

By: Shapiro
(Eissler)

S.B. No. 6

A BILL TO BE ENTITLED

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;

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.

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:

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

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:

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

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

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

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

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,

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 ~~disused 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, to the extent
25 authorized by the General Appropriations Act; and

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

1 and the insurance expenses associated with intrastate freight and
2 shipping.

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

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

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

20 (b) A juvenile justice alternative education program under
21 Section 37.011 is entitled to an allotment from the state
22 instructional materials fund in an amount determined by the
23 commissioner. The program shall use the allotment to purchase
24 items listed in Subsection (c) for students enrolled in the
25 program. The commissioner's determination under this subsection is
26 final and may not be appealed.

27 (c) Subject to Subsection (d), funds allotted under this

1 section may be used to:

2 (1) purchase:

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

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

8 (C) consumable instructional materials,
9 including workbooks;

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

12 (E) supplemental instructional materials, as
13 provided by Section 31.035;

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

16 (G) instructional materials and technological
17 equipment under any continuing contracts of the district in effect
18 on September 1, 2011; and

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

23 (2) pay:

24 (A) for training educational personnel directly
25 involved in student learning in the appropriate use of
26 instructional materials and for providing for access to
27 technological equipment for instructional use; and

1 (B) the salary and other expenses of an employee
2 who provides technical support for the use of technological
3 equipment.

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

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

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

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

20 (d-2) Subsection (d-1) and this subsection expire August
21 31, 2013.

22 (e) Not later than May 31 of each school year, a school
23 district may request that the commissioner adjust the number of
24 students for which the district is entitled to receive an allotment
25 under Subsection (a) on the grounds that the number of students
26 attending school in the district will increase or decrease during
27 the school year for which the allotment is provided. The

1 commissioner may also adjust the number of students for which a
2 district is entitled to receive an allotment, without a request by
3 the district, if the commissioner determines a different number of
4 students is a more accurate reflection of students who will be
5 attending school in the district. The commissioner's determination
6 under this subsection is final.

7 (f) The commissioner may adopt rules as necessary to
8 implement this section.

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

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

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

25 (d) Money deposited in a school district's instructional
26 materials account during each state fiscal biennium remains in the
27 account and available for use by the district for the entire

1 biennium. At the end of each biennium, a district with unused money
2 in the district's account may carry forward any remaining balance
3 to the next biennium.

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

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

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

22 (b) The commissioner may adopt rules as necessary to
23 implement this section.

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

26 Sec. 31.022. INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~] REVIEW AND
27 ADOPTION. (a) The State Board of Education shall adopt a review

1 and adoption cycle for instructional materials [~~textbooks~~] for
2 elementary grade levels, including prekindergarten, and secondary
3 grade levels, for each subject in the required curriculum under
4 Section 28.002. In adopting the cycle, the board:

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

7 (2) shall give priority to instructional materials in
8 the following subjects:

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

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

19 (C) foundation curriculum subjects not described
20 by Paragraph (A) or (B), including career and technology courses
21 that satisfy foundation curriculum requirements as provided by
22 Section 28.002(n); and

23 (D) enrichment curriculum subjects.

24 (b) The board shall organize the cycle for subjects in the
25 foundation curriculum so that not more than one-fourth [~~one-sixth~~]
26 of the instructional materials [~~textbooks~~] for subjects in the
27 foundation curriculum are reviewed each biennium [~~year~~]. The board

1 shall adopt rules to provide for a full and complete investigation
2 of instructional materials [~~textbooks~~] for each subject in the
3 foundation curriculum [~~at least~~] every eight [~~six~~] years. The
4 adoption of instructional materials [~~textbooks~~] for a subject in
5 the foundation curriculum may be extended beyond the eight-year
6 [~~six-year~~] period only if the content of instructional materials
7 [~~textbooks~~] for a subject is sufficiently current.

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

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

18 (d) At least 12 [~~24~~] months before the beginning of the
19 school year for which instructional materials [~~textbooks~~] for a
20 particular subject and grade level will be adopted [~~purchased~~]
21 under the review and adoption cycle [~~adopted by the board~~], the
22 board shall publish notice of the review and adoption cycle for
23 those instructional materials [~~textbooks~~]. A request for
24 production must allow submission of open-source instructional
25 materials that are available for use by the state without charge on
26 the same basis as instructional materials offered for sale.

27 (d-1) A notice published under Subsection (d) must state

1 that a publisher of adopted instructional materials for a grade
2 level other than prekindergarten must submit an electronic sample
3 of the instructional materials as required by Sections 31.027(a)
4 and (b) and may not submit a print sample copy.

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

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

15 SECTION 25. Section 31.0221, Education Code, is amended to
16 read as follows:

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

23 (1) the publisher of the instructional material
24 [~~textbook~~] to pay a fee to the board to cover the cost of the
25 midcycle review and adoption of the instructional material
26 [~~textbook~~];

27 (2) the publisher of the instructional material

1 ~~[textbook]~~ to enter into a contract with the board concerning the
2 instructional material ~~[textbook]~~ for a term that ends at the same
3 time as any contract entered into by the board for other
4 instructional materials ~~[another textbook]~~ for the same subject and
5 grade level; and

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

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

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

14 (b) Sections 31.023 and 31.024 apply to instructional
15 material ~~[a textbook]~~ adopted under this section. Section 31.027
16 does not apply to instructional material ~~[a textbook]~~ adopted under
17 this section.

18 SECTION 26. Section 31.023, Education Code, is amended to
19 read as follows:

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

21 (a) For each subject and grade level, the State Board of Education
22 shall adopt a list ~~[two lists]~~ of instructional materials
23 ~~[textbooks]~~. The ~~[confirming]~~ list includes each instructional
24 material ~~[textbook]~~ submitted for the subject and grade level that
25 meets applicable physical specifications adopted by the State Board
26 of Education and contains material covering at least half of the
27 elements ~~[each element]~~ of the essential knowledge and skills of

1 the subject and grade level in the student version of the
2 instructional material [~~textbook~~], as well as in the teacher
3 version of the instructional material [~~textbook~~], as determined by
4 the State Board of Education under Section 28.002 and adopted under
5 Section 31.024[~~. The nonconforming list includes each textbook~~
6 ~~submitted for the subject and grade level that:~~

7 [~~(1) meets applicable physical specifications adopted~~
8 ~~by the State Board of Education;~~

9 [(2) ~~contains material covering at least half, but not~~
10 ~~all, of the elements of the essential knowledge and skills of the~~
11 ~~subject and grade level in the student version of the textbook, as~~
12 ~~well as in the teacher version of the textbook; and~~

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

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

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

21 SECTION 27. (a) If S.B. No. 290, Acts of the 82nd
22 Legislature, Regular Session, 2011, does not become law, Section
23 31.0231, Education Code, is amended to read as follows:

24 Sec. 31.0231. COMMISSIONER'S [~~ELECTRONIC TEXTBOOK AND~~
25 ~~INSTRUCTIONAL MATERIAL~~] LIST. (a) The commissioner shall adopt a
26 list of:

27 (1) electronic instructional material [~~textbooks~~];

1 and

2 (2) science [~~instructional~~] material that conveys
3 information to the student or otherwise contributes to the learning
4 process, including tools, models, and investigative materials
5 designed for use as part of the foundation curriculum for science in
6 kindergarten through grade five.

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

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

21 (1) must be reviewed and recommended to the
22 commissioner by a panel of recognized experts in the subject area of
23 the [~~electronic textbook or instructional~~] material and experts in
24 education technology;

25 (2) must satisfy criteria adopted for the purpose by
26 commissioner rule; and

27 (3) must meet the National Instructional Materials

1 Accessibility Standard, to the extent practicable as determined by
2 the commissioner.

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

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

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

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

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

17 (3) include appropriate training for teachers.

18 (e) The commissioner shall update, as necessary, the list
19 adopted under Subsection (a). Before the commissioner places [~~an~~
20 ~~electronic textbook or instructional~~] material on the updated list,
21 the requirements of Subsection (c) must be met. [~~Before the~~
22 ~~commissioner removes an electronic textbook or instructional~~
23 ~~material from the updated list, the removal must be recommended by a~~
24 ~~panel of recognized experts in the subject area of the electronic~~
25 ~~textbook or instructional material and experts in education~~
26 ~~technology.~~]

27 (f) After notice to the commissioner explaining in detail

1 the changes, the provider of [~~an electronic textbook or~~
2 ~~instructional~~] material on the list adopted under Subsection (a)
3 may update the navigational features or management system related
4 to the [~~electronic textbook or instructional~~] material.

5 (g) After notice to the commissioner and a review by the
6 commissioner, the provider of [~~an electronic textbook or~~
7 ~~instructional~~] material on the list adopted under Subsection (a)
8 may update the content of the [~~electronic textbook or~~
9 ~~instructional~~] material if needed to accurately reflect current
10 knowledge or information.

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

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

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

18 (b) If S.B. No. 290, Acts of the 82nd Legislature, Regular
19 Session, 2011, becomes law, Section 31.0231, Education Code, as
20 effective in June 2011 is amended to read as follows:

21 Sec. 31.0231. COMMISSIONER'S [~~ELECTRONIC TEXTBOOK AND~~
22 ~~INSTRUCTIONAL MATERIAL~~] LIST. (a) The commissioner shall adopt a
23 list of:

24 (1) electronic instructional material [~~textbooks~~];
25 and

26 (2) [~~instructional~~] material that conveys information
27 to the student or otherwise contributes to the learning process,

1 including tools, models, and investigative materials designed for
2 use as part of the foundation curriculum for:

3 (A) science in kindergarten through grade five;
4 and

5 (B) personal financial literacy in kindergarten
6 through grade eight.

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

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

21 (1) must be reviewed and recommended to the
22 commissioner by a panel of recognized experts in the subject area of
23 the [~~electronic textbook or instructional~~] material and experts in
24 education technology;

25 (2) must satisfy criteria adopted for the purpose by
26 commissioner rule; and

27 (3) must meet the National Instructional Materials

1 Accessibility Standard, to the extent practicable as determined by
2 the commissioner.

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

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

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

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

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

17 (3) include appropriate training for teachers.

18 (e) The commissioner shall update, as necessary, the list
19 adopted under Subsection (a). Before the commissioner places [~~an~~
20 ~~electronic textbook or instructional~~] material on the updated list,
21 the requirements of Subsection (c) must be met. [~~Before the~~
22 ~~commissioner removes an electronic textbook or instructional~~
23 ~~material from the updated list, the removal must be recommended by a~~
24 ~~panel of recognized experts in the subject area of the electronic~~
25 ~~textbook or instructional material and experts in education~~
26 ~~technology.~~]

27 (f) After notice to the commissioner explaining in detail

1 the changes, the provider of [~~an electronic textbook or~~
2 ~~instructional~~] material on the list adopted under Subsection (a)
3 may update the navigational features or management system related
4 to the [~~electronic textbook or instructional~~] material.

5 (g) After notice to the commissioner and a review by the
6 commissioner, the provider of [~~an electronic textbook or~~
7 ~~instructional~~] material on the list adopted under Subsection (a)
8 may update the content of the [~~electronic textbook or~~
9 ~~instructional~~] material if needed to accurately reflect current
10 knowledge or information.

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

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

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

18 SECTION 28. Section 31.024, Education Code, is amended to
19 read as follows:

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

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

25 (2) reject instructional material [~~a textbook~~]
26 submitted for placement on that [~~a conforming or nonconforming~~]
27 list.

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

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

11 Sec. 31.0241. ADOPTION OF OPEN-SOURCE INSTRUCTIONAL
12 MATERIALS [~~TEXTBOOKS~~].

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

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

20 (1) the instructional material [~~textbook~~] is written,
21 compiled, or edited primarily by faculty of the eligible
22 institution who specialize in the subject area of the instructional
23 material [~~textbook~~];

24 (2) the eligible institution identifies each
25 contributing author;

26 (3) the appropriate department of the eligible
27 institution certifies the instructional material [~~textbook~~] for

1 accuracy; ~~and~~

2 (4) the eligible institution determines that the
3 instructional material ~~[textbook]~~ qualifies for placement on the
4 ~~[conforming or nonconforming]~~ list based on the extent to which the
5 instructional material ~~[textbook]~~ covers the essential knowledge
6 and skills identified under Section 28.002 for the subject for
7 which the instructional material ~~[textbook]~~ is written and
8 certifies that:

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

14 (B) for instructional material ~~[a textbook]~~ for a
15 junior-level and senior-level course, a student who successfully
16 completes the junior-level course based on the instructional
17 material ~~[textbook]~~ will be prepared for entry into the
18 senior-level course; and

19 (5) by not later than the 90th day after the date the
20 instructional material is submitted and before placement of the
21 instructional material on the list, the board reviews and comments
22 on the instructional material.

23 (c) This section does not prohibit an eligible institution
24 from submitting instructional material ~~[a textbook]~~ for placement
25 on the ~~[a conforming or nonconforming]~~ list adopted under Section
26 31.023 through any other adoption process provided by this chapter.

27 SECTION 31. Section 31.026, Education Code, is amended to

1 read as follows:

2 Sec. 31.026. CONTRACT; PRICE. (a) The State Board of
3 Education shall execute a contract[+]

4 [~~(1)~~] for the purchase [~~of each adopted textbook other~~
5 ~~than an electronic textbook, and~~

6 [~~(2) for the purchase~~] or licensing of each adopted
7 instructional material [~~electronic textbook~~].

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

12 (c) As applicable, a contract must provide for the purchase
13 or licensing of instructional material [~~a textbook~~] at a specific
14 price, which may not exceed the lowest price paid by any other state
15 or any school or school district. The price must be fixed for the
16 term of the contract.

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

19 SECTION 32. Section 31.0261, Education Code, is amended to
20 read as follows:

21 Sec. 31.0261. CONTRACTS FOR PRINTING OF OPEN-SOURCE
22 INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The State Board of Education
23 may execute a contract for the printing of [~~an~~] open-source
24 instructional materials placed [~~textbook listed~~] on the
25 [~~conforming or nonconforming~~] list adopted under Section 31.023.
26 The contract must allow a school district to requisition printed
27 copies of [~~an~~] open-source instructional materials [~~textbook~~] as

1 provided by Section 31.103.

2 SECTION 33. (a) If S.B. No. 391, Acts of the 82nd
3 Legislature, Regular Session, 2011, does not become law or this Act
4 takes effect immediately, Section 31.027, Education Code, is
5 amended to read as follows:

6 Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; ELECTRONIC
7 SAMPLE [~~COPIES~~]. (a) A publisher shall provide each school
8 district and open-enrollment charter school with information that
9 fully 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 [~~a~~] sample [~~copy~~] of
12 submitted instructional material [~~an adopted textbook~~].

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

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

19 (b) If S.B. No. 391, Acts of the 82nd Legislature, Regular
20 Session, 2011, becomes law and this Act does not take effect
21 immediately, Section 31.027, Education Code, as effective
22 September 1, 2011, is amended to read as follows:

23 Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; ELECTRONIC
24 SAMPLE. (a) A publisher shall provide each school district and
25 open-enrollment charter school with information that fully
26 describes each of the publisher's submitted instructional
27 materials [~~adopted textbooks~~]. On request of a school district, a

1 publisher shall provide an electronic sample of submitted
2 instructional material [~~an adopted textbook~~].

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

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

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

11 SECTION 34. Section 31.028, Education Code, is amended to
12 read as follows:

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

14 (a) The commissioner [~~State Board of Education~~] may purchase
15 special instructional materials [~~textbooks~~] for the education of
16 blind and visually impaired students in public schools. In
17 addition, for a teacher who is blind or visually impaired, the
18 commissioner [~~board~~] shall provide a teacher's edition in Braille
19 or large type, as requested by the teacher, for each instructional
20 material [~~textbook~~] the teacher uses in the instruction of
21 students. The teacher edition must be available at the same time
22 the student instructional materials [~~textbooks~~] become available.

23 (b) The publisher of [~~an~~] adopted instructional material
24 [~~textbook~~] shall provide the agency with computerized
25 instructional material [~~textbook~~] files for the production of
26 Braille instructional materials [~~textbooks~~] or other versions of
27 instructional materials [~~textbooks~~] to be used by students with

1 disabilities, on request of the commissioner [~~State Board of~~
2 ~~Education~~]. A publisher shall arrange computerized instructional
3 material [~~textbook~~] files in one of several optional formats
4 specified by the commissioner [~~State Board of Education~~].

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

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

13 (d) In this section:

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

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

22 SECTION 35. Section 31.029, Education Code, is amended to
23 read as follows:

24 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS
25 [~~TEXTBOOKS~~]. (a) A school district [~~The board~~] shall purchase
26 with the district's instructional materials allotment or otherwise
27 acquire instructional materials [~~textbooks~~] for use in bilingual

1 education classes.

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

4 SECTION 36. Section 31.030, Education Code, is amended to
5 read as follows:

6 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The
7 State Board of Education shall adopt rules to ensure that used
8 instructional materials [~~textbooks~~] sold to school districts and
9 open-enrollment charter schools are not sample copies that contain
10 factual errors. The rules may provide for the imposition of an
11 administrative penalty in accordance with Section 31.151 against a
12 seller of used instructional materials [~~textbooks~~] who knowingly
13 violates this section.

14 SECTION 37. The heading to Section 31.035, Education Code,
15 is amended to read as follows:

16 Sec. 31.035. SUPPLEMENTAL INSTRUCTIONAL MATERIALS
17 [~~TEXTBOOKS~~].

18 SECTION 38. Subsections (a) through (d) and (f), Section
19 31.035, Education Code, are amended to read as follows:

20 (a) Notwithstanding any other provision of this subchapter,
21 the State Board of Education may adopt supplemental instructional
22 materials [~~textbooks~~] that are not on the [~~conforming or~~
23 ~~nonconforming~~] list adopted under Section 31.023. The State Board
24 of Education may adopt [~~a~~] supplemental instructional material
25 [~~textbook~~] under this section only if the instructional material
26 [~~textbook~~]:

27 (1) contains material covering one or more primary

1 focal points or primary topics of a subject in the required
2 curriculum under Section 28.002, as determined by the State Board
3 of Education;

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

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

8 (4) is free from factual errors.

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

13 (c) Supplemental instructional material [~~A supplemental~~
14 ~~textbook~~] is subject to the review and adoption cycle provisions,
15 including the midcycle review and adoption cycle provisions, of
16 this subchapter.

17 (d) A school district or open-enrollment charter school may
18 requisition [a] supplemental instructional material [~~textbook~~]
19 adopted under this section only if the district or school [+

20 [~~(1) uses textbook credits received under Section~~
21 ~~31.1011 to purchase the supplemental textbook, or~~

22 [~~(2) instead of requisitioning a textbook on the~~
23 ~~conforming list under Section 31.023 for a course in the foundation~~
24 ~~curriculum under Section 28.002,~~] requisitions the supplemental
25 instructional material [~~textbook~~] along with other supplemental
26 instructional materials [~~textbooks~~] or instructional materials
27 [~~textbooks~~] on the [~~nonconforming~~] list adopted under Section

1 31.023 that in combination cover each element of the essential
2 knowledge and skills for the course for which the district or school
3 is requisitioning the supplemental instructional materials
4 [~~textbooks~~].

5 (f) A school district or open-enrollment charter school
6 that requisitions supplemental instructional materials [~~textbooks~~
7 ~~under Subsection (d)(2)~~] shall certify to the agency that the
8 supplemental instructional materials [~~textbooks~~], in combination
9 with any other instructional materials [~~textbooks~~] or supplemental
10 instructional materials [~~textbooks~~] used by the district or school,
11 cover the essential knowledge and skills identified under Section
12 28.002 by the State Board of Education for the subject and grade
13 level for which the district or school is requisitioning the
14 supplemental instructional materials [~~textbooks~~].

15 SECTION 39. The heading to Subchapter B-1, Chapter 31,
16 Education Code, is amended to read as follows:

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

19 SECTION 40. Section 31.071, Education Code, is amended to
20 read as follows:

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

24 (b) The commissioner:

25 (1) shall purchase any state-developed open-source
26 instructional materials [~~textbooks~~] through a competitive process;
27 and

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

4 (c) State-developed [~~A state-developed~~] open-source
5 instructional material [~~textbook~~] must be irrevocably owned by or
6 licensed to the state for use in the applicable subject or grade
7 level. The state must have unlimited authority to modify, delete,
8 combine, or add content to the instructional material [~~textbook~~]
9 after purchase.

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

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

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

17 (e) The costs of administering this subchapter and
18 purchasing state-developed open-source instructional materials
19 [~~textbooks~~] shall be paid from the state instructional materials
20 [~~textbook~~] fund, as determined by the commissioner and subject to
21 Section 31.021.

22 SECTION 41. Subsections (a) and (b), Section 31.072,
23 Education Code, are amended to read as follows:

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

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

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

4 (b) Following a curriculum revision by the State Board of
5 Education, the commissioner shall require the revision of [~~a~~]
6 state-developed open-source instructional material [~~textbook~~]
7 relating to that curriculum. The commissioner may, at any time,
8 require an additional revision of [~~a~~] state-developed open-source
9 instructional material [~~textbook~~] or contract for ongoing
10 revisions of state-developed open-source instructional material [~~a~~
11 ~~textbook~~] for a period not to exceed the period under Section 31.022
12 for which instructional material [~~a textbook~~] for that subject and
13 grade level may be adopted. The commissioner shall use a
14 competitive process to request proposals to revise [~~a~~]
15 state-developed open-source instructional material [~~textbook~~]
16 under this subsection.

17 SECTION 42. The heading to Section 31.073, Education Code,
18 is amended to read as follows:

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

20 SECTION 43. Subsections (c) and (d), Section 31.073,
21 Education Code, are amended to read as follows:

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

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

1 not be charged for selection of [~~a~~] state-developed open-source
2 instructional material [~~textbook~~] in addition to instructional
3 material [~~a textbook~~] adopted under Subchapter B.

4 SECTION 44. Section 31.074, Education Code, is amended to
5 read as follows:

6 Sec. 31.074. DISTRIBUTION. (a) The commissioner shall
7 provide for the distribution of state-developed open-source
8 instructional materials [~~textbooks~~] in a manner consistent with
9 distribution of instructional materials [~~textbooks~~] adopted under
10 Subchapter B.

11 (b) The commissioner may use a competitive process to
12 contract for printing or other reproduction of [~~a~~] state-developed
13 open-source instructional material [~~textbook~~] on behalf of a school
14 district or open-enrollment charter school. The commissioner may
15 not require a school district or open-enrollment charter school to
16 contract with a state-approved provider for the printing or
17 reproduction of [~~a~~] state-developed open-source instructional
18 material [~~textbook~~].

19 SECTION 45. Section 31.075, Education Code, is amended to
20 read as follows:

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

24 (b) The commissioner shall provide a license to each public
25 school in the state, including a school district, an
26 open-enrollment charter school, and a state or local agency
27 educating students in any grade from prekindergarten through high

1 school, to use and reproduce [~~a~~] state-developed open-source
2 instructional material [~~textbook~~].

3 (c) The commissioner may provide a license to use [~~a~~]
4 state-developed open-source instructional material [~~textbook~~] to
5 an entity not listed in Subsection (b). In determining the cost of
6 a license under this subsection, the commissioner shall seek, to
7 the extent feasible, to recover the costs of developing, revising,
8 and distributing state-developed open-source instructional
9 materials [~~textbooks~~].

10 SECTION 46. Subsection (b), Section 31.076, Education Code,
11 is amended to read as follows:

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

15 SECTION 47. Section 31.077, Education Code, is amended to
16 read as follows:

17 Sec. 31.077. ADOPTION SCHEDULE. The commissioner shall
18 develop a schedule for the adoption of state-developed open-source
19 instructional materials [~~textbooks~~] under this subchapter. In
20 developing the adoption schedule under this section, the
21 commissioner shall consider:

- 22 (1) the availability of funds;
- 23 (2) the existing instructional material [~~textbook~~]
24 adoption cycles under Subchapter B; and
- 25 (3) the availability of instructional materials
26 [~~textbooks~~] for development or purchase by the state.

27 SECTION 48. The heading to Section 31.101, Education Code,

1 is amended to read as follows:

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

4 SECTION 49. Section 31.101, Education Code, is amended by
5 amending Subsections (a), (d), and (e) and adding Subsection (f) to
6 read as follows:

7 (a) Each year, during a period established by the State
8 Board of Education, the board of trustees of each school district
9 and the governing body of each open-enrollment charter school
10 shall:

11 (1) for a subject in the foundation curriculum, notify
12 the State Board of Education of the instructional materials
13 [~~textbooks~~] selected by the board of trustees or governing body for
14 the following school year from [~~among~~] the instructional materials
15 [~~textbooks on the appropriate conforming or nonconforming~~] list,
16 including the list adopted under Section 31.0231; or

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

18 (A) notify the State Board of Education of each
19 instructional material [~~textbook~~] selected by the board of trustees
20 or governing body for the following school year from [~~among~~] the
21 instructional materials [~~textbooks on the appropriate conforming~~
22 ~~or nonconforming~~] list, including the list adopted under Section
23 31.0231; or

24 (B) notify the State Board of Education that the
25 board of trustees or governing body has selected instructional
26 material [~~a textbook~~] that is not on the [~~conforming or~~
27 ~~nonconforming~~] list.

1 (d) For instructional material [~~a textbook~~] that is not on
2 the [~~conforming or nonconforming~~] list, a school district or
3 open-enrollment charter school must use the instructional material
4 [~~textbook~~] for the period of the review and adoption cycle the State
5 Board of Education has established for the subject and grade level
6 for which the instructional material [~~textbook~~] is used.

7 (e) A school district or open-enrollment charter school
8 that selects [~~a~~] subscription-based [~~electronic textbook or~~]
9 instructional material on the [~~conforming~~] list adopted under
10 Section 31.023 or electronic instructional material on the list
11 adopted by the commissioner under Section 31.0231 may cancel the
12 subscription and subscribe to [~~a~~] new [~~electronic textbook or~~]
13 instructional material on the [~~conforming~~] list adopted under
14 Section 31.023 or electronic instructional material on the list
15 adopted by the commissioner under Section 31.0231 before the end of
16 the state contract period under Section 31.026 if:

17 (1) the district or school has used the [~~electronic~~
18 ~~textbook or~~] instructional material for at least one school year;
19 and

20 (2) the agency approves the change based on a written
21 request to the agency by the district or school that specifies the
22 reasons for changing the [~~electronic textbook or~~] instructional
23 material used by the district or school.

24 (f) The commissioner shall maintain an online requisition
25 system for school districts to requisition instructional materials
26 to be purchased with the district's instructional materials
27 allotment.

1 SECTION 50. Section 31.102, Education Code, is amended to
2 read as follows:

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

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

10 (c) The board of trustees of a school district or the
11 governing body of an open-enrollment charter school [~~is the legal~~
12 ~~custodian of textbooks purchased as provided by this chapter for~~
13 ~~the district or school. The board of trustees~~] shall distribute
14 printed instructional material [~~textbooks~~] to students in the
15 manner that the board or governing body determines is most
16 effective and economical.

17 SECTION 51. The heading to Section 31.103, Education Code,
18 is amended to read as follows:

19 Sec. 31.103. INSTRUCTIONAL MATERIAL [~~TEXTBOOK~~]
20 REQUISITIONS.

21 SECTION 52. Subsections (b), (c), and (d), Section 31.103,
22 Education Code, are amended to read as follows:

23 (b) [~~A requisition for textbooks for the following school~~
24 ~~year shall be based on the maximum attendance reports under~~
25 ~~Subsection (a), plus an additional 10 percent, except as otherwise~~
26 ~~provided.~~] A school district or open-enrollment charter school
27 shall make a requisition for instructional material using the

1 online requisition program maintained by [~~a textbook on the~~
 2 ~~conforming or nonconforming list through~~] the commissioner [~~to the~~
 3 ~~state depository designated by the publisher or as provided by~~
 4 ~~State Board of Education rule, as applicable,~~] not later than June 1
 5 of each year. The [~~designated state depository or, if the publisher~~
 6 ~~or manufacturer does not have a designated textbook depository in~~
 7 ~~this state under Section 31.151(a)(6)(B), the~~] publisher or
 8 manufacturer shall fill a requisition approved by the agency [~~at~~
 9 ~~any other time in the case of an emergency~~]. [~~As made necessary by~~
 10 ~~available funds, the commissioner shall reduce the additional~~
 11 ~~percentage of attendance for which a district or school may~~
 12 ~~requisition textbooks. The commissioner may, on application of a~~
 13 ~~district or school that is experiencing high enrollment growth,~~
 14 ~~increase the additional percentage of attendance for which the~~
 15 ~~district or school may requisition textbooks.~~]

16 (c) In making a requisition under this section, a school
 17 district or open-enrollment charter school may requisition
 18 instructional materials [~~textbooks~~] on the [~~conforming or~~
 19 ~~nonconforming~~] list adopted under Section 31.023 for grades above
 20 the grade level in which a student is enrolled[, ~~except that the~~
 21 ~~total quantity of textbooks requisitioned under this section may~~
 22 ~~not exceed the limit prescribed by Subsection (b)~~].

23 (d) A school district or open-enrollment charter school
 24 that selects [~~an~~] open-source instructional material [~~textbook~~]
 25 shall requisition a sufficient number of printed copies for use by
 26 students unable to access the instructional material [~~textbook~~]
 27 electronically unless the district or school provides to each

1 student:

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

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

6 SECTION 53. Section 31.104, Education Code, is amended to
7 read as follows:

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

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

17 [~~(1) the textbook depository;~~

18 [~~(2)~~] the [~~textbook~~] publisher of the instructional
19 materials or [~~manufacturer if the textbook publisher or~~
20 ~~manufacturer does not have a designated textbook depository in this~~
21 ~~state under Section 31.151(a)(6)(B); or~~

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

24 (c) [~~Each textbook must state that the textbook is the~~
25 ~~property of or is licensed to this state, as appropriate. Each~~
26 ~~textbook, other than an electronic textbook or a printed copy of an~~
27 ~~open-source textbook, must be covered by the student under the~~

1 ~~direction of the teacher.~~] Except as provided by Subsection (g), a
2 student must return all instructional materials [~~textbooks~~] to the
3 teacher at the end of the school year or when the student withdraws
4 from school.

5 (d) Each student, or the student's parent or guardian, is
6 responsible for all instructional materials [~~each textbook,~~
7 ~~including an electronic textbook,~~] and [~~all~~] technological
8 equipment not returned in an acceptable condition by the student. A
9 student who fails to return in an acceptable condition all
10 instructional materials [~~textbooks, including electronic~~
11 ~~textbooks,~~] and technological equipment forfeits the right to free
12 instructional materials [~~textbooks, including electronic~~
13 ~~textbooks,~~] and technological equipment until all instructional
14 materials [~~each textbook, including an electronic textbook,~~] and
15 [~~all~~] technological equipment previously issued but not returned in
16 an acceptable condition are [~~is~~] paid for by the student, parent, or
17 guardian. As provided by policy of the board of trustees or
18 governing body, a school district or open-enrollment charter school
19 may waive or reduce the payment requirement if the student is from a
20 low-income family. The district or school shall allow the student
21 to use instructional materials [~~textbooks, including electronic~~
22 ~~textbooks,~~] and technological equipment at school during each
23 school day. If instructional materials [~~a textbook, including an~~
24 ~~electronic textbook,~~] or technological equipment is not returned in
25 an acceptable condition or paid for, the district or school may
26 withhold the student's records. A district or school may not, under
27 this subsection, prevent a student from graduating, participating

1 in a graduation ceremony, or receiving a diploma. The commissioner
2 by rule shall adopt criteria for determining whether instructional
3 materials [~~a textbook, including an electronic textbook,~~] and
4 technological equipment are returned in an acceptable condition.

5 (e) The board of trustees of a school district may not
6 require an employee of the district who acts in good faith to pay
7 for instructional materials [~~a textbook, electronic textbook,~~] or
8 technological equipment that is damaged, stolen, misplaced, or not
9 returned. A school district employee may not waive this provision
10 by contract or any other means, except that a district may enter
11 into a written agreement with a school employee whereby the
12 employee assumes financial responsibility for electronic
13 instructional material [~~textbook~~] or technological equipment usage
14 off school property or outside of a school-sponsored event in
15 consideration for the ability of the school employee to use the
16 electronic instructional material [~~textbook~~] or technological
17 equipment for personal business. Such a written agreement shall be
18 separate from the employee's contract of employment, if applicable,
19 and shall clearly inform the employee of the amount of the financial
20 responsibility and advise the employee to consider obtaining
21 appropriate insurance. An employee may not be required to agree to
22 such an agreement as a condition of employment.

23 (g) At the end of the school year for which [~~an~~] open-source
24 instructional material [~~textbook~~] that a school district or
25 open-enrollment charter school does not intend to use for another
26 student is distributed, the printed copy of the open-source
27 instructional material [~~textbook~~] becomes the property of the

1 student to whom it is distributed.

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

4 SECTION 54. Section 31.105, Education Code, is amended to
5 read as follows:

6 Sec. 31.105. SALE OR DISPOSAL OF INSTRUCTIONAL MATERIALS
7 AND TECHNOLOGICAL EQUIPMENT ~~[TEXTBOOKS]~~. (a) The board of
8 trustees of a school district or governing body of an
9 open-enrollment charter school may sell printed instructional
10 materials on the date the instructional material is discontinued
11 for use in the public schools by the State Board of Education or the
12 commissioner. The board of trustees or governing body may also sell
13 electronic instructional materials and technological equipment
14 owned by the district or school. Any funds received by a district
15 or school from a sale authorized by this subsection must be used to
16 purchase instructional materials and technological equipment
17 allowed under Section 31.0211 ~~[textbooks, other than electronic~~
18 ~~textbooks, to a student or another school at the state contract~~
19 ~~price. The district shall send money from the sale of textbooks to~~
20 ~~the commissioner as required by the commissioner. The commissioner~~
21 ~~shall deposit the money in the state textbook fund]~~.

22 (b) The board of trustees of a school district or governing
23 body of an open-enrollment charter school shall determine how the
24 district or school will dispose of discontinued printed
25 instructional materials, electronic instructional materials, and
26 technological equipment.

27 (c) The board of trustees of a school district or governing

1 body of an open-enrollment charter school may dispose of printed
2 instructional material before the date the instructional material
3 is discontinued for use in the public schools by the State Board of
4 Education if the board of trustees or governing body determines
5 that the instructional material is not needed by the district or
6 school and the board of trustees or governing body does not
7 reasonably expect that the instructional material will be needed.
8 A district or school must notify the commissioner of any
9 instructional material the district or school disposes of under
10 this subsection.

11 SECTION 55. Section 31.106, Education Code, is amended to
12 read as follows:

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

17 SECTION 56. Section 31.151, Education Code, is amended by
18 amending Subsections (a) and (d) and adding Subsection (e) to read
19 as follows:

20 (a) A publisher or manufacturer of instructional materials
21 [~~textbooks~~]:

22 (1) shall furnish any instructional material
23 [~~textbook~~] the publisher or manufacturer offers in this state[7] at
24 a price that does not exceed the lowest price at which the publisher
25 offers that instructional material [~~textbook~~] for adoption or sale
26 to any state, public school, or school district in the United
27 States;

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

5 (3) shall provide any instructional material
6 [~~textbook~~] or ancillary item free of charge in this state to the
7 same extent that the publisher or manufacturer provides the
8 instructional material [~~textbook~~] or ancillary item free of charge
9 to any state, public school, or school district in the United
10 States;

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

15 (5) may not become associated or connected with,
16 directly or indirectly, any combination in restraint of trade in
17 instructional materials [~~textbooks~~] or enter into any
18 understanding or combination to control prices or restrict
19 competition in the sale of instructional materials [~~textbooks~~] for
20 use in this state;

21 (6) shall[+
22 ~~[(A) maintain a depository in this state or~~
23 ~~arrange with a depository in this state to receive and fill orders~~
24 ~~for textbooks, other than open-source textbooks, on-line~~
25 ~~textbooks, or on-line textbook components, consistent with State~~
26 ~~Board of Education rules, or~~

27 ~~[(B)]~~ deliver instructional materials

1 [~~textbooks~~] to a school district or open-enrollment charter school
2 [~~without a delivery charge to the school district, open-enrollment~~
3 ~~charter school, or state, if:~~

4 [~~(i) the publisher or manufacturer does not~~
5 ~~maintain or arrange with a depository in this state under Paragraph~~
6 ~~(A) and the publisher's or manufacturer's textbooks and related~~
7 ~~products are warehoused or otherwise stored less than 300 miles~~
8 ~~from a border of this state; or~~

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

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

15 (8) shall guarantee delivery of instructional
16 materials [~~textbooks~~] at least 10 business days before the opening
17 day of school of the year for which the instructional materials
18 [~~textbooks~~] are ordered if the instructional materials [~~textbooks~~]
19 are ordered by a date specified in the sales contract; and

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

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

1 (e) An eligible institution, as defined by Section
2 31.0241(a), that offers open-source instructional materials under
3 Section 31.0241 is not a publisher or manufacturer for purposes of
4 this section.

5 SECTION 57. The heading to Section 31.152, Education Code,
6 is amended to read as follows:

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

9 SECTION 58. Subsections (a), (b), and (d), Section 31.152,
10 Education Code, are amended to read as follows:

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

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

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

19 (2) might reasonably tend to influence a trustee,
20 administrator, or teacher in the selection of [~~a textbook,~~
21 ~~electronic textbook,~~] instructional material[~~7~~] or technological
22 equipment; and

23 (3) could not be lawfully purchased with state
24 instructional materials funds [~~from the state textbook fund~~].

25 (d) In this section, "gift, favor, or service" does not
26 include:

27 (1) staff development, in-service, or teacher

1 training; or

2 (2) ancillary [~~instructional~~] materials, such as maps
3 or worksheets, that convey information to the student or otherwise
4 contribute to the learning process.

5 SECTION 59. The heading to Section 31.153, Education Code,
6 is amended to read as follows:

7 Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS
8 [~~TEXTBOOK~~] LAW.

9 SECTION 60. Subsection (a), Section 31.153, Education Code,
10 is amended to read as follows:

11 (a) A person commits an offense if the person knowingly
12 violates any law providing for the purchase or distribution of free
13 instructional materials [~~textbooks~~] for the public schools.

14 SECTION 61. Subsection (b), Section 39.303, Education Code,
15 is amended to read as follows:

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

25 SECTION 62. Subsection (c), Section 41.124, Education Code,
26 as effective September 1, 2011, is amended to read as follows:

27 (c) A school district that receives tuition for a student

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

5 SECTION 63. Subsection (b), Section 43.001, Education Code,
6 as amended by Chapters 201 (H.B. 3459) and 328 (S.B. 206), Acts of
7 the 78th Legislature, Regular Session, 2003, is reenacted to read
8 as follows:

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

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

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

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

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

22 SECTION 64. Section 43.001, Education Code, is amended by
23 adding Subsections (d) through (g) to read as follows:

24 (d) Each year the State Board of Education shall set aside
25 an amount equal to 50 percent of the annual distribution for that
26 year from the permanent school fund to the available school fund as
27 provided by Section 5(a), Article VII, Texas Constitution, to be

1 placed, subject to the General Appropriations Act, in the state
2 instructional materials fund established under Section 31.021.

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

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

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

22 SECTION 65. The following provisions of the Education Code
23 are repealed:

- 24 (1) Subdivision (3), Section 31.002;
- 25 (2) Subsection (b), (e), and (f), Section 31.021;
- 26 (3) Section 31.0222;
- 27 (4) Section 31.025;

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

13 SECTION 66. Subsections (a-1) and (b-1), Section 2175.128,
14 Government Code, are repealed.

15 SECTION 67. The change in law made by this Act to Section
16 7.108, Education Code, applies only to an offense committed on or
17 after the effective date of this Act. An offense committed before
18 the effective date of this Act is governed by the law in effect when
19 the offense was committed, and the former law is continued in effect
20 for that purpose. For purposes of this section, an offense was
21 committed before the effective date of this Act if any element of
22 the offense occurred before that date.

23 SECTION 68. (a) If this Act takes effect immediately,
24 Subsection (a), Section 11, H.B. No. 4, Acts of the 82nd
25 Legislature, Regular Session, 2011, has no effect, and the
26 \$184,000,000 described by that subsection is allocated to fund the
27 instructional materials allotment in accordance with the

1 provisions of this Act.

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

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

7 SECTION 69. This Act takes effect immediately if it
8 receives a vote of two-thirds of all the members elected to each
9 house, as provided by Section 39, Article III, Texas Constitution.
10 If this Act does not receive the vote necessary for immediate
11 effect, this Act takes effect on the 91st day after the last day of
12 the legislative session.