

1-1 By: Shapiro S.B. No. 6  
1-2 (In the Senate - Filed May 31, 2011; May 31, 2011, read  
1-3 first time and referred to Committee on Education; June 2, 2011,  
1-4 reported favorably by the following vote: Yeas 7, Nays 0;  
1-5 June 2, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the foundation curriculum, the establishment of the  
1-9 instructional materials allotment, and the adoption, review, and  
1-10 purchase of instructional materials and technological equipment  
1-11 for public schools; providing penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 5, Education Code, is amended by adding  
1-14 Section 5.002 to read as follows:

1-15 Sec. 5.002. REFERENCES TO TEXTBOOK. In this title, a  
1-16 reference to a textbook means instructional material, as defined by  
1-17 Section 31.002.

1-18 SECTION 2. Subdivision (28), Subsection (b), Section 7.055,  
1-19 Education Code, is amended to read as follows:

1-20 (28) The commissioner shall perform duties relating to  
1-21 the funding, adoption, and purchase of instructional materials  
1-22 [~~textbooks~~] under Chapter 31.

1-23 SECTION 3. Subsection (f), Section 7.056, Education Code,  
1-24 is amended to read as follows:

1-25 (f) A school district or campus that is required to develop  
1-26 and implement a student achievement improvement plan under Section  
1-27 39.102 or 39.103 may receive an exemption or waiver under this  
1-28 section from any law or rule other than:

1-29 (1) a prohibition on conduct that constitutes a  
1-30 criminal offense;

1-31 (2) a requirement imposed by federal law or rule;

1-32 (3) a requirement, restriction, or prohibition  
1-33 imposed by state law or rule relating to:

1-34 (A) public school accountability as provided by  
1-35 Subchapters B, C, D, E, and J, Chapter 39; or

1-36 (B) educator rights and benefits under  
1-37 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter  
1-38 A, Chapter 22; or

1-39 (4) [~~textbook~~] selection of instructional materials  
1-40 under Chapter 31.

1-41 SECTION 4. Subdivision (23), Subsection (c), Section 7.102,  
1-42 Education Code, is amended to read as follows:

1-43 (23) The board shall adopt and purchase or license  
1-44 instructional materials [~~textbooks~~] as provided by Chapter 31 and  
1-45 adopt rules required by that chapter.

1-46 SECTION 5. Subsections (a) and (c), Section 7.108,  
1-47 Education Code, are amended to read as follows:

1-48 (a) A person interested in selling bonds of any type or a  
1-49 person engaged in manufacturing, shipping, selling, or advertising  
1-50 instructional materials [~~textbooks or otherwise connected with the~~  
1-51 ~~textbook business~~] commits an offense if the person makes or  
1-52 authorizes a political contribution to or takes part in, directly  
1-53 or indirectly, the campaign of any person seeking election to or  
1-54 serving on the board.

1-55 (c) In this section:

1-56 (1) "Instructional material" has the meaning assigned  
1-57 by Section 31.002.

1-58 (2) "Political contribution" has the meaning assigned  
1-59 by Section 251.001, Election Code.

1-60 [~~(2) "Textbook" has the meaning assigned by Section~~  
1-61 ~~31.002.~~]

1-62 SECTION 6. The heading to Section 7.112, Education Code, is  
1-63 amended to read as follows:

1-64 Sec. 7.112. REPRESENTATION OF [~~TEXTBOOK~~] PUBLISHER OF

2-1 INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

2-2 SECTION 7. Subsection (a), Section 7.112, Education Code,  
2-3 is amended to read as follows:

2-4 (a) A former member of the State Board of Education who is  
2-5 employed by or otherwise receives compensation from a [~~textbook~~]  
2-6 publisher of instructional materials may not, before the second  
2-7 anniversary of the date on which the person last served as a member  
2-8 of the State Board of Education:

2-9 (1) confer with a member of the board of trustees of a  
2-10 school district concerning instructional materials [~~a textbook~~]  
2-11 published by that [~~textbook~~] publisher; or

2-12 (2) appear at a meeting of the board of trustees on  
2-13 behalf of the [~~textbook~~] publisher.

2-14 SECTION 8. Subdivision (2), Subsection (c), Section 7.112,  
2-15 Education Code, is amended to read as follows:

2-16 (2) "Instructional material" and "publisher"  
2-17 [~~"Publisher" and "textbook"~~] have the meanings assigned by Section  
2-18 31.002.

2-19 SECTION 9. Subsection (b), Section 11.158, Education Code,  
2-20 is amended to read as follows:

2-21 (b) The board may not charge fees for:

2-22 (1) instructional materials [~~textbooks~~], workbooks,  
2-23 laboratory supplies, or other supplies necessary for participation  
2-24 in any instructional course except as authorized under this code;

2-25 (2) field trips required as a part of a basic education  
2-26 program or course;

2-27 (3) any specific form of dress necessary for any  
2-28 required educational program or diplomas;

2-29 (4) the payment of instructional costs for necessary  
2-30 school personnel employed in any course or educational program  
2-31 required for graduation;

2-32 (5) library materials [~~books~~] required to be used for  
2-33 any educational course or program, other than fines for lost,  
2-34 damaged, or overdue materials [~~books~~];

2-35 (6) admission to any activity the student is required  
2-36 to attend as a prerequisite to graduation;

2-37 (7) admission to or examination in any required  
2-38 educational course or program; or

2-39 (8) lockers.

2-40 SECTION 10. Subsection (a), Section 11.164, Education Code,  
2-41 is amended to read as follows:

2-42 (a) The board of trustees of each school district shall  
2-43 limit redundant requests for information and the number and length  
2-44 of written reports that a classroom teacher is required to prepare.  
2-45 A classroom teacher may not be required to prepare any written  
2-46 information other than:

2-47 (1) any report concerning the health, safety, or  
2-48 welfare of a student;

2-49 (2) a report of a student's grade on an assignment or  
2-50 examination;

2-51 (3) a report of a student's academic progress in a  
2-52 class or course;

2-53 (4) a report of a student's grades at the end of each  
2-54 grade reporting period;

2-55 (5) a [~~textbook~~] report on instructional materials;

2-56 (6) a unit or weekly lesson plan that outlines, in a  
2-57 brief and general manner, the information to be presented during  
2-58 each period at the secondary level or in each subject or topic at  
2-59 the elementary level;

2-60 (7) an attendance report;

2-61 (8) any report required for accreditation review;

2-62 (9) any information required by a school district that  
2-63 relates to a complaint, grievance, or actual or potential  
2-64 litigation and that requires the classroom teacher's involvement;  
2-65 or

2-66 (10) any information specifically required by law,  
2-67 rule, or regulation.

2-68 SECTION 11. Subsection (e), Section 19.007, Education Code,  
2-69 is amended to read as follows:

3-1 (e) The district may participate in the instructional  
 3-2 materials [~~textbook~~] program under Chapter 31.

3-3 SECTION 12. Subsections (a) and (c), Section 26.006,  
 3-4 Education Code, are amended to read as follows:

3-5 (a) A parent is entitled to:

3-6 (1) review all teaching materials, instructional  
 3-7 materials [~~textbooks~~], and other teaching aids used in the  
 3-8 classroom of the parent's child; and

3-9 (2) review each test administered to the parent's  
 3-10 child after the test is administered.

3-11 (c) A student's parent is entitled to request that the  
 3-12 school district or open-enrollment charter school the student  
 3-13 attends allow the student to take home any instructional materials  
 3-14 [~~textbook~~] used by the student. Subject to the availability of the  
 3-15 instructional materials [~~a textbook~~], the district or school shall  
 3-16 honor the request. A student who takes home instructional  
 3-17 materials [~~a textbook~~] must return the instructional materials  
 3-18 [~~textbook~~] to school at the beginning of the next school day if  
 3-19 requested to do so by the student's teacher. In this subsection,  
 3-20 "instructional material" [~~"textbook"~~] has the meaning assigned by  
 3-21 Section 31.002.

3-22 SECTION 13. Subsections (a), (c), (h), and (n), Section  
 3-23 28.002, Education Code, are amended to read as follows:

3-24 (a) Each school district that offers kindergarten through  
 3-25 grade 12 shall offer, as a required curriculum:

3-26 (1) a foundation curriculum that includes:

3-27 (A) English language arts;

3-28 (B) mathematics;

3-29 (C) science; and

3-30 (D) social studies, consisting of Texas, United  
 3-31 States, and world history, government, economics, with emphasis on  
 3-32 the free enterprise system and its benefits, and geography; and

3-33 (2) an enrichment curriculum that includes:

3-34 (A) to the extent possible, languages other than  
 3-35 English;

3-36 (B) health, with emphasis on the importance of  
 3-37 proper nutrition and exercise;

3-38 (C) physical education;

3-39 (D) fine arts;

3-40 (E) [~~economics, with emphasis on the free~~  
 3-41 ~~enterprise system and its benefits~~;

3-42 [~~(F)~~] career and technology education;

3-43 (F) [~~(G)~~] technology applications; and

3-44 (G) [~~(H)~~] religious literature, including the  
 3-45 Hebrew Scriptures (Old Testament) and New Testament, and its impact  
 3-46 on history and literature.

3-47 (c) The State Board of Education, with the direct  
 3-48 participation of educators, parents, business and industry  
 3-49 representatives, and employers shall by rule identify the essential  
 3-50 knowledge and skills of each subject of the required curriculum  
 3-51 that all students should be able to demonstrate and that will be  
 3-52 used in evaluating instructional materials [~~textbooks~~] under  
 3-53 Chapter 31 and addressed on the assessment instruments required  
 3-54 under Subchapter B, Chapter 39. As a condition of accreditation,  
 3-55 the board shall require each district to provide instruction in the  
 3-56 essential knowledge and skills at appropriate grade levels.

3-57 (h) The State Board of Education and each school district  
 3-58 shall foster the continuation of the tradition of teaching United  
 3-59 States and Texas history and the free enterprise system in regular  
 3-60 subject matter and in reading courses and in the adoption of  
 3-61 instructional materials [~~textbooks~~]. A primary purpose of the  
 3-62 public school curriculum is to prepare thoughtful, active citizens  
 3-63 who understand the importance of patriotism and can function  
 3-64 productively in a free enterprise society with appreciation for the  
 3-65 basic democratic values of our state and national heritage.

3-66 (n) The State Board of Education may by rule develop and  
 3-67 implement a plan designed to incorporate foundation curriculum  
 3-68 requirements into the career and technology education curriculum  
 3-69 under Subsection (a)(2)(E) [~~(a)(2)(F)~~].

4-1 SECTION 14. Subsections (a) and (d), Section 28.0022,  
4-2 Education Code, are amended to read as follows:

4-3 (a) Not later than November 1, 2007, the agency shall  
4-4 establish a panel under this section to:

4-5 (1) review and recommend revisions to the career and  
4-6 technical education curriculum under Section 28.002(a)(2)(E)  
4-7 [~~28.002(a)(2)(F)~~]; and

4-8 (2) review and recommend revisions for the program in  
4-9 which high schools and articulated postsecondary institutions  
4-10 allow high school students to take advanced technical credit  
4-11 courses.

4-12 (d) Not later than November 1, 2008, the panel shall:

4-13 (1) complete the review as required by this section  
4-14 of:

4-15 (A) the career and technical education  
4-16 curriculum; and

4-17 (B) the program under which high schools and  
4-18 articulated postsecondary institutions allow high school students  
4-19 to take advanced technical credit courses; and

4-20 (2) make recommendations to the State Board of  
4-21 Education as necessary to:

4-22 (A) increase the academic rigor of the career and  
4-23 technical education curriculum under Section 28.002(a)(2)(E)  
4-24 [~~28.002(a)(2)(F)~~]; and

4-25 (B) improve and increase participation in the  
4-26 program under which high schools and articulated postsecondary  
4-27 institutions allow high school students to take advanced technical  
4-28 credit courses.

4-29 SECTION 15. Subsection (b), Section 28.003, Education Code,  
4-30 is amended to read as follows:

4-31 (b) In this section, "educational program" means a course or  
4-32 series of courses in the required curriculum under Section 28.002,  
4-33 other than a fine arts course under Section 28.002(a)(2)(D) or a  
4-34 career and technology course under Section 28.002(a)(2)(E)  
4-35 [~~28.002(a)(2)(F)~~].

4-36 SECTION 16. Subsection (c), Section 28.011, Education Code,  
4-37 is amended to read as follows:

4-38 (c) A student may not be required to use a specific  
4-39 translation as the sole text of the Hebrew Scriptures or New  
4-40 Testament and may use as the basic instructional material  
4-41 [~~textbook~~] a different translation of the Hebrew Scriptures or New  
4-42 Testament from that chosen by the board of trustees of the student's  
4-43 school district or the student's teacher.

4-44 SECTION 17. The heading to Chapter 31, Education Code, is  
4-45 amended to read as follows:

4-46 CHAPTER 31. INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

4-47 SECTION 18. Section 31.001, Education Code, is amended to  
4-48 read as follows:

4-49 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].  
4-50 Instructional materials [~~Textbooks~~] selected for use in the public  
4-51 schools shall be furnished without cost to the students attending  
4-52 those schools. Except as provided by Section 31.104(d), a school  
4-53 district may not charge a student for instructional material or  
4-54 technological equipment purchased by the district with the  
4-55 district's instructional materials allotment.

4-56 SECTION 19. Subdivisions (1), (1-a), (2), and (4), Section  
4-57 31.002, Education Code, are amended to read as follows:

4-58 (1) "Instructional material" [~~"Electronic textbook"~~]  
4-59 means content that conveys the essential knowledge and skills of a  
4-60 subject in the public school curriculum through a medium or a  
4-61 combination of media for conveying information to a student. The  
4-62 term includes a book, supplementary materials, a combination of a  
4-63 book, workbook, and supplementary materials, computer software,  
4-64 [~~interactive videodisc,~~] magnetic media, DVD, CD-ROM, computer  
4-65 courseware, on-line services, or an electronic medium, or other  
4-66 means of conveying information to the student or otherwise  
4-67 contributing to the learning process through electronic means,  
4-68 including [an] open-source instructional material [~~textbook~~].

4-69 (1-a) "Open-source instructional material"

5-1 [~~textbook~~] means [~~an~~] electronic instructional material  
 5-2 [~~textbook~~] that is available for downloading from the Internet at  
 5-3 no charge to a student and without requiring the purchase of an  
 5-4 unlock code, membership, or other access or use charge, except for a  
 5-5 charge to order an optional printed copy of all or part of the  
 5-6 instructional material [~~textbook~~]. The term includes [~~a~~]  
 5-7 state-developed open-source instructional material [~~textbook~~]  
 5-8 purchased under Subchapter B-1.

5-9 (2) "Publisher" includes an on-line service or a  
 5-10 developer or distributor of [~~an~~] electronic instructional  
 5-11 materials [~~textbook~~].

5-12 (4) "Technological equipment" means hardware, a  
 5-13 device, or equipment necessary for:

5-14 (A) instructional use in the classroom,  
 5-15 including to gain access to or enhance the use of [~~an~~] electronic  
 5-16 instructional materials [~~textbook~~]; or

5-17 (B) professional use by a classroom teacher.

5-18 SECTION 20. Subchapter A, Chapter 31, Education Code, is  
 5-19 amended by amending Sections 31.003 and 31.004 and adding Section  
 5-20 31.005 to read as follows:

5-21 Sec. 31.003. RULES. The State Board of Education may adopt  
 5-22 rules, consistent with this chapter, for the adoption, requisition,  
 5-23 distribution, care, use, and disposal of instructional materials  
 5-24 [~~textbooks~~].

5-25 Sec. 31.004. CERTIFICATION OF PROVISION OF [~~TEXTBOOKS,~~  
 5-26 ~~ELECTRONIC TEXTBOOKS, AND~~] INSTRUCTIONAL MATERIALS. (a) Each  
 5-27 school district and open-enrollment charter school shall annually  
 5-28 certify to the State Board of Education and the commissioner that,  
 5-29 for each subject in the required curriculum under Section 28.002,  
 5-30 other than physical education, and each grade level, the district  
 5-31 provides each student with [~~textbooks, electronic textbooks, or~~]  
 5-32 instructional materials that cover all elements of the essential  
 5-33 knowledge and skills adopted by the State Board of Education for  
 5-34 that subject and grade level.

5-35 (b) To determine whether each student has instructional  
 5-36 materials that cover all elements of the essential knowledge and  
 5-37 skills as required by Subsection (a), a school district or  
 5-38 open-enrollment charter school may consider:

5-39 (1) instructional materials adopted by the State Board  
 5-40 of Education;

5-41 (2) materials adopted or purchased by the commissioner  
 5-42 under Section 31.0231 or Subchapter B-1;

5-43 (3) open-source instructional materials submitted by  
 5-44 eligible institutions and adopted by the State Board of Education  
 5-45 under Section 31.0241;

5-46 (4) open-source instructional materials made  
 5-47 available by other public schools; and

5-48 (5) instructional materials developed or purchased by  
 5-49 the school district or open-enrollment charter school.

5-50 Sec. 31.005. FUNDING FOR OPEN-ENROLLMENT CHARTER SCHOOLS.  
 5-51 An open-enrollment charter school is entitled to the instructional  
 5-52 materials allotment under this chapter and is subject to this  
 5-53 chapter as if the school were a school district.

5-54 SECTION 21. The heading to Section 31.021, Education Code,  
 5-55 is amended to read as follows:

5-56 Sec. 31.021. STATE INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~]  
 5-57 FUND.

5-58 SECTION 22. Section 31.021, Education Code, is amended by  
 5-59 amending Subsections (a) and (d) and adding Subsection (c) to read  
 5-60 as follows:

5-61 (a) The state instructional materials [~~textbook~~] fund  
 5-62 consists of:

5-63 (1) an amount set aside by the State Board of Education  
 5-64 from the available school fund, in accordance with Section  
 5-65 43.001(d); and

5-66 (2) [~~all funds accruing from the state's sale of~~  
 5-67 ~~disused textbooks; and~~

5-68 [~~(3)~~] all amounts lawfully paid into the fund from any  
 5-69 other source.

6-1 (c) Money in the state instructional materials fund shall be  
 6-2 used to:

6-3 (1) fund the instructional materials allotment, as  
 6-4 provided by Section 31.0211;

6-5 (2) purchase special instructional materials for the  
 6-6 education of blind and visually impaired students in public  
 6-7 schools;

6-8 (3) pay the expenses associated with the instructional  
 6-9 materials adoption and review process under this chapter;

6-10 (4) pay the expenses associated with the purchase or  
 6-11 licensing of open-source instructional material, to the extent  
 6-12 authorized by the General Appropriations Act; and

6-13 (5) pay the expenses associated with the purchase of  
 6-14 instructional material, including intrastate freight and shipping  
 6-15 and the insurance expenses associated with intrastate freight and  
 6-16 shipping.

6-17 (d) Money transferred to the state instructional materials  
 6-18 [~~textbook~~] fund remains in the fund until spent and does not lapse  
 6-19 to the state at the end of the fiscal year.

6-20 SECTION 23. Subchapter B, Chapter 31, Education Code, is  
 6-21 amended by adding Sections 31.0211, 31.0212, 31.0213, and 31.0214  
 6-22 to read as follows:

6-23 Sec. 31.0211. INSTRUCTIONAL MATERIALS ALLOTMENT. (a) A  
 6-24 school district is entitled to an annual allotment from the state  
 6-25 instructional materials fund for each student enrolled in the  
 6-26 district on a date during the preceding school year specified by the  
 6-27 commissioner. The commissioner shall determine the amount of the  
 6-28 allotment per student each year on the basis of the amount of money  
 6-29 available in the state instructional materials fund to fund the  
 6-30 allotment. An allotment under this section shall be transferred  
 6-31 from the state instructional materials fund to the credit of the  
 6-32 district's instructional materials account as provided by Section  
 6-33 31.0212.

6-34 (b) A juvenile justice alternative education program under  
 6-35 Section 37.011 is entitled to an allotment from the state  
 6-36 instructional materials fund in an amount determined by the  
 6-37 commissioner. The program shall use the allotment to purchase  
 6-38 items listed in Subsection (c) for students enrolled in the  
 6-39 program. The commissioner's determination under this subsection is  
 6-40 final and may not be appealed.

6-41 (c) Subject to Subsection (d), funds allotted under this  
 6-42 section may be used to:

6-43 (1) purchase:  
 6-44 (A) materials on the list adopted by the  
 6-45 commissioner, as provided by Section 31.0231;

6-46 (B) instructional materials, regardless of  
 6-47 whether the instructional materials are on the list adopted under  
 6-48 Section 31.024;

6-49 (C) consumable instructional materials,  
 6-50 including workbooks;

6-51 (D) instructional materials for use in bilingual  
 6-52 education classes, as provided by Section 31.029;

6-53 (E) supplemental instructional materials, as  
 6-54 provided by Section 31.035;

6-55 (F) state-developed open-source instructional  
 6-56 materials, as provided by Subchapter B-1;

6-57 (G) instructional materials and technological  
 6-58 equipment under any continuing contracts of the district in effect  
 6-59 on September 1, 2011; and

6-60 (H) technological equipment necessary to support  
 6-61 the use of materials included on the list adopted by the  
 6-62 commissioner under Section 31.0231 or any instructional materials  
 6-63 purchased with an allotment under this section; and

6-64 (2) pay:

6-65 (A) for training educational personnel directly  
 6-66 involved in student learning in the appropriate use of  
 6-67 instructional materials and for providing for access to  
 6-68 technological equipment for instructional use; and

6-69 (B) the salary and other expenses of an employee

7-1 who provides technical support for the use of technological  
 7-2 equipment.

7-3 (d) Each year a school district shall use the district's  
 7-4 allotment under this section to purchase, in the following order:

7-5 (1) instructional materials necessary to permit the  
 7-6 district to certify that the district has instructional materials  
 7-7 that cover all elements of the essential knowledge and skills of the  
 7-8 required curriculum, other than physical education, for each grade  
 7-9 level as required by Section 28.002; and

7-10 (2) any other instructional materials or  
 7-11 technological equipment as determined by the district.

7-12 (d-1) Notwithstanding Subsection (d), for the state fiscal  
 7-13 biennium beginning September 1, 2011, a school district shall use  
 7-14 an allotment received under this section to purchase instructional  
 7-15 materials that will assist the district in satisfying performance  
 7-16 standards under Section 39.0241, as added by Chapter 895 (H.B. 3),  
 7-17 Acts of the 81st Legislature, Regular Session, 2009, on assessment  
 7-18 instruments adopted under Sections 39.023(a) and (c).

7-19 (d-2) Subsection (d-1) and this subsection expire August  
 7-20 31, 2013.

7-21 (e) Not later than May 31 of each school year, a school  
 7-22 district may request that the commissioner adjust the number of  
 7-23 students for which the district is entitled to receive an allotment  
 7-24 under Subsection (a) on the grounds that the number of students  
 7-25 attending school in the district will increase or decrease during  
 7-26 the school year for which the allotment is provided. The  
 7-27 commissioner may also adjust the number of students for which a  
 7-28 district is entitled to receive an allotment, without a request by  
 7-29 the district, if the commissioner determines a different number of  
 7-30 students is a more accurate reflection of students who will be  
 7-31 attending school in the district. The commissioner's determination  
 7-32 under this subsection is final.

7-33 (f) The commissioner may adopt rules as necessary to  
 7-34 implement this section.

7-35 Sec. 31.0212. INSTRUCTIONAL MATERIALS ACCOUNT. (a) The  
 7-36 commissioner shall maintain an instructional materials account for  
 7-37 each school district. Each school year, the commissioner shall  
 7-38 deposit in the account for each district the amount of the  
 7-39 district's instructional materials allotment under Section  
 7-40 31.0211.

7-41 (b) The commissioner shall pay the cost of instructional  
 7-42 materials requisitioned by a school district under Section 31.103  
 7-43 using funds from the district's instructional materials account.

7-44 (c) A school district may also use funds in the district's  
 7-45 account to purchase electronic instructional materials or  
 7-46 technological equipment. The district shall submit to the  
 7-47 commissioner a request for funds for this purpose from the  
 7-48 district's account. The commissioner shall adopt rules regarding  
 7-49 the documentation a school district must submit to receive funds  
 7-50 under this subsection.

7-51 (d) Money deposited in a school district's instructional  
 7-52 materials account during each state fiscal biennium remains in the  
 7-53 account and available for use by the district for the entire  
 7-54 biennium. At the end of each biennium, a district with unused money  
 7-55 in the district's account may carry forward any remaining balance  
 7-56 to the next biennium.

7-57 (e) The commissioner shall adopt rules as necessary to  
 7-58 implement this section. The rules must include a requirement that a  
 7-59 school district provide the title and publication information for  
 7-60 any instructional materials requisitioned or purchased by the  
 7-61 district with the district's instructional materials allotment.

7-62 Sec. 31.0213. CERTIFICATION OF USE OF INSTRUCTIONAL  
 7-63 MATERIALS ALLOTMENT. Each school district shall annually certify  
 7-64 to the commissioner that the district's instructional materials  
 7-65 allotment has been used only for expenses allowed by Section  
 7-66 31.0211.

7-67 Sec. 31.0214. ADJUSTMENT FOR HIGH ENROLLMENT GROWTH  
 7-68 DISTRICTS. (a) Each year the commissioner shall adjust the  
 7-69 instructional materials allotment of school districts experiencing

8-1 high enrollment growth. The commissioner shall establish a  
 8-2 procedure for determining high enrollment growth districts  
 8-3 eligible to receive an adjustment under this section and the amount  
 8-4 of the instructional materials allotment those districts will  
 8-5 receive.

8-6 (b) The commissioner may adopt rules as necessary to  
 8-7 implement this section.

8-8 SECTION 24. Section 31.022, Education Code, is amended to  
 8-9 read as follows:

8-10 Sec. 31.022. INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~] REVIEW AND  
 8-11 ADOPTION. (a) The State Board of Education shall adopt a review  
 8-12 and adoption cycle for instructional materials [~~textbooks~~] for  
 8-13 elementary grade levels, including prekindergarten, and secondary  
 8-14 grade levels, for each subject in the required curriculum under  
 8-15 Section 28.002. In adopting the cycle, the board:

8-16 (1) is not required to review and adopt instructional  
 8-17 materials for all grade levels in a single year; and

8-18 (2) shall give priority to instructional materials in  
 8-19 the following subjects:

8-20 (A) foundation curriculum subjects for which the  
 8-21 essential knowledge and skills have been substantially revised and  
 8-22 for which assessment instruments are required under Subchapter B,  
 8-23 Chapter 39, including career and technology courses that satisfy  
 8-24 foundation curriculum requirements as provided by Section  
 8-25 28.002(n);

8-26 (B) foundation curriculum subjects for which the  
 8-27 essential knowledge and skills have been substantially revised,  
 8-28 including career and technology courses that satisfy foundation  
 8-29 curriculum requirements as provided by Section 28.002(n);

8-30 (C) foundation curriculum subjects not described  
 8-31 by Paragraph (A) or (B), including career and technology courses  
 8-32 that satisfy foundation curriculum requirements as provided by  
 8-33 Section 28.002(n); and

8-34 (D) enrichment curriculum subjects.

8-35 (b) The board shall organize the cycle for subjects in the  
 8-36 foundation curriculum so that not more than one-fourth [~~one-sixth~~]  
 8-37 of the instructional materials [~~textbooks~~] for subjects in the  
 8-38 foundation curriculum are reviewed each biennium [~~year~~]. The board  
 8-39 shall adopt rules to provide for a full and complete investigation  
 8-40 of instructional materials [~~textbooks~~] for each subject in the  
 8-41 foundation curriculum [~~at least~~] every eight [~~six~~] years. The  
 8-42 adoption of instructional materials [~~textbooks~~] for a subject in  
 8-43 the foundation curriculum may be extended beyond the eight-year  
 8-44 [~~six-year~~] period only if the content of instructional materials  
 8-45 [~~textbooks~~] for a subject is sufficiently current.

8-46 (b-1) For purposes of the cycle described by Subsection (b),  
 8-47 the State Board of Education is considered to have adopted  
 8-48 instructional materials for English language arts, English as a  
 8-49 second language, and prekindergarten, as included in Proclamation  
 8-50 2011, for the biennium beginning September 1, 2011. This  
 8-51 subsection expires September 1, 2013.

8-52 (c) The board shall adopt rules to provide for a full and  
 8-53 complete investigation of instructional materials [~~textbooks~~] for  
 8-54 each subject in the enrichment curriculum on a cycle the board  
 8-55 considers appropriate.

8-56 (d) At least 12 [~~24~~] months before the beginning of the  
 8-57 school year for which instructional materials [~~textbooks~~] for a  
 8-58 particular subject and grade level will be adopted [~~purchased~~]  
 8-59 under the review and adoption cycle [~~adopted by the board~~], the  
 8-60 board shall publish notice of the review and adoption cycle for  
 8-61 those instructional materials [~~textbooks~~]. A request for  
 8-62 production must allow submission of open-source instructional  
 8-63 materials that are available for use by the state without charge on  
 8-64 the same basis as instructional materials offered for sale.

8-65 (d-1) A notice published under Subsection (d) must state  
 8-66 that a publisher of adopted instructional materials for a grade  
 8-67 level other than prekindergarten must submit an electronic sample  
 8-68 of the instructional materials as required by Sections 31.027(a)  
 8-69 and (b) and may not submit a print sample copy.



9-1 (e) The board shall designate a request for production of  
 9-2 instructional materials [~~textbooks~~] in a subject area and grade  
 9-3 level by the school year in which the instructional materials  
 9-4 [~~textbooks~~] are intended to be made available in classrooms and not  
 9-5 by the school year in which the board makes the request for  
 9-6 production.

9-7 (f) The board shall amend any request for production issued  
 9-8 for the purchase of instructional materials [~~textbooks~~] to conform  
 9-9 to the instructional materials [~~textbook~~] funding levels provided  
 9-10 by the General Appropriations Act for the year of implementation.

9-11 SECTION 25. Section 31.0221, Education Code, is amended to  
 9-12 read as follows:

9-13 Sec. 31.0221. MIDCYCLE REVIEW AND ADOPTION OF INSTRUCTIONAL  
 9-14 MATERIALS [~~TEXTBOOKS~~]. (a) The State Board of Education shall  
 9-15 adopt rules for the midcycle review and adoption of instructional  
 9-16 material [~~a textbook~~] for a subject for which instructional  
 9-17 materials [~~textbooks~~] are not currently under review by the board  
 9-18 under Section 31.022. The rules must require:

9-19 (1) the publisher of the instructional material  
 9-20 [~~textbook~~] to pay a fee to the board to cover the cost of the  
 9-21 midcycle review and adoption of the instructional material  
 9-22 [~~textbook~~];

9-23 (2) the publisher of the instructional material  
 9-24 [~~textbook~~] to enter into a contract with the board concerning the  
 9-25 instructional material [~~textbook~~] for a term that ends at the same  
 9-26 time as any contract entered into by the board for other  
 9-27 instructional materials [~~another textbook~~] for the same subject and  
 9-28 grade level; and

9-29 (3) a commitment from the publisher to provide the  
 9-30 instructional material [~~textbook~~] to school districts in the manner  
 9-31 specified by the publisher, which may include:

9-32 (A) providing the instructional material  
 9-33 [~~textbook~~] to any district in a regional education service center  
 9-34 area identified by the publisher; or

9-35 (B) providing a certain maximum number of  
 9-36 instructional materials [~~textbooks~~] specified by the publisher.

9-37 (b) Sections 31.023 and 31.024 apply to instructional  
 9-38 material [~~a textbook~~] adopted under this section. Section 31.027  
 9-39 does not apply to instructional material [~~a textbook~~] adopted under  
 9-40 this section.

9-41 SECTION 26. Section 31.023, Education Code, is amended to  
 9-42 read as follows:

9-43 Sec. 31.023. INSTRUCTIONAL MATERIAL LIST [~~TEXTBOOK LISTS~~].

9-44 (a) For each subject and grade level, the State Board of Education  
 9-45 shall adopt a list [~~two lists~~] of instructional materials  
 9-46 [~~textbooks~~]. The [~~conforming~~] list includes each instructional  
 9-47 material [~~textbook~~] submitted for the subject and grade level that  
 9-48 meets applicable physical specifications adopted by the State Board  
 9-49 of Education and contains material covering at least half of the  
 9-50 elements [~~each element~~] of the essential knowledge and skills of  
 9-51 the subject and grade level in the student version of the  
 9-52 instructional material [~~textbook~~], as well as in the teacher  
 9-53 version of the instructional material [~~textbook~~], as determined by  
 9-54 the State Board of Education under Section 28.002 and adopted under  
 9-55 Section 31.024[. ~~The nonconforming list includes each textbook~~  
 9-56 ~~submitted for the subject and grade level that:~~

9-57 [~~(1) meets applicable physical specifications adopted~~  
 9-58 ~~by the State Board of Education;~~

9-59 [~~(2) contains material covering at least half, but not~~  
 9-60 ~~all, of the elements of the essential knowledge and skills of the~~  
 9-61 ~~subject and grade level in the student version of the textbook, as~~  
 9-62 ~~well as in the teacher version of the textbook; and~~

9-63 [~~(3) is adopted under Section 31.024~~].

9-64 (a-1) The State Board of Education shall determine the  
 9-65 percentage of the elements of the essential knowledge and skills of  
 9-66 the subject and grade level covered by each instructional material  
 9-67 submitted. The board's determination under this subsection is  
 9-68 final.

9-69 (b) Each instructional material [~~textbook~~] on the [~~a~~

10-1 ~~conforming or nonconforming~~] list must be free from factual errors.  
 10-2 SECTION 27. Section 31.0231, Education Code, is amended to  
 10-3 read as follows:

10-4 Sec. 31.0231. COMMISSIONER'S [ELECTRONIC TEXTBOOK AND  
 10-5 INSTRUCTIONAL MATERIAL] LIST. (a) The commissioner shall adopt a  
 10-6 list of:

10-7 (1) electronic instructional material [~~textbooks~~];  
 10-8 and

10-9 (2) science [~~instructional~~] material that conveys  
 10-10 information to the student or otherwise contributes to the learning  
 10-11 process, including tools, models, and investigative materials  
 10-12 designed for use as part of the foundation curriculum for science in  
 10-13 kindergarten through grade five.

10-14 (b) A school district may select [~~an electronic textbook or~~  
 10-15 ~~instructional~~] material on the list adopted under Subsection (a) to  
 10-16 be funded by the district's instructional materials allotment  
 10-17 [~~state textbook fund~~] under Section 31.0211 [~~31.021~~].

10-18 (c) Before the commissioner places [~~an electronic textbook~~  
 10-19 ~~or instructional~~] material on the list adopted under Subsection  
 10-20 (a), the State Board of Education must be given an opportunity to  
 10-21 comment on the [~~electronic textbook or instructional~~] material. If  
 10-22 the commissioner places material on the list adopted under  
 10-23 Subsection (a), the State Board of Education may, not later than the  
 10-24 90th day after the date the material is placed on the list, require  
 10-25 the commissioner to remove the material from the list. Material [An  
 10-26 ~~electronic textbook or instructional material]~~ placed on the list  
 10-27 adopted under Subsection (a):

10-28 (1) must be reviewed and recommended to the  
 10-29 commissioner by a panel of recognized experts in the subject area of  
 10-30 the [~~electronic textbook or instructional~~] material and experts in  
 10-31 education technology;

10-32 (2) must satisfy criteria adopted for the purpose by  
 10-33 commissioner rule; and

10-34 (3) must meet the National Instructional Materials  
 10-35 Accessibility Standard, to the extent practicable as determined by  
 10-36 the commissioner.

10-37 (d) The criteria adopted under Subsection (c)(2) must:

10-38 (1) include evidence of alignment with current  
 10-39 research in the subject for which the [~~electronic textbook or~~  
 10-40 ~~instructional~~] material is intended to be used;

10-41 (2) include coverage of the essential knowledge and  
 10-42 skills identified under Section 28.002 for the subject for which  
 10-43 the [~~electronic textbook or instructional~~] material is intended to  
 10-44 be used and identify:

10-45 (A) each of the essential knowledge and skills  
 10-46 for the subject and grade level or levels covered by the [~~electronic~~  
 10-47 ~~textbook or instructional~~] material; and

10-48 (B) the percentage of the essential knowledge and  
 10-49 skills for the subject and grade level or levels covered by the  
 10-50 [~~electronic textbook or instructional~~] material; and

10-51 (3) include appropriate training for teachers.

10-52 (e) The commissioner shall update, as necessary, the list  
 10-53 adopted under Subsection (a). Before the commissioner places [~~an~~  
 10-54 ~~electronic textbook or instructional~~] material on the updated list,  
 10-55 the requirements of Subsection (c) must be met. [~~Before the~~  
 10-56 ~~commissioner removes an electronic textbook or instructional~~  
 10-57 ~~material from the updated list, the removal must be recommended by a~~  
 10-58 ~~panel of recognized experts in the subject area of the electronic~~  
 10-59 ~~textbook or instructional material and experts in education~~  
 10-60 ~~technology.~~]

10-61 (f) After notice to the commissioner explaining in detail  
 10-62 the changes, the provider of [~~an electronic textbook or~~  
 10-63 ~~instructional~~] material on the list adopted under Subsection (a)  
 10-64 may update the navigational features or management system related  
 10-65 to the [~~electronic textbook or instructional~~] material.

10-66 (g) After notice to the commissioner and a review by the  
 10-67 commissioner, the provider of [~~an electronic textbook or~~  
 10-68 ~~instructional~~] material on the list adopted under Subsection (a)  
 10-69 may update the content of the [~~electronic textbook or~~

11-1 ~~instructional~~ material if needed to accurately reflect current  
11-2 knowledge or information.

11-3 (h) The commissioner shall adopt rules as necessary to  
11-4 implement this section. The rules must:

11-5 (1) be consistent with Section 31.151 regarding the  
11-6 duties of publishers and manufacturers, as appropriate, and the  
11-7 imposition of a reasonable administrative penalty; and

11-8 (2) require public notice of an opportunity for the  
11-9 submission of ~~[an electronic textbook or instructional]~~ material.

11-10 SECTION 28. Section 31.024, Education Code, is amended to  
11-11 read as follows:

11-12 Sec. 31.024. ADOPTION BY STATE BOARD OF EDUCATION. (a) By  
11-13 majority vote, the State Board of Education shall:

11-14 (1) place each submitted instructional material on the  
11-15 ~~[textbook on a conforming or nonconforming]~~ list adopted under  
11-16 Section 31.023; or

11-17 (2) reject instructional material ~~[a textbook]~~  
11-18 submitted for placement on that ~~[a conforming or nonconforming]~~  
11-19 list.

11-20 (b) Not later than December 1 of the year preceding the  
11-21 school year for which the instructional materials ~~[textbooks]~~ for a  
11-22 particular subject and grade level will be purchased under the  
11-23 cycle adopted by the board under Section 31.022, the board shall  
11-24 provide the list ~~[lists]~~ of adopted instructional materials  
11-25 ~~[textbooks]~~ to each school district. ~~[Each nonconforming list must~~  
11-26 ~~include the reasons an adopted textbook is not eligible for the~~  
11-27 ~~conforming list.]~~

11-28 SECTION 29. The heading to Section 31.0241, Education Code,  
11-29 is amended to read as follows:

11-30 Sec. 31.0241. ADOPTION OF OPEN-SOURCE INSTRUCTIONAL  
11-31 MATERIALS ~~[TEXTBOOKS]~~.

11-32 SECTION 30. Subsections (b) and (c), Section 31.0241,  
11-33 Education Code, are amended to read as follows:

11-34 (b) The State Board of Education shall place ~~[an]~~  
11-35 open-source instructional material ~~[textbook]~~ for a  
11-36 secondary-level course submitted for adoption by an eligible  
11-37 institution on the ~~[a conforming or nonconforming]~~ list adopted  
11-38 under Section 31.023 if:

11-39 (1) the instructional material ~~[textbook]~~ is written,  
11-40 compiled, or edited primarily by faculty of the eligible  
11-41 institution who specialize in the subject area of the instructional  
11-42 material ~~[textbook]~~;

11-43 (2) the eligible institution identifies each  
11-44 contributing author;

11-45 (3) the appropriate department of the eligible  
11-46 institution certifies the instructional material ~~[textbook]~~ for  
11-47 accuracy; ~~[and]~~

11-48 (4) the eligible institution determines that the  
11-49 instructional material ~~[textbook]~~ qualifies for placement on the  
11-50 ~~[conforming or nonconforming]~~ list based on the extent to which the  
11-51 instructional material ~~[textbook]~~ covers the essential knowledge  
11-52 and skills identified under Section 28.002 for the subject for  
11-53 which the instructional material ~~[textbook]~~ is written and  
11-54 certifies that:

11-55 (A) for instructional material ~~[a textbook]~~ for a  
11-56 senior-level course, a student who successfully completes a course  
11-57 based on the instructional material ~~[textbook]~~ will be prepared,  
11-58 without remediation, for entry into the eligible institution's  
11-59 freshman-level course in that subject; or

11-60 (B) for instructional material ~~[a textbook]~~ for a  
11-61 junior-level and senior-level course, a student who successfully  
11-62 completes the junior-level course based on the instructional  
11-63 material ~~[textbook]~~ will be prepared for entry into the  
11-64 senior-level course; and

11-65 (5) by not later than the 90th day after the date the  
11-66 instructional material is submitted and before placement of the  
11-67 instructional material on the list, the board reviews and comments  
11-68 on the instructional material.

11-69 (c) This section does not prohibit an eligible institution

12-1 from submitting instructional material [~~a textbook~~] for placement  
 12-2 on the [~~a conforming or nonconforming~~] list adopted under Section  
 12-3 31.023 through any other adoption process provided by this chapter.

12-4 SECTION 31. Section 31.026, Education Code, is amended to  
 12-5 read as follows:

12-6 Sec. 31.026. CONTRACT; PRICE. (a) The State Board of  
 12-7 Education shall execute a contract[+]

12-8 [~~(1)~~] for the purchase [~~of each adopted textbook other~~  
 12-9 ~~than an electronic textbook, and~~

12-10 [~~(2) for the purchase~~] or licensing of each adopted  
 12-11 instructional material [~~electronic textbook~~].

12-12 (b) A contract must require the publisher to provide the  
 12-13 number of instructional materials [~~textbooks~~] required by school  
 12-14 districts in this state for the term of the contract, which must  
 12-15 coincide with the board's adoption cycle.

12-16 (c) As applicable, a contract must provide for the purchase  
 12-17 or licensing of instructional material [~~a textbook~~] at a specific  
 12-18 price, which may not exceed the lowest price paid by any other state  
 12-19 or any school or school district. The price must be fixed for the  
 12-20 term of the contract.

12-21 (d) [~~(e)~~] This section does not apply to [~~an~~] open-source  
 12-22 instructional material [~~textbook~~].

12-23 SECTION 32. Section 31.0261, Education Code, is amended to  
 12-24 read as follows:

12-25 Sec. 31.0261. CONTRACTS FOR PRINTING OF OPEN-SOURCE  
 12-26 INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The State Board of Education  
 12-27 may execute a contract for the printing of [~~an~~] open-source  
 12-28 instructional materials placed [~~textbook listed~~] on the  
 12-29 [~~conforming or nonconforming~~] list adopted under Section 31.023.  
 12-30 The contract must allow a school district to requisition printed  
 12-31 copies of [~~an~~] open-source instructional materials [~~textbook~~] as  
 12-32 provided by Section 31.103.

12-33 SECTION 33. Section 31.027, Education Code, is amended to  
 12-34 read as follows:

12-35 Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; ELECTRONIC  
 12-36 SAMPLE [~~COPIES~~]. (a) A publisher shall provide each school  
 12-37 district and open-enrollment charter school with information that  
 12-38 fully describes each of the publisher's submitted instructional  
 12-39 materials [~~adopted textbooks~~]. On request of a school district, a  
 12-40 publisher shall provide an electronic [~~a~~] sample [~~copy~~] of  
 12-41 submitted instructional material [~~an adopted textbook~~].

12-42 (b) A publisher shall provide an electronic [~~at least two~~]  
 12-43 sample [~~copies~~] of each submitted instructional material [~~adopted~~  
 12-44 ~~textbook~~] to be maintained at each regional education service  
 12-45 center.

12-46 (c) [~~(d)~~] This section does not apply to [~~an~~] open-source  
 12-47 instructional material [~~textbook~~].

12-48 SECTION 34. Section 31.028, Education Code, is amended to  
 12-49 read as follows:

12-50 Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

12-51 (a) The commissioner [~~State Board of Education~~] may purchase  
 12-52 special instructional materials [~~textbooks~~] for the education of  
 12-53 blind and visually impaired students in public schools. In  
 12-54 addition, for a teacher who is blind or visually impaired, the  
 12-55 commissioner [~~board~~] shall provide a teacher's edition in Braille  
 12-56 or large type, as requested by the teacher, for each instructional  
 12-57 material [~~textbook~~] the teacher uses in the instruction of  
 12-58 students. The teacher edition must be available at the same time  
 12-59 the student instructional materials [~~textbooks~~] become available.

12-60 (b) The publisher of [~~an~~] adopted instructional material  
 12-61 [~~textbook~~] shall provide the agency with computerized  
 12-62 instructional material [~~textbook~~] files for the production of  
 12-63 Braille instructional materials [~~textbooks~~] or other versions of  
 12-64 instructional materials [~~textbooks~~] to be used by students with  
 12-65 disabilities, on request of the commissioner [~~State Board of~~  
 12-66 ~~Education~~]. A publisher shall arrange computerized instructional  
 12-67 material [~~textbook~~] files in one of several optional formats  
 12-68 specified by the commissioner [~~State Board of Education~~].

12-69 (c) The commissioner [~~board~~] may also enter into agreements

13-1 providing for the acceptance, requisition, and distribution of  
 13-2 special instructional materials [~~textbooks~~] and instructional aids  
 13-3 pursuant to 20 U.S.C. Section 101 et seq. for use by students  
 13-4 enrolled in:

13-5 (1) public schools; or  
 13-6 (2) private nonprofit schools, if state funds, other  
 13-7 than for administrative costs, are not involved.

13-8 (d) In this section:

13-9 (1) "Blind or visually impaired student" includes any  
 13-10 student whose visual acuity is impaired to the extent that the  
 13-11 student is unable to read the text [~~print~~] in [~~a~~] regularly adopted  
 13-12 instructional material [~~textbook~~] used in the student's class.

13-13 (2) "Special instructional material [~~textbook~~]" means  
 13-14 instructional material [~~a textbook~~] in Braille, large type or any  
 13-15 other medium or any apparatus that conveys information to a student  
 13-16 or otherwise contributes to the learning process.

13-17 SECTION 35. Section 31.029, Education Code, is amended to  
 13-18 read as follows:

13-19 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS  
 13-20 [~~TEXTBOOKS~~]. (a) A school district [~~The board~~] shall purchase  
 13-21 with the district's instructional materials allotment or otherwise  
 13-22 acquire instructional materials [~~textbooks~~] for use in bilingual  
 13-23 education classes.

13-24 (b) The commissioner shall adopt rules regarding the  
 13-25 purchase of instructional materials under this section.

13-26 SECTION 36. Section 31.030, Education Code, is amended to  
 13-27 read as follows:

13-28 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The  
 13-29 State Board of Education shall adopt rules to ensure that used  
 13-30 instructional materials [~~textbooks~~] sold to school districts and  
 13-31 open-enrollment charter schools are not sample copies that contain  
 13-32 factual errors. The rules may provide for the imposition of an  
 13-33 administrative penalty in accordance with Section 31.151 against a  
 13-34 seller of used instructional materials [~~textbooks~~] who knowingly  
 13-35 violates this section.

13-36 SECTION 37. The heading to Section 31.035, Education Code,  
 13-37 is amended to read as follows:

13-38 Sec. 31.035. SUPPLEMENTAL INSTRUCTIONAL MATERIALS  
 13-39 [~~TEXTBOOKS~~].

13-40 SECTION 38. Subsections (a) through (d), and (f), Section  
 13-41 31.035, Education Code, are amended to read as follows:

13-42 (a) Notwithstanding any other provision of this subchapter,  
 13-43 the State Board of Education may adopt supplemental instructional  
 13-44 materials [~~textbooks~~] that are not on the [~~conforming or~~  
 13-45 ~~nonconforming~~] list adopted under Section 31.023. The State Board  
 13-46 of Education may adopt [~~a~~] supplemental instructional material  
 13-47 [~~textbook~~] under this section only if the instructional material  
 13-48 [~~textbook~~]:

13-49 (1) contains material covering one or more primary  
 13-50 focal points or primary topics of a subject in the required  
 13-51 curriculum under Section 28.002, as determined by the State Board  
 13-52 of Education;

13-53 (2) is not designed to serve as the sole instructional  
 13-54 material [~~textbook~~] for a full course;

13-55 (3) meets applicable physical specifications adopted  
 13-56 by the State Board of Education; and

13-57 (4) is free from factual errors.

13-58 (b) The State Board of Education shall identify the  
 13-59 essential knowledge and skills identified under Section 28.002 that  
 13-60 are covered by [~~a~~] supplemental instructional material [~~textbook~~]  
 13-61 adopted by the board under this section.

13-62 (c) Supplemental instructional material [~~A supplemental~~  
 13-63 ~~textbook~~] is subject to the review and adoption cycle provisions,  
 13-64 including the midcycle review and adoption cycle provisions, of  
 13-65 this subchapter.

13-66 (d) A school district or open-enrollment charter school may  
 13-67 requisition [~~a~~] supplemental instructional material [~~textbook~~]  
 13-68 adopted under this section only if the district or school [~~+~~

13-69 [~~(1) uses textbook credits received under Section~~

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

14-12 (f) A school district or open-enrollment charter school  
 14-13 that requisitions supplemental instructional materials [textbooks  
 14-14 ~~under Subsection (d)(2)]~~ shall certify to the agency that the  
 14-15 supplemental instructional materials [textbooks], in combination  
 14-16 with any other instructional materials [textbooks] or supplemental  
 14-17 instructional materials [textbooks] used by the district or school,  
 14-18 cover the essential knowledge and skills identified under Section  
 14-19 28.002 by the State Board of Education for the subject and grade  
 14-20 level for which the district or school is requisitioning the  
 14-21 supplemental instructional materials [textbooks].

14-22 SECTION 39. The heading to Subchapter B-1, Chapter 31,  
 14-23 Education Code, is amended to read as follows:

14-24 SUBCHAPTER B-1. STATE-DEVELOPED OPEN-SOURCE INSTRUCTIONAL  
 14-25 MATERIALS [TEXTBOOKS]

14-26 SECTION 40. Section 31.071, Education Code, is amended to  
 14-27 read as follows:

14-28 Sec. 31.071. PURCHASE AUTHORITY. (a) The commissioner may  
 14-29 purchase state-developed open-source instructional materials  
 14-30 [textbooks] in accordance with this subchapter.

14-31 (b) The commissioner:

14-32 (1) shall purchase any state-developed open-source  
 14-33 instructional materials [textbooks] through a competitive process;  
 14-34 and

14-35 (2) may purchase more than one state-developed  
 14-36 open-source instructional material [textbook] for a subject or  
 14-37 grade level.

14-38 (c) State-developed [A—state-developed] open-source  
 14-39 instructional material [textbook] must be irrevocably owned by or  
 14-40 licensed to the state for use in the applicable subject or grade  
 14-41 level. The state must have unlimited authority to modify, delete,  
 14-42 combine, or add content to the instructional material [textbook]  
 14-43 after purchase.

14-44 (d) The commissioner may issue a request for proposals for  
 14-45 ~~[a]~~ state-developed open-source instructional material [textbook]:

14-46 (1) in accordance with the instructional material  
 14-47 [textbook] review and adoption cycle under Section 31.022; or

14-48 (2) at any other time the commissioner determines that  
 14-49 a need exists for additional instructional material [textbook]  
 14-50 options.

14-51 (e) The costs of administering this subchapter and  
 14-52 purchasing state-developed open-source instructional materials  
 14-53 [textbooks] shall be paid from the state instructional materials  
 14-54 [textbook] fund, as determined by the commissioner and subject to  
 14-55 Section 31.021.

14-56 SECTION 41. Subsections (a) and (b), Section 31.072,  
 14-57 Education Code, are amended to read as follows:

14-58 (a) State-developed [A—state-developed] open-source  
 14-59 instructional material [textbook] must:

14-60 (1) be evaluated by teachers or other experts, as  
 14-61 determined by the commissioner, before purchase; and

14-62 (2) meet the requirements for inclusion on the  
 14-63 instructional material [a conforming or nonconforming textbook]  
 14-64 list adopted under Section 31.023.

14-65 (b) Following a curriculum revision by the State Board of  
 14-66 Education, the commissioner shall require the revision of ~~[a]~~  
 14-67 state-developed open-source instructional material [textbook]  
 14-68 relating to that curriculum. The commissioner may, at any time,  
 14-69 require an additional revision of ~~[a]~~ state-developed open-source

15-1 instructional material [~~textbook~~] or contract for ongoing  
 15-2 revisions of state-developed open-source instructional material [~~a~~  
 15-3 ~~textbook~~] for a period not to exceed the period under Section 31.022  
 15-4 for which instructional material [~~a textbook~~] for that subject and  
 15-5 grade level may be adopted. The commissioner shall use a  
 15-6 competitive process to request proposals to revise [~~a~~]  
 15-7 state-developed open-source instructional material [~~textbook~~]  
 15-8 under this subsection.

15-9 SECTION 42. The heading to Section 31.073, Education Code,  
 15-10 is amended to read as follows:

15-11 Sec. 31.073. SELECTION BY SCHOOL DISTRICT [~~COST~~].

15-12 SECTION 43. Subsections (c) and (d), Section 31.073,  
 15-13 Education Code, are amended to read as follows:

15-14 (c) Notwithstanding Section 31.022, a school district or  
 15-15 open-enrollment charter school may adopt [~~a~~] state-developed  
 15-16 open-source instructional material [~~textbook~~] at any time,  
 15-17 regardless of the instructional material [~~textbook~~] review and  
 15-18 adoption cycle under that section.

15-19 (d) A school district or open-enrollment charter school may  
 15-20 not be charged for selection of [~~a~~] state-developed open-source  
 15-21 instructional material [~~textbook~~] in addition to instructional  
 15-22 material [~~a textbook~~] adopted under Subchapter B.

15-23 SECTION 44. Section 31.074, Education Code, is amended to  
 15-24 read as follows:

15-25 Sec. 31.074. DISTRIBUTION. (a) The commissioner shall  
 15-26 provide for the distribution of state-developed open-source  
 15-27 instructional materials [~~textbooks~~] in a manner consistent with  
 15-28 distribution of instructional materials [~~textbooks~~] adopted under  
 15-29 Subchapter B.

15-30 (b) The commissioner may use a competitive process to  
 15-31 contract for printing or other reproduction of [~~a~~] state-developed  
 15-32 open-source instructional material [~~textbook~~] on behalf of a school  
 15-33 district or open-enrollment charter school. The commissioner may  
 15-34 not require a school district or open-enrollment charter school to  
 15-35 contract with a state-approved provider for the printing or  
 15-36 reproduction of [~~a~~] state-developed open-source instructional  
 15-37 material [~~textbook~~].

15-38 SECTION 45. Section 31.075, Education Code, is amended to  
 15-39 read as follows:

15-40 Sec. 31.075. OWNERSHIP; LICENSING. (a) State-developed  
 15-41 [~~A state-developed~~] open-source instructional material [~~textbook~~]  
 15-42 is the property of the state.

15-43 (b) The commissioner shall provide a license to each public  
 15-44 school in the state, including a school district, an  
 15-45 open-enrollment charter school, and a state or local agency  
 15-46 educating students in any grade from prekindergarten through high  
 15-47 school, to use and reproduce [~~a~~] state-developed open-source  
 15-48 instructional material [~~textbook~~].

15-49 (c) The commissioner may provide a license to use [~~a~~]  
 15-50 state-developed open-source instructional material [~~textbook~~] to  
 15-51 an entity not listed in Subsection (b). In determining the cost of  
 15-52 a license under this subsection, the commissioner shall seek, to  
 15-53 the extent feasible, to recover the costs of developing, revising,  
 15-54 and distributing state-developed open-source instructional  
 15-55 materials [~~textbooks~~].

15-56 SECTION 46. Subsection (b), Section 31.076, Education Code,  
 15-57 is amended to read as follows:

15-58 (b) A decision by the commissioner regarding the purchase,  
 15-59 revision, cost, or distribution of [~~a~~] state-developed open-source  
 15-60 instructional material [~~textbook~~] is final and may not be appealed.

15-61 SECTION 47. Section 31.077, Education Code, is amended to  
 15-62 read as follows:

15-63 Sec. 31.077. ADOPTION SCHEDULE. The commissioner shall  
 15-64 develop a schedule for the adoption of state-developed open-source  
 15-65 instructional materials [~~textbooks~~] under this subchapter. In  
 15-66 developing the adoption schedule under this section, the  
 15-67 commissioner shall consider:

- 15-68 (1) the availability of funds;
- 15-69 (2) the existing instructional material [~~textbook~~]

16-1 adoption cycles under Subchapter B; and  
 16-2 (3) the availability of instructional materials  
 16-3 [~~textbooks~~] for development or purchase by the state.

16-4 SECTION 48. The heading to Section 31.101, Education Code,  
 16-5 is amended to read as follows:

16-6 Sec. 31.101. SELECTION AND PURCHASE OF INSTRUCTIONAL  
 16-7 MATERIALS [~~TEXTBOOKS~~] BY SCHOOL DISTRICTS.

16-8 SECTION 49. Section 31.101, Education Code, is amended by  
 16-9 amending Subsections (a), (d), and (e) and adding Subsection (f) to  
 16-10 read as follows:

16-11 (a) Each year, during a period established by the State  
 16-12 Board of Education, the board of trustees of each school district  
 16-13 and the governing body of each open-enrollment charter school  
 16-14 shall:

16-15 (1) for a subject in the foundation curriculum, notify  
 16-16 the State Board of Education of the instructional materials  
 16-17 [~~textbooks~~] selected by the board of trustees or governing body for  
 16-18 the following school year from [~~among~~] the instructional materials  
 16-19 [~~textbooks on the appropriate conforming or nonconforming~~] list,  
 16-20 including the list adopted under Section 31.0231; or

16-21 (2) for a subject in the enrichment curriculum:

16-22 (A) notify the State Board of Education of each  
 16-23 instructional material [~~textbook~~] selected by the board of trustees  
 16-24 or governing body for the following school year from [~~among~~] the  
 16-25 instructional materials [~~textbooks on the appropriate conforming~~  
 16-26 ~~or nonconforming~~] list, including the list adopted under Section  
 16-27 31.0231; or

16-28 (B) notify the State Board of Education that the  
 16-29 board of trustees or governing body has selected instructional  
 16-30 material [~~a textbook~~] that is not on the [~~conforming or~~  
 16-31 ~~nonconforming~~] list.

16-32 (d) For instructional material [~~a textbook~~] that is not on  
 16-33 the [~~conforming or nonconforming~~] list, a school district or  
 16-34 open-enrollment charter school must use the instructional material  
 16-35 [~~textbook~~] for the period of the review and adoption cycle the State  
 16-36 Board of Education has established for the subject and grade level  
 16-37 for which the instructional material [~~textbook~~] is used.

16-38 (e) A school district or open-enrollment charter school  
 16-39 that selects [~~a~~] subscription-based [~~electronic textbook or~~]  
 16-40 instructional material on the [~~conforming~~] list adopted under  
 16-41 Section 31.023 or electronic instructional material on the list  
 16-42 adopted by the commissioner under Section 31.0231 may cancel the  
 16-43 subscription and subscribe to [~~a~~] new [~~electronic textbook or~~]  
 16-44 instructional material on the [~~conforming~~] list adopted under  
 16-45 Section 31.023 or electronic instructional material on the list  
 16-46 adopted by the commissioner under Section 31.0231 before the end of  
 16-47 the state contract period under Section 31.026 if:

16-48 (1) the district or school has used the [~~electronic~~  
 16-49 ~~textbook or~~] instructional material for at least one school year;  
 16-50 and

16-51 (2) the agency approves the change based on a written  
 16-52 request to the agency by the district or school that specifies the  
 16-53 reasons for changing the [~~electronic textbook or~~] instructional  
 16-54 material used by the district or school.

16-55 (f) The commissioner shall maintain an online requisition  
 16-56 system for school districts to requisition instructional materials  
 16-57 to be purchased with the district's instructional materials  
 16-58 allotment.

16-59 SECTION 50. Section 31.102, Education Code, is amended to  
 16-60 read as follows:

16-61 Sec. 31.102. TITLE AND CUSTODY. (a) Each instructional  
 16-62 material [~~textbook~~] purchased as provided by this chapter for a  
 16-63 school district or an open-enrollment charter school is the  
 16-64 property of the district or school [~~this state~~].

16-65 (b) Subsection (a) applies to [~~an~~] electronic instructional  
 16-66 material [~~textbook~~] only to the extent of any applicable licensing  
 16-67 agreement.

16-68 (c) The board of trustees of a school district or the  
 16-69 governing body of an open-enrollment charter school [~~is the legal~~



17-1 ~~custodian of textbooks purchased as provided by this chapter for~~  
 17-2 ~~the district or school. The board of trustees]~~ shall distribute  
 17-3 printed instructional material [~~textbooks~~] to students in the  
 17-4 manner that the board or governing body determines is most  
 17-5 effective and economical.

17-6 SECTION 51. The heading to Section 31.103, Education Code,  
 17-7 is amended to read as follows:

17-8 Sec. 31.103. INSTRUCTIONAL MATERIAL [~~TEXTBOOK~~]  
 17-9 REQUISITIONS.

17-10 SECTION 52. Subsections (b), (c), and (d), Section 31.103,  
 17-11 Education Code, are amended to read as follows:

17-12 (b) [~~A requisition for textbooks for the following school~~  
 17-13 ~~year shall be based on the maximum attendance reports under~~  
 17-14 ~~Subsection (a), plus an additional 10 percent, except as otherwise~~  
 17-15 ~~provided.] A school district or open-enrollment charter school~~  
 17-16 ~~shall make a requisition for instructional material using the~~  
 17-17 ~~online requisition program maintained by [a textbook on the~~  
 17-18 ~~conforming or nonconforming list through] the commissioner [to the~~  
 17-19 ~~state depository designated by the publisher or as provided by~~  
 17-20 ~~State Board of Education rule, as applicable,] not later than June 1~~  
 17-21 ~~of each year. The [designated state depository or, if the publisher~~  
 17-22 ~~or manufacturer does not have a designated textbook depository in~~  
 17-23 ~~this state under Section 31.151(a)(6)(B), the] publisher or~~  
 17-24 ~~manufacturer shall fill a requisition approved by the agency [at~~  
 17-25 ~~any other time in the case of an emergency]. [As made necessary by~~  
 17-26 ~~available funds, the commissioner shall reduce the additional~~  
 17-27 ~~percentage of attendance for which a district or school may~~  
 17-28 ~~requisition textbooks. The commissioner may, on application of a~~  
 17-29 ~~district or school that is experiencing high enrollment growth,~~  
 17-30 ~~increase the additional percentage of attendance for which the~~  
 17-31 ~~district or school may requisition textbooks.]~~

17-32 (c) In making a requisition under this section, a school  
 17-33 district or open-enrollment charter school may requisition  
 17-34 instructional materials [~~textbooks~~] on the [~~conforming or~~  
 17-35 ~~nonconforming] list adopted under Section 31.023 for grades above~~  
 17-36 ~~the grade level in which a student is enrolled[, except that the~~  
 17-37 ~~total quantity of textbooks requisitioned under this section may~~  
 17-38 ~~not exceed the limit prescribed by Subsection (b)].~~

17-39 (d) A school district or open-enrollment charter school  
 17-40 that selects [~~an~~] open-source instructional material [~~textbook~~]  
 17-41 shall requisition a sufficient number of printed copies for use by  
 17-42 students unable to access the instructional material [~~textbook~~]  
 17-43 electronically unless the district or school provides to each  
 17-44 student:

17-45 (1) electronic access to the instructional material  
 17-46 [~~textbook~~] at no cost to the student; or

17-47 (2) printed copies of the portion of the instructional  
 17-48 material [~~textbook~~] that will be used in the course.

17-49 SECTION 53. Section 31.104, Education Code, is amended to  
 17-50 read as follows:

17-51 Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of  
 17-52 trustees of a school district or the governing body of an  
 17-53 open-enrollment charter school may delegate to an employee the  
 17-54 authority to requisition, distribute, and manage the inventory of  
 17-55 instructional materials [~~textbooks~~] in a manner consistent with  
 17-56 this chapter and rules adopted under this chapter.

17-57 (b) A school district or open-enrollment charter school may  
 17-58 order replacements for instructional materials [~~textbooks~~] that  
 17-59 have been lost or damaged directly from[+]

17-60 [~~(1) the textbook depository,~~

17-61 [~~(2)] the [textbook] publisher of the instructional~~  
 17-62 ~~materials or [manufacturer if the textbook publisher or~~  
 17-63 ~~manufacturer does not have a designated textbook depository in this~~  
 17-64 ~~state under Section 31.151(a)(6)(B), or~~

17-65 [~~(3)] any source for a printed copy of [an]~~  
 17-66 ~~open-source instructional material [textbook].~~

17-67 (c) [~~Each textbook must state that the textbook is the~~  
 17-68 ~~property of or is licensed to this state, as appropriate. Each~~  
 17-69 ~~textbook, other than an electronic textbook or a printed copy of an~~

18-1 ~~open-source textbook, must be covered by the student under the~~  
 18-2 ~~direction of the teacher.]~~ Except as provided by Subsection (g), a  
 18-3 student must return all instructional materials [~~textbooks~~] to the  
 18-4 teacher at the end of the school year or when the student withdraws  
 18-5 from school.

18-6 (d) Each student, or the student's parent or guardian, is  
 18-7 responsible for all instructional materials [~~each textbook,~~  
 18-8 ~~including an electronic textbook,~~] and [~~all~~] technological  
 18-9 equipment not returned in an acceptable condition by the student. A  
 18-10 student who fails to return in an acceptable condition all  
 18-11 instructional materials [~~textbooks, including electronic~~  
 18-12 ~~textbooks,~~] and technological equipment forfeits the right to free  
 18-13 instructional materials [~~textbooks, including electronic~~  
 18-14 ~~textbooks,~~] and technological equipment until all instructional  
 18-15 materials [~~each textbook, including an electronic textbook,~~] and  
 18-16 [~~all~~] technological equipment previously issued but not returned in  
 18-17 an acceptable condition are [~~is~~] paid for by the student, parent, or  
 18-18 guardian. As provided by policy of the board of trustees or  
 18-19 governing body, a school district or open-enrollment charter school  
 18-20 may waive or reduce the payment requirement if the student is from a  
 18-21 low-income family. The district or school shall allow the student  
 18-22 to use instructional materials [~~textbooks, including electronic~~  
 18-23 ~~textbooks,~~] and technological equipment at school during each  
 18-24 school day. If instructional materials [~~a textbook, including an~~  
 18-25 ~~electronic textbook,~~] or technological equipment is not returned in  
 18-26 an acceptable condition or paid for, the district or school may  
 18-27 withhold the student's records. A district or school may not, under  
 18-28 this subsection, prevent a student from graduating, participating  
 18-29 in a graduation ceremony, or receiving a diploma. The commissioner  
 18-30 by rule shall adopt criteria for determining whether instructional  
 18-31 materials [~~a textbook, including an electronic textbook,~~] and  
 18-32 technological equipment are returned in an acceptable condition.

18-33 (e) The board of trustees of a school district may not  
 18-34 require an employee of the district who acts in good faith to pay  
 18-35 for instructional materials [~~a textbook, electronic textbook,~~] or  
 18-36 technological equipment that is damaged, stolen, misplaced, or not  
 18-37 returned. A school district employee may not waive this provision  
 18-38 by contract or any other means, except that a district may enter  
 18-39 into a written agreement with a school employee whereby the  
 18-40 employee assumes financial responsibility for electronic  
 18-41 instructional material [~~textbook~~] or technological equipment usage  
 18-42 off school property or outside of a school-sponsored event in  
 18-43 consideration for the ability of the school employee to use the  
 18-44 electronic instructional material [~~textbook~~] or technological  
 18-45 equipment for personal business. Such a written agreement shall be  
 18-46 separate from the employee's contract of employment, if applicable,  
 18-47 and shall clearly inform the employee of the amount of the financial  
 18-48 responsibility and advise the employee to consider obtaining  
 18-49 appropriate insurance. An employee may not be required to agree to  
 18-50 such an agreement as a condition of employment.

18-51 (g) At the end of the school year for which [~~an~~] open-source  
 18-52 instructional material [~~textbook~~] that a school district or  
 18-53 open-enrollment charter school does not intend to use for another  
 18-54 student is distributed, the printed copy of the open-source  
 18-55 instructional material [~~textbook~~] becomes the property of the  
 18-56 student to whom it is distributed.

18-57 (h) This section does not apply to an electronic copy of  
 18-58 [~~an~~] open-source instructional material [~~textbook~~].

18-59 SECTION 54. Section 31.105, Education Code, is amended to  
 18-60 read as follows:

18-61 Sec. 31.105. SALE OR DISPOSAL OF INSTRUCTIONAL MATERIALS  
 18-62 AND TECHNOLOGICAL EQUIPMENT [~~TEXTBOOKS~~]. (a) The board of  
 18-63 trustees of a school district or governing body of an  
 18-64 open-enrollment charter school may sell printed instructional  
 18-65 materials on the date the instructional material is discontinued  
 18-66 for use in the public schools by the State Board of Education or the  
 18-67 commissioner. The board of trustees or governing body may also sell  
 18-68 electronic instructional materials and technological equipment  
 18-69 owned by the district or school. Any funds received by a district

19-1 or school from a sale authorized by this subsection must be used to  
 19-2 purchase instructional materials and technological equipment  
 19-3 allowed under Section 31.0211 [~~textbooks, other than electronic~~  
 19-4 ~~textbooks, to a student or another school at the state contract~~  
 19-5 ~~price. The district shall send money from the sale of textbooks to~~  
 19-6 ~~the commissioner as required by the commissioner. The commissioner~~  
 19-7 ~~shall deposit the money in the state textbook fund].~~

19-8 (b) The board of trustees of a school district or governing  
 19-9 body of an open-enrollment charter school shall determine how the  
 19-10 district or school will dispose of discontinued printed  
 19-11 instructional materials, electronic instructional materials, and  
 19-12 technological equipment.

19-13 (c) The board of trustees of a school district or governing  
 19-14 body of an open-enrollment charter school may dispose of printed  
 19-15 instructional material before the date the instructional material  
 19-16 is discontinued for use in the public schools by the State Board of  
 19-17 Education if the board of trustees or governing body determines  
 19-18 that the instructional material is not needed by the district or  
 19-19 school and the board of trustees or governing body does not  
 19-20 reasonably expect that the instructional material will be needed.  
 19-21 A district or school must notify the commissioner of any  
 19-22 instructional material the district or school disposes of under  
 19-23 this subsection.

19-24 SECTION 55. Section 31.106, Education Code, is amended to  
 19-25 read as follows:

19-26 Sec. 31.106. USE OF LOCAL FUNDS. In addition to any  
 19-27 instructional material [~~textbook~~] selected under this chapter, a  
 19-28 school district or open-enrollment charter school may use local  
 19-29 funds to purchase any instructional materials [~~textbooks~~].

19-30 SECTION 56. Section 31.151, Education Code, is amended by  
 19-31 amending Subsections (a) and (d) and adding Subsection (e) to read  
 19-32 as follows:

19-33 (a) A publisher or manufacturer of instructional materials  
 19-34 [~~textbooks~~]:

19-35 (1) shall furnish any instructional material  
 19-36 [~~textbook~~] the publisher or manufacturer offers in this state[~~r~~] at  
 19-37 a price that does not exceed the lowest price at which the publisher  
 19-38 offers that instructional material [~~textbook~~] for adoption or sale  
 19-39 to any state, public school, or school district in the United  
 19-40 States;

19-41 (2) shall automatically reduce the price of  
 19-42 instructional material [~~a textbook~~] sold for use in a school  
 19-43 district or open-enrollment charter school to the extent that the  
 19-44 price is reduced elsewhere in the United States;

19-45 (3) shall provide any instructional material  
 19-46 [~~textbook~~] or ancillary item free of charge in this state to the  
 19-47 same extent that the publisher or manufacturer provides the  
 19-48 instructional material [~~textbook~~] or ancillary item free of charge  
 19-49 to any state, public school, or school district in the United  
 19-50 States;

19-51 (4) shall guarantee that each copy of instructional  
 19-52 material [~~a textbook~~] sold in this state is at least equal in  
 19-53 quality to copies of that instructional material [~~textbook~~] sold  
 19-54 elsewhere in the United States and is free from factual error;

19-55 (5) may not become associated or connected with,  
 19-56 directly or indirectly, any combination in restraint of trade in  
 19-57 instructional materials [~~textbooks~~] or enter into any  
 19-58 understanding or combination to control prices or restrict  
 19-59 competition in the sale of instructional materials [~~textbooks~~] for  
 19-60 use in this state;

19-61 (6) shall[+  
 19-62 [~~(A) maintain a depository in this state or~~  
 19-63 ~~arrange with a depository in this state to receive and fill orders~~  
 19-64 ~~for textbooks, other than open-source textbooks, on-line~~  
 19-65 ~~textbooks, or on-line textbook components, consistent with State~~  
 19-66 ~~Board of Education rules; or~~

19-67 [~~(B)~~] deliver instructional materials  
 19-68 [~~textbooks~~] to a school district or open-enrollment charter school  
 19-69 [~~without a delivery charge to the school district, open-enrollment~~

20-1 ~~charter school, or state, if:~~

20-2 ~~[(i) the publisher or manufacturer does not~~  
 20-3 ~~maintain or arrange with a depository in this state under Paragraph~~  
 20-4 ~~(A) and the publisher's or manufacturer's textbooks and related~~  
 20-5 ~~products are warehoused or otherwise stored less than 300 miles~~  
 20-6 ~~from a border of this state, or~~

20-7 ~~[(ii) the textbooks are open-source~~  
 20-8 ~~textbooks, on-line textbooks, or on-line textbook components];~~

20-9 (7) shall, at the time an order for instructional  
 20-10 materials [~~textbooks~~] is acknowledged, provide to school districts  
 20-11 or open-enrollment charter schools an accurate shipping date for  
 20-12 instructional materials [~~textbooks~~] that are back-ordered;

20-13 (8) shall guarantee delivery of instructional  
 20-14 materials [~~textbooks~~] at least 10 business days before the opening  
 20-15 day of school of the year for which the instructional materials  
 20-16 [~~textbooks~~] are ordered if the instructional materials [~~textbooks~~]  
 20-17 are ordered by a date specified in the sales contract; and

20-18 (9) shall submit to the State Board of Education an  
 20-19 affidavit certifying any instructional material [~~textbook~~] the  
 20-20 publisher or manufacturer offers in this state to be free of factual  
 20-21 errors at the time the publisher executes the contract required by  
 20-22 Section 31.026.

20-23 (d) A penalty collected under this section shall be  
 20-24 deposited to the credit of the state instructional materials  
 20-25 [~~textbook~~] fund.

20-26 (e) An eligible institution, as defined by Section  
 20-27 31.0241(a), that offers open-source instructional materials under  
 20-28 Section 31.0241 is not a publisher or manufacturer for purposes of  
 20-29 this section.

20-30 SECTION 57. The heading to Section 31.152, Education Code,  
 20-31 is amended to read as follows:

20-32 Sec. 31.152. ACCEPTING REBATE ON [~~TEXTBOOKS, ELECTRONIC~~  
 20-33 ~~TEXTBOOKS,~~] INSTRUCTIONAL MATERIALS[~~7~~] OR TECHNOLOGICAL EQUIPMENT.

20-34 SECTION 58. Subsections (a), (b), and (d), Section 31.152,  
 20-35 Education Code, are amended to read as follows:

20-36 (a) A school trustee, administrator, or teacher commits an  
 20-37 offense if that person receives any commission or rebate on any  
 20-38 [~~textbooks, electronic textbooks,~~] instructional materials[~~7~~] or  
 20-39 technological equipment used in the schools with which the person  
 20-40 is associated as a trustee, administrator, or teacher.

20-41 (b) A school trustee, administrator, or teacher commits an  
 20-42 offense if the person accepts a gift, favor, or service that:

20-43 (1) is given to the person or the person's school;

20-44 (2) might reasonably tend to influence a trustee,  
 20-45 administrator, or teacher in the selection of [~~a textbook,~~  
 20-46 ~~electronic textbook,~~] instructional material[~~7~~] or technological  
 20-47 equipment; and

20-48 (3) could not be lawfully purchased with state  
 20-49 instructional materials funds [~~from the state textbook fund~~].

20-50 (d) In this section, "gift, favor, or service" does not  
 20-51 include:

20-52 (1) staff development, in-service, or teacher  
 20-53 training; or

20-54 (2) ancillary [~~instructional~~] materials, such as maps  
 20-55 or worksheets, that convey information to the student or otherwise  
 20-56 contribute to the learning process.

20-57 SECTION 59. The heading to Section 31.153, Education Code,  
 20-58 is amended to read as follows:

20-59 Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS  
 20-60 [~~TEXTBOOK~~] LAW.

20-61 SECTION 60. Subsection (a), Section 31.153, Education Code,  
 20-62 is amended to read as follows:

20-63 (a) A person commits an offense if the person knowingly  
 20-64 violates any law providing for the purchase or distribution of free  
 20-65 instructional materials [~~textbooks~~] for the public schools.

20-66 SECTION 61. Subsection (b), Section 39.303, Education Code,  
 20-67 is amended to read as follows:

20-68 (b) For a student who failed to perform satisfactorily as  
 20-69 determined under either performance standard under Section 39.0241

21-1 on an assessment instrument administered under Section 39.023(a),  
 21-2 (c), or (l), the school district shall include in the notice  
 21-3 specific information relating to access to ~~[online]~~ educational  
 21-4 resources at the appropriate assessment instrument content level,  
 21-5 including ~~[educational resources described by Section 32.252(b)(2)~~  
 21-6 ~~and]~~ assessment instrument questions and answers released under  
 21-7 Section 39.023(e).

21-8 SECTION 62. Subsection (c), Section 41.124, Education Code,  
 21-9 is amended to read as follows:

21-10 (c) A school district that receives tuition for a student  
 21-11 from a school district with a wealth per student that exceeds the  
 21-12 equalized wealth level may not claim attendance for that student  
 21-13 for purposes of Chapters 42 and 46 and the instructional materials  
 21-14 ~~[technology]~~ allotment under Section 31.0211 ~~[31.021(b)(2)]~~.

21-15 SECTION 63. Subsection (b), Section 43.001, Education Code,  
 21-16 as amended by Chapters 201 (H.B. 3459) and 328 (S.B. 206), Acts of  
 21-17 the 78th Legislature, Regular Session, 2003, is reenacted to read  
 21-18 as follows:

21-19 (b) The available school fund, which shall be apportioned  
 21-20 annually to each county according to its scholastic population,  
 21-21 consists of:

21-22 (1) the distributions to the fund from the permanent  
 21-23 school fund as provided by Section 5(a), Article VII, Texas  
 21-24 Constitution;

21-25 (2) one-fourth of all revenue derived from all state  
 21-26 occupation taxes, exclusive of delinquencies and cost of  
 21-27 collection;

21-28 (3) one-fourth of revenue derived from state gasoline  
 21-29 and special fuels excise taxes as provided by law; and

21-30 (4) all other appropriations to the available school  
 21-31 fund made by the legislature for public school purposes.

21-32 SECTION 64. Section 43.001, Education Code, is amended by  
 21-33 adding Subsections (d) through (g) to read as follows:

21-34 (d) Each year the State Board of Education shall set aside  
 21-35 an amount equal to 50 percent of the annual distribution for that  
 21-36 year from the permanent school fund to the available school fund as  
 21-37 provided by Section 5(a), Article VII, Texas Constitution, to be  
 21-38 placed, subject to the General Appropriations Act, in the state  
 21-39 instructional materials fund established under Section 31.021.

21-40 (e) Subsection (d) applies beginning with the state fiscal  
 21-41 biennium beginning September 1, 2013. For the state fiscal  
 21-42 biennium beginning September 1, 2011, each year the State Board of  
 21-43 Education shall set aside an amount equal to 40 percent of the  
 21-44 annual distribution for that year from the permanent school fund to  
 21-45 the available school fund as provided by Section 5(a), Article VII,  
 21-46 Texas Constitution, to be placed, subject to the General  
 21-47 Appropriations Act, in the state instructional materials fund  
 21-48 established under Section 31.021.

21-49 (f) In calculating the amounts to be set aside as provided  
 21-50 by Subsection (e) for the state fiscal biennium beginning September  
 21-51 1, 2011, the State Board of Education shall consider only the  
 21-52 amounts of the annual distribution of the permanent school fund for  
 21-53 that biennium. The board shall not consider amounts distributed  
 21-54 for the state fiscal biennium beginning September 1, 2009,  
 21-55 regardless of the date on which those amounts were approved for  
 21-56 distribution.

21-57 (g) Subsections (e) and (f) and this subsection expire  
 21-58 September 1, 2013.

21-59 SECTION 65. The following provisions of the Education Code  
 21-60 are repealed:

- 21-61 (1) Subdivision (3), Section 31.002;
- 21-62 (2) Subsection (b), (e), and (f), Section 31.021;
- 21-63 (3) Section 31.0222;
- 21-64 (4) Section 31.025;
- 21-65 (5) Subsections (e) and (g), Section 31.035;
- 21-66 (6) Subsection (c), Section 31.072;
- 21-67 (7) Subsections (a) and (b), Section 31.073;
- 21-68 (8) Subsections (b), (b-1), (c), and (c-1), Section
- 21-69 31.101;

- 22-1 (9) Section 31.1011;
- 22-2 (10) Subsections (a) and (e), Section 31.103;
- 22-3 (11) Section 31.1031;
- 22-4 (12) Subchapter E, Chapter 31;
- 22-5 (13) Section 32.005;
- 22-6 (14) Sections 32.251 through 32.257; and
- 22-7 (15) Sections 32.259 through 32.263.

22-8 SECTION 66. Subsections (a-1) and (b-1), Section 2175.128,  
22-9 Government Code, are repealed.

22-10 SECTION 67. The change in law made by this Act to Section  
22-11 7.108, Education Code, applies only to an offense committed on or  
22-12 after the effective date of this Act. An offense committed before  
22-13 the effective date of this Act is governed by the law in effect when  
22-14 the offense was committed, and the former law is continued in effect  
22-15 for that purpose. For purposes of this section, an offense was  
22-16 committed before the effective date of this Act if any element of  
22-17 the offense occurred before that date.

22-18 SECTION 68. This Act takes effect immediately if it  
22-19 receives a vote of two-thirds of all the members elected to each  
22-20 house, as provided by Section 39, Article III, Texas Constitution.  
22-21 If this Act does not receive the vote necessary for immediate  
22-22 effect, this Act takes effect on the 91st day after the last day of  
22-23 the legislative session.

22-24

\* \* \* \* \*