum under Section 28.002,~~] requisitions the supplemental
 8 instructional material [~~textbook~~] along with other supplemental
 9 instructional materials [~~textbooks~~] or instructional materials
 10 [~~textbooks~~] on the [~~nonconforming~~] list adopted under Section
 11 31.023 that in combination cover each element of the essential
 12 knowledge and skills for the course for which the district or school
 13 is requisitioning the supplemental instructional materials
 14 [~~textbooks~~].

15 (f) A school district or open-enrollment charter school
 16 that requisitions supplemental instructional materials [~~textbooks~~
 17 ~~under Subsection (d)(2)~~] shall certify to the agency that the
 18 supplemental instructional materials [~~textbooks~~], in combination
 19 with any other instructional materials [~~textbooks~~] or supplemental
 20 instructional materials [~~textbooks~~] used by the district or school,
 21 cover the essential knowledge and skills identified under Section
 22 28.002 by the State Board of Education for the subject and grade
 23 level for which the district or school is requisitioning the
 24 supplemental instructional materials [~~textbooks~~].

25 SECTION 40. The heading to Subchapter B-1, Chapter 31,
 26 Education Code, is amended to read as follows:

1 SUBCHAPTER B-1. STATE-DEVELOPED OPEN-SOURCE INSTRUCTIONAL
2 MATERIALS [~~TEXTBOOKS~~]

3 SECTION 41. Section 31.071, Education Code, is amended to
4 read as follows:

5 Sec. 31.071. PURCHASE AUTHORITY. (a) The commissioner may
6 purchase state-developed open-source instructional materials
7 [~~textbooks~~] in accordance with this subchapter.

8 (b) The commissioner:

9 (1) shall purchase any state-developed open-source
10 instructional materials [~~textbooks~~] through a competitive process;
11 and

12 (2) may purchase more than one state-developed
13 open-source instructional material [~~textbook~~] for a subject or
14 grade level.

15 (c) State-developed [~~A state-developed~~] open-source
16 instructional material [~~textbook~~] must be irrevocably owned by or
17 licensed to the state for use in the applicable subject or grade
18 level. The state must have unlimited authority to modify, delete,
19 combine, or add content to the instructional material [~~textbook~~]
20 after purchase.

21 (d) The commissioner may issue a request for proposals for
22 [~~a~~] state-developed open-source instructional material [~~textbook~~]:

23 (1) in accordance with the instructional material
24 [~~textbook~~] review and adoption cycle under Section 31.022; or

25 (2) at any other time the commissioner determines that
26 a need exists for additional instructional material [~~textbook~~]
27 options.

1 (e) The costs of administering this subchapter and
2 purchasing state-developed open-source instructional materials
3 [~~textbooks~~] shall be paid from the state instructional materials
4 [~~textbook~~] fund, as determined by the commissioner.

5 SECTION 42. Subsections (a) and (b), Section 31.072,
6 Education Code, are amended to read as follows:

7 (a) State-developed [~~A state-developed~~] open-source
8 instructional material [~~textbook~~] must:

9 (1) be evaluated by teachers or other experts, as
10 determined by the commissioner, before purchase; and

11 (2) meet the requirements for inclusion on the
12 instructional material [~~a conforming or nonconforming textbook~~]
13 list adopted under Section 31.023.

14 (b) Following a curriculum revision by the State Board of
15 Education, the commissioner shall require the revision of [~~a~~]
16 state-developed open-source instructional material [~~textbook~~]
17 relating to that curriculum. The commissioner may, at any time,
18 require an additional revision of [~~a~~] state-developed open-source
19 instructional material [~~textbook~~] or contract for ongoing
20 revisions of state-developed open-source instructional material [~~a~~
21 ~~textbook~~] for a period not to exceed the period under Section 31.022
22 for which instructional material [~~a textbook~~] for that subject and
23 grade level may be adopted. The commissioner shall use a
24 competitive process to request proposals to revise [~~a~~]
25 state-developed open-source instructional material [~~textbook~~]
26 under this subsection.

27 SECTION 43. The heading to Section 31.073, Education Code,

1 is amended to read as follows:

2 Sec. 31.073. SELECTION BY SCHOOL DISTRICT [~~COST~~].

3 SECTION 44. Subsections (c) and (d), Section 31.073,
4 Education Code, are amended to read as follows:

5 (c) Notwithstanding Section 31.022, a school district or
6 open-enrollment charter school may adopt [a] state-developed
7 open-source instructional material [~~textbook~~] at any time,
8 regardless of the instructional material [~~textbook~~] review and
9 adoption cycle under that section.

10 (d) A school district or open-enrollment charter school may
11 not be charged for selection of [a] state-developed open-source
12 instructional material [~~textbook~~] in addition to instructional
13 material [~~a textbook~~] adopted under Subchapter B.

14 SECTION 45. Section 31.074, Education Code, is amended to
15 read as follows:

16 Sec. 31.074. DISTRIBUTION. (a) The commissioner shall
17 provide for the distribution of state-developed open-source
18 instructional materials [~~textbooks~~] in a manner consistent with
19 distribution of instructional materials [~~textbooks~~] adopted under
20 Subchapter B.

21 (b) The commissioner may use a competitive process to
22 contract for printing or other reproduction of [a] state-developed
23 open-source instructional material [~~textbook~~] on behalf of a school
24 district or open-enrollment charter school. The commissioner may
25 not require a school district or open-enrollment charter school to
26 contract with a state-approved provider for the printing or
27 reproduction of [a] state-developed open-source instructional

1 material [~~textbook~~].

2 SECTION 46. Section 31.075, Education Code, is amended to
3 read as follows:

4 Sec. 31.075. OWNERSHIP; LICENSING. (a) State-developed
5 [~~A state-developed~~] open-source instructional material [~~textbook~~]
6 is the property of the state.

7 (b) The commissioner shall provide a license to each public
8 school in the state, including a school district, an
9 open-enrollment charter school, and a state or local agency
10 educating students in any grade from prekindergarten through high
11 school, to use and reproduce [a] state-developed open-source
12 instructional material [~~textbook~~].

13 (c) The commissioner may provide a license to use [a]
14 state-developed open-source instructional material [~~textbook~~] to
15 an entity not listed in Subsection (b). In determining the cost of
16 a license under this subsection, the commissioner shall seek, to
17 the extent feasible, to recover the costs of developing, revising,
18 and distributing state-developed open-source instructional
19 materials [~~textbooks~~].

20 SECTION 47. Subsection (b), Section 31.076, Education Code,
21 is amended to read as follows:

22 (b) A decision by the commissioner regarding the purchase,
23 revision, cost, or distribution of [a] state-developed open-source
24 instructional material [~~textbook~~] is final and may not be appealed.

25 SECTION 48. Section 31.077, Education Code, is amended to
26 read as follows:

27 Sec. 31.077. ADOPTION SCHEDULE. The commissioner shall

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1 develop a schedule for the adoption of state-developed open-source
2 instructional materials [~~textbooks~~] under this subchapter. In
3 developing the adoption schedule under this section, the
4 commissioner shall consider:

- 5 (1) the availability of funds;
- 6 (2) the existing instructional material [~~textbook~~]
7 adoption cycles under Subchapter B; and
- 8 (3) the availability of instructional materials
9 [~~textbooks~~] for development or purchase by the state.

10 SECTION 49. The heading to Section 31.101, Education Code,
11 is amended to read as follows:

12 Sec. 31.101. SELECTION AND PURCHASE OF INSTRUCTIONAL
13 MATERIALS [~~TEXTBOOKS~~] BY SCHOOL DISTRICTS.

14 SECTION 50. Section 31.101, Education Code, is amended by
15 amending Subsections (a), (d), and (e) and adding Subsection (f) to
16 read as follows:

17 (a) Each year, during a period established by the State
18 Board of Education, the board of trustees of each school district
19 and the governing body of each open-enrollment charter school
20 shall:

- 21 (1) for a subject in the foundation curriculum, notify
22 the State Board of Education of the instructional materials
23 [~~textbooks~~] selected by the board of trustees or governing body for
24 the following school year from [~~among~~] the instructional materials
25 [~~textbooks on the appropriate conforming or nonconforming~~] list,
26 including the list adopted under Section 31.0231; or

27 (2) for a subject in the enrichment curriculum:

1 (A) notify the State Board of Education of each
2 instructional material [~~textbook~~] selected by the board of trustees
3 or governing body for the following school year from [~~among~~] the
4 instructional materials [~~textbooks on the appropriate conforming~~
5 ~~or nonconforming~~] list, including the list adopted under Section
6 31.0231; or

7 (B) notify the State Board of Education that the
8 board of trustees or governing body has selected instructional
9 material [~~a textbook~~] that is not on the [~~conforming or~~
10 ~~nonconforming~~] list.

11 (d) For instructional material [~~a textbook~~] that is not on
12 the [~~conforming or nonconforming~~] list, a school district or
13 open-enrollment charter school must use the instructional material
14 [~~textbook~~] for the period of the review and adoption cycle the State
15 Board of Education has established for the subject and grade level
16 for which the instructional material [~~textbook~~] is used.

17 (e) A school district or open-enrollment charter school
18 that selects [~~a~~] subscription-based [~~electronic textbook or~~]
19 instructional material on the [~~conforming~~] list adopted under
20 Section 31.023 or electronic instructional material on the list
21 adopted by the commissioner under Section 31.0231 may cancel the
22 subscription and subscribe to [~~a~~] new [~~electronic textbook or~~]
23 instructional material on the [~~conforming~~] list adopted under
24 Section 31.023 or electronic instructional material on the list
25 adopted by the commissioner under Section 31.0231 before the end of
26 the state contract period under Section 31.026 if:

27 (1) the district or school has used the [~~electronic~~

1 ~~textbook or~~ instructional material for at least one school year;
2 and

3 (2) the agency approves the change based on a written
4 request to the agency by the district or school that specifies the
5 reasons for changing the [~~electronic textbook or~~] instructional
6 material used by the district or school.

7 (f) The commissioner shall maintain an online requisition
8 system for school districts to requisition instructional materials
9 to be purchased with the district's instructional materials
10 allotment.

11 SECTION 51. Section 31.102, Education Code, is amended to
12 read as follows:

13 Sec. 31.102. TITLE AND CUSTODY. (a) Each instructional
14 material [~~textbook~~] purchased as provided by this chapter for a
15 school district or an open-enrollment charter school is the
16 property of the district or school [~~this state~~].

17 (b) Subsection (a) applies to [~~an~~] electronic instructional
18 material [~~textbook~~] only to the extent of any applicable licensing
19 agreement.

20 (c) The board of trustees of a school district or the
21 governing body of an open-enrollment charter school [~~is the legal~~
22 ~~custodian of textbooks purchased as provided by this chapter for~~
23 ~~the district or school. The board of trustees~~] shall distribute
24 printed instructional material [~~textbooks~~] to students in the
25 manner that the board or governing body determines is most
26 effective and economical.

27 SECTION 52. The heading to Section 31.103, Education Code,

1 is amended to read as follows:

2 Sec. 31.103. INSTRUCTIONAL MATERIAL ~~[TEXTBOOK]~~
3 REQUISITIONS.

4 SECTION 53. Subsections (b), (c), and (d), Section 31.103,
5 Education Code, are amended to read as follows:

6 (b) ~~[A requisition for textbooks for the following school~~
7 ~~year shall be based on the maximum attendance reports under~~
8 ~~Subsection (a), plus an additional 10 percent, except as otherwise~~
9 ~~provided.]~~ A school district or open-enrollment charter school
10 shall make a requisition for instructional material using the
11 online requisition program maintained by ~~[a textbook on the~~
12 ~~conforming or nonconforming list through]~~ the commissioner ~~[to the~~
13 ~~state depository designated by the publisher or as provided by~~
14 ~~State Board of Education rule, as applicable,]~~ not later than June 1
15 of each year. The ~~[designated state depository or, if the publisher~~
16 ~~or manufacturer does not have a designated textbook depository in~~
17 ~~this state under Section 31.151(a)(6)(B), the]~~ publisher or
18 manufacturer shall fill a requisition approved by the agency ~~[at~~
19 ~~any other time in the case of an emergency].~~ ~~[As made necessary by~~
20 ~~available funds, the commissioner shall reduce the additional~~
21 ~~percentage of attendance for which a district or school may~~
22 ~~requisition textbooks. The commissioner may, on application of a~~
23 ~~district or school that is experiencing high enrollment growth,~~
24 ~~increase the additional percentage of attendance for which the~~
25 ~~district or school may requisition textbooks.]~~

26 (c) In making a requisition under this section, a school
27 district or open-enrollment charter school may requisition

1 instructional materials [~~textbooks~~] on the [~~conforming or~~
2 ~~nonconforming~~] list adopted under Section 31.023 for grades above
3 the grade level in which a student is enrolled[, ~~except that the~~
4 ~~total quantity of textbooks requisitioned under this section may~~
5 ~~not exceed the limit prescribed by Subsection (b)~~].

6 (d) A school district or open-enrollment charter school
7 that selects [~~an~~] open-source instructional material [~~textbook~~]
8 shall requisition a sufficient number of printed copies for use by
9 students unable to access the instructional material [~~textbook~~]
10 electronically unless the district or school provides to each
11 student:

12 (1) electronic access to the instructional material
13 [~~textbook~~] at no cost to the student; or

14 (2) printed copies of the portion of the instructional
15 material [~~textbook~~] that will be used in the course.

16 SECTION 54. Section 31.104, Education Code, is amended to
17 read as follows:

18 Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of
19 trustees of a school district or the governing body of an
20 open-enrollment charter school may delegate to an employee the
21 authority to requisition, distribute, and manage the inventory of
22 instructional materials [~~textbooks~~] in a manner consistent with
23 this chapter and rules adopted under this chapter.

24 (b) A school district or open-enrollment charter school may
25 order replacements for instructional materials [~~textbooks~~] that
26 have been lost or damaged directly from[+
27

[~~(1) the textbook depository,~~

1 ~~[(2)]~~ the ~~[textbook]~~ publisher of the instructional
2 materials or ~~[manufacturer if the textbook publisher or~~
3 ~~manufacturer does not have a designated textbook depository in this~~
4 ~~state under Section 31.151(a)(6)(B), or~~

5 ~~[(3)]~~ any source for a printed copy of ~~[an]~~
6 open-source instructional material ~~[textbook]~~.

7 (c) ~~[Each textbook must state that the textbook is the~~
8 ~~property of or is licensed to this state, as appropriate. Each~~
9 ~~textbook, other than an electronic textbook or a printed copy of an~~
10 ~~open-source textbook, must be covered by the student under the~~
11 ~~direction of the teacher.]~~ Except as provided by Subsection (g), a
12 student must return all instructional materials ~~[textbooks]~~ to the
13 teacher at the end of the school year or when the student withdraws
14 from school.

15 (d) Each student, or the student's parent or guardian, is
16 responsible for all instructional materials ~~[each textbook,~~
17 ~~including an electronic textbook,~~] and ~~[all]~~ technological
18 equipment not returned in an acceptable condition by the student. A
19 student who fails to return in an acceptable condition all
20 instructional materials ~~[textbooks, including electronic~~
21 ~~textbooks,~~] and technological equipment forfeits the right to free
22 instructional materials ~~[textbooks, including electronic~~
23 ~~textbooks,~~] and technological equipment until all instructional
24 materials ~~[each textbook, including an electronic textbook,~~] and
25 ~~[all]~~ technological equipment previously issued but not returned in
26 an acceptable condition are ~~[is]~~ paid for by the student, parent, or
27 guardian. As provided by policy of the board of trustees or

1 governing body, a school district or open-enrollment charter school
2 may waive or reduce the payment requirement if the student is from a
3 low-income family. The district or school shall allow the student
4 to use instructional materials [~~textbooks, including electronic~~
5 ~~textbooks,~~] and technological equipment at school during each
6 school day. If instructional materials [~~a textbook, including an~~
7 ~~electronic textbook,~~] or technological equipment is not returned in
8 an acceptable condition or paid for, the district or school may
9 withhold the student's records. A district or school may not, under
10 this subsection, prevent a student from graduating, participating
11 in a graduation ceremony, or receiving a diploma. The commissioner
12 by rule shall adopt criteria for determining whether instructional
13 materials [~~a textbook, including an electronic textbook,~~] and
14 technological equipment are returned in an acceptable condition.

15 (e) The board of trustees of a school district may not
16 require an employee of the district who acts in good faith to pay
17 for instructional materials [~~a textbook, electronic textbook,~~] or
18 technological equipment that is damaged, stolen, misplaced, or not
19 returned. A school district employee may not waive this provision
20 by contract or any other means, except that a district may enter
21 into a written agreement with a school employee whereby the
22 employee assumes financial responsibility for electronic
23 instructional material [~~textbook~~] or technological equipment usage
24 off school property or outside of a school-sponsored event in
25 consideration for the ability of the school employee to use the
26 electronic instructional material [~~textbook~~] or technological
27 equipment for personal business. Such a written agreement shall be

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1 separate from the employee's contract of employment, if applicable,
2 and shall clearly inform the employee of the amount of the financial
3 responsibility and advise the employee to consider obtaining
4 appropriate insurance. An employee may not be required to agree to
5 such an agreement as a condition of employment.

6 (g) At the end of the school year for which ~~[an]~~ open-source
7 instructional material ~~[textbook]~~ that a school district or
8 open-enrollment charter school does not intend to use for another
9 student is distributed, the printed copy of the open-source
10 instructional material ~~[textbook]~~ becomes the property of the
11 student to whom it is distributed.

12 (h) This section does not apply to an electronic copy of
13 ~~[an]~~ open-source instructional material ~~[textbook]~~.

14 SECTION 55. Section 31.105, Education Code, is amended to
15 read as follows:

16 Sec. 31.105. SALE OR DISPOSAL OF INSTRUCTIONAL MATERIALS
17 AND TECHNOLOGICAL EQUIPMENT ~~[TEXTBOOKS]~~. (a) The board of
18 trustees of a school district or governing body of an
19 open-enrollment charter school may sell printed instructional
20 materials on the date the instructional material is discontinued
21 for use in the public schools by the State Board of Education or the
22 commissioner. The board of trustees or governing body may also sell
23 electronic instructional materials and technological equipment
24 owned by the district or school. Any funds received by a district
25 or school from a sale authorized by this subsection must be used to
26 purchase instructional materials and technological equipment
27 allowed under Section 31.0211 ~~[textbooks, other than electronic~~

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1 ~~textbooks, to a student or another school at the state contract~~
2 ~~price. The district shall send money from the sale of textbooks to~~
3 ~~the commissioner as required by the commissioner. The commissioner~~
4 ~~shall deposit the money in the state textbook fund].~~

5 (b) The board of trustees of a school district or governing
6 body of an open-enrollment charter school shall determine how the
7 district or school will dispose of discontinued printed
8 instructional materials, electronic instructional materials, and
9 technological equipment.

10 (c) The board of trustees of a school district or governing
11 body of an open-enrollment charter school may dispose of printed
12 instructional material before the date the instructional material
13 is discontinued for use in the public schools by the State Board of
14 Education if the board of trustees or governing body determines
15 that the instructional material is not needed by the district or
16 school and the board of trustees or governing body does not
17 reasonably expect that the instructional material will be needed.
18 A district or school must notify the commissioner of any
19 instructional material the district or school disposes of under
20 this subsection.

21 SECTION 56. Section 31.106, Education Code, is amended to
22 read as follows:

23 Sec. 31.106. USE OF LOCAL FUNDS. In addition to any
24 instructional material [~~textbook~~] selected under this chapter, a
25 school district or open-enrollment charter school may use local
26 funds to purchase any instructional materials [~~textbooks~~].

27 SECTION 57. Section 31.151, Education Code, is amended by

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1 amending Subsections (a) and (d) and adding Subsection (e) to read
2 as follows:

3 (a) A publisher or manufacturer of instructional materials
4 [~~textbooks~~]:

5 (1) shall furnish any instructional material
6 [~~textbook~~] the publisher or manufacturer offers in this state[7] at
7 a price that does not exceed the lowest price at which the publisher
8 offers that instructional material [~~textbook~~] for adoption or sale
9 to any state, public school, or school district in the United
10 States;

11 (2) shall automatically reduce the price of
12 instructional material [~~a textbook~~] sold for use in a school
13 district or open-enrollment charter school to the extent that the
14 price is reduced elsewhere in the United States;

15 (3) shall provide any instructional material
16 [~~textbook~~] or ancillary item free of charge in this state to the
17 same extent that the publisher or manufacturer provides the
18 instructional material [~~textbook~~] or ancillary item free of charge
19 to any state, public school, or school district in the United
20 States;

21 (4) shall guarantee that each copy of instructional
22 material [~~a textbook~~] sold in this state is at least equal in
23 quality to copies of that instructional material [~~textbook~~] sold
24 elsewhere in the United States and is free from factual error;

25 (5) may not become associated or connected with,
26 directly or indirectly, any combination in restraint of trade in
27 instructional materials [~~textbooks~~] or enter into any

1 understanding or combination to control prices or restrict
2 competition in the sale of instructional materials [~~textbooks~~] for
3 use in this state;

4 (6) shall[+

5 [~~(A) maintain a depository in this state or~~
6 ~~arrange with a depository in this state to receive and fill orders~~
7 ~~for textbooks, other than open-source textbooks, on-line~~
8 ~~textbooks, or on-line textbook components, consistent with State~~
9 ~~Board of Education rules, or~~

10 [~~(B)~~] deliver instructional materials
11 [~~textbooks~~] to a school district or open-enrollment charter school
12 [~~without a delivery charge to the school district, open-enrollment~~
13 ~~charter school, or state, if+~~

14 [~~(i) the publisher or manufacturer does not~~
15 ~~maintain or arrange with a depository in this state under Paragraph~~
16 ~~(A) and the publisher's or manufacturer's textbooks and related~~
17 ~~products are warehoused or otherwise stored less than 300 miles~~
18 ~~from a border of this state, or~~

19 [~~(ii) the textbooks are open-source~~
20 ~~textbooks, on-line textbooks, or on-line textbook components~~];

21 (7) shall, at the time an order for instructional
22 materials [~~textbooks~~] is acknowledged, provide to school districts
23 or open-enrollment charter schools an accurate shipping date for
24 instructional materials [~~textbooks~~] that are back-ordered;

25 (8) shall guarantee delivery of instructional
26 materials [~~textbooks~~] at least 10 business days before the opening
27 day of school of the year for which the instructional materials

1 [~~textbooks~~] are ordered if the instructional materials [~~textbooks~~]
2 are ordered by a date specified in the sales contract; and

3 (9) shall submit to the State Board of Education an
4 affidavit certifying any instructional material [~~textbook~~] the
5 publisher or manufacturer offers in this state to be free of factual
6 errors at the time the publisher executes the contract required by
7 Section 31.026.

8 (d) A penalty collected under this section shall be
9 deposited to the credit of the state instructional materials
10 [~~textbook~~] fund.

11 (e) An eligible institution, as defined by Section
12 31.0241(a), that offers open-source instructional materials under
13 Section 31.0241 is not a publisher or manufacturer for purposes of
14 this section.

15 SECTION 58. The heading to Section 31.152, Education Code,
16 is amended to read as follows:

17 Sec. 31.152. ACCEPTING REBATE ON [~~TEXTBOOKS, ELECTRONIC~~
18 ~~TEXTBOOKS,~~] INSTRUCTIONAL MATERIALS[~~7~~] OR TECHNOLOGICAL EQUIPMENT.

19 SECTION 59. Subsections (a), (b), and (d), Section 31.152,
20 Education Code, are amended to read as follows:

21 (a) A school trustee, administrator, or teacher commits an
22 offense if that person receives any commission or rebate on any
23 [~~textbooks, electronic textbooks,~~] instructional materials[~~7~~] or
24 technological equipment used in the schools with which the person
25 is associated as a trustee, administrator, or teacher.

26 (b) A school trustee, administrator, or teacher commits an
27 offense if the person accepts a gift, favor, or service that:

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1 (1) is given to the person or the person's school;

2 (2) might reasonably tend to influence a trustee,

3 administrator, or teacher in the selection of [~~a textbook,~~

4 ~~electronic textbook,~~] instructional material[~~r~~] or technological

5 equipment; and

6 (3) could not be lawfully purchased with state

7 instructional materials funds [~~from the state textbook fund~~].

8 (d) In this section, "gift, favor, or service" does not

9 include:

- 10 (1) staff development, in-service, or teacher
- 11 training; or
- 12 (2) ancillary [~~instructional~~] materials, such as maps
- 13 or worksheets, that convey information to the student or otherwise
- 14 contribute to the learning process.

15 SECTION 60. The heading to Section 31.153, Education Code,

16 is amended to read as follows:

17 Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS

18 [~~TEXTBOOK~~] LAW.

19 SECTION 61. Subsection (a), Section 31.153, Education Code,

20 is amended to read as follows:

21 (a) A person commits an offense if the person knowingly

22 violates any law providing for the purchase or distribution of free

23 instructional materials [~~textbooks~~] for the public schools.

24 SECTION 62. Chapter 32, Education Code, is amended by

25 adding Subchapter E to read as follows:

26 SUBCHAPTER E. TECHNOLOGY LENDING PROGRAM GRANTS

27 Sec. 32.201. ESTABLISHMENT OF PROGRAM. (a) The

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1 commissioner may establish a grant program under which grants are
2 awarded to school districts and open-enrollment charter schools to
3 implement a technology lending program to loan students equipment
4 necessary to access and use electronic instructional materials.

5 (b) A school district or an open-enrollment charter school
6 may apply to the commissioner to participate in the grant program.
7 In awarding grants under this subchapter for each school year, the
8 commissioner shall consider:

9 (1) the availability of existing equipment to students
10 in the district or charter school; and

11 (2) other funding available to the district or charter
12 school.

13 (c) The commissioner may determine the terms of a grant
14 awarded under this section, including limits on the grant amount
15 and approved uses of grant funds.

16 (d) The commissioner may recover funds not used in
17 accordance with the terms of a grant from any state funds otherwise
18 due to the school district or open-enrollment charter school.

19 Sec. 32.202. FUNDING. (a) The commissioner may use not
20 more than \$10 million from the state instructional materials fund
21 under Section 31.021 each state fiscal biennium or a different
22 amount determined by appropriation to administer a grant program
23 established under this subchapter.

24 (b) The cost of administering a grant program under this
25 subchapter must be paid from funds provided under Subsection (a).

26 Sec. 32.203. USE OF GRANT FUNDS. (a) A school district or
27 open-enrollment charter school may use a grant awarded under

1 Section 32.201 or other local funds to purchase, maintain, and
2 insure equipment for a technology lending program.

3 (b) Equipment purchased by a school district or
4 open-enrollment charter school with a grant awarded under Section
5 32.201 is the property of the district or charter school.

6 Sec. 32.204. REVIEW OF PROGRAM. Not later than January 1,
7 2013, the commissioner shall review the grant program established
8 under this subchapter and submit to the governor, the lieutenant
9 governor, the speaker of the house of representatives, and the
10 presiding officer of each legislative standing committee with
11 primary jurisdiction over primary and secondary education a written
12 report regarding the grants awarded under this subchapter.

13 Sec. 32.205. EXPIRATION. This subchapter expires September
14 1, 2015.

15 SECTION 63. Subsection (b), Section 39.303, Education Code,
16 is amended to read as follows:

17 (b) For a student who failed to perform satisfactorily as
18 determined under either performance standard under Section 39.0241
19 on an assessment instrument administered under Section 39.023(a),
20 (c), or (l), the school district shall include in the notice
21 specific information relating to access to [online] educational
22 resources at the appropriate assessment instrument content level,
23 including [~~educational resources described by Section 32.252(b)(2)~~
24 ~~and~~] assessment instrument questions and answers released under
25 Section 39.023(e).

26 SECTION 64. Subsection (c), Section 41.124, Education Code,
27 as effective September 1, 2011, is amended to read as follows:

1 (c) A school district that receives tuition for a student
2 from a school district with a wealth per student that exceeds the
3 equalized wealth level may not claim attendance for that student
4 for purposes of Chapters 42 and 46 and the instructional materials
5 [~~technology~~] allotment under Section 31.0211 [~~32.005~~].

6 SECTION 65. Subsection (b), Section 43.001, Education Code,
7 as amended by Chapters 201 (H.B. 3459) and 328 (S.B. 206), Acts of
8 the 78th Legislature, Regular Session, 2003, is reenacted to read
9 as follows:

10 (b) The available school fund, which shall be apportioned
11 annually to each county according to its scholastic population,
12 consists of:

13 (1) the distributions to the fund from the permanent
14 school fund as provided by Section 5(a), Article VII, Texas
15 Constitution;

16 (2) one-fourth of all revenue derived from all state
17 occupation taxes, exclusive of delinquencies and cost of
18 collection;

19 (3) one-fourth of revenue derived from state gasoline
20 and special fuels excise taxes as provided by law; and

21 (4) all other appropriations to the available school
22 fund made by the legislature for public school purposes.

23 SECTION 66. Section 43.001, Education Code, is amended by
24 adding Subsections (d) through (g) to read as follows:

25 (d) Each year the State Board of Education shall set aside
26 an amount equal to 50 percent of the annual distribution for that
27 year from the permanent school fund to the available school fund as

1 provided by Section 5(a), Article VII, Texas Constitution, to be
2 placed, subject to the General Appropriations Act, in the state
3 instructional materials fund established under Section 31.021.

4 (e) Subsection (d) applies beginning with the state fiscal
5 biennium beginning September 1, 2013. For the state fiscal
6 biennium beginning September 1, 2011, each year the State Board of
7 Education shall set aside an amount equal to 40 percent of the
8 annual distribution for that year from the permanent school fund to
9 the available school fund as provided by Section 5(a), Article VII,
10 Texas Constitution, to be placed, subject to the General
11 Appropriations Act, in the state instructional materials fund
12 established under Section 31.021.

13 (f) In calculating the amounts to be set aside as provided
14 by Subsection (e) for the state fiscal biennium beginning September
15 1, 2011, the State Board of Education shall consider only the
16 amounts of the annual distribution of the permanent school fund for
17 that biennium. The board shall not consider amounts distributed
18 for the state fiscal biennium beginning September 1, 2009,
19 regardless of the date on which those amounts were approved for
20 distribution.

21 (g) Subsections (e) and (f) and this subsection expire
22 September 1, 2013.

23 SECTION 67. The following provisions of the Education Code
24 are repealed:

- 25 (1) Subdivision (3), Section 31.002;
26 (2) Subsections (b), (e), and (f), Section 31.021;
27 (3) Section 31.0222;

- 1 (4) Section 31.025;
- 2 (5) Subsections (e) and (g), Section 31.035;
- 3 (6) Subsection (c), Section 31.072;
- 4 (7) Subsections (a) and (b), Section 31.073;
- 5 (8) Subsections (b), (b-1), (c), and (c-1), Section
- 6 31.101;
- 7 (9) Section 31.1011;
- 8 (10) Subsections (a) and (e), Section 31.103;
- 9 (11) Section 31.1031;
- 10 (12) Subchapter E, Chapter 31;
- 11 (13) Section 32.005;
- 12 (14) Sections 32.251 through 32.257;
- 13 (15) Sections 32.259 through 32.263; and
- 14 (16) Subchapter H, Chapter 32.

15 SECTION 68. Subsections (a-1) and (b-1), Section 2175.128,
16 Government Code, are repealed.

17 SECTION 69. The change in law made by this Act to Section
18 7.108, Education Code, applies only to an offense committed on or
19 after the effective date of this Act. An offense committed before
20 the effective date of this Act is governed by the law in effect when
21 the offense was committed, and the former law is continued in effect
22 for that purpose. For purposes of this section, an offense was
23 committed before the effective date of this Act if any element of
24 the offense occurred before that date.

25 SECTION 70. (a) If this Act takes effect immediately,
26 Subsection (a), Section 11, H.B. No. 4, Acts of the 82nd
27 Legislature, Regular Session, 2011, has no effect, and the

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1 \$184,000,000 described by that subsection is allocated to fund the
2 instructional materials allotment in accordance with the
3 provisions of this Act.

4 (b) To the extent of any conflict, this Act prevails over
5 the provisions of Subsection (b), Section 11, H.B. No. 4, Acts of
6 the 82nd Legislature, Regular Session, 2011.

7 (c) If this Act does not take effect immediately,
8 Subsections (a) and (b) of this section have no effect.

9 SECTION 71. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect on the 91st day after the last day of
14 the legislative session.

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David Newhust

President of the Senate

Joe Straus

Speaker of the House

I hereby certify that S.B. No. 6 passed the Senate on June 3, 2011, by the following vote: Yeas 31, Nays 0; June 20, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; June 21, 2011, House granted request of the Senate; June 27, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0.

Ratsy Spaw

Secretary of the Senate

I hereby certify that S.B. No. 6 passed the House, with amendments, on June 16, 2011, by the following vote: Yeas 138, Nays 0, one present not voting; June 21, 2011, House granted request of the Senate for appointment of Conference Committee; June 27, 2011, House adopted Conference Committee Report by the following vote: Yeas 142, Nays 1, one present not voting.

Robert Haney

Chief Clerk of the House

Approved:

19 JUL '11

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

4:00 pm / 4 O'CLOCK

JUL 19 2011

Colby Carter III

Secretary of State