

By: Eissler, Allen, Strama, Branch, et al.

H.B. No. 6

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the foundation curriculum, the establishment of the  
3 instructional materials allotment, and the adoption, review, and  
4 purchase of instructional materials and technological equipment  
5 for public schools.

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

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

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

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

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

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

19 (f) A school district or campus that is required to develop  
20 and implement a student achievement improvement plan under Section  
21 39.102 or 39.103 may receive an exemption or waiver under this  
22 section from any law or rule other than:

23 (1) a prohibition on conduct that constitutes a  
24 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. Section 7.102(c)(23), Education Code, is amended

12 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. Section 7.108(a), Education Code, is amended to

17 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 ~~textbooks or otherwise connected with the textbook business~~]

21 commits an offense if the person makes or authorizes a political

22 contribution to or takes part in, directly or indirectly, the

23 campaign of any person seeking election to or serving on the board.

24           SECTION 6. The heading to Section 7.112, Education Code, is

25 amended to read as follows:

26           Sec. 7.112. REPRESENTATION OF [~~TEXTBOOK~~] PUBLISHER OF

27 INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

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

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

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

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

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

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

18 SECTION 9. Section 11.158(b), Education Code, is amended to  
19 read as follows:

20 (b) The board may not charge fees for:

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

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

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

1 (4) the payment of instructional costs for necessary  
2 school personnel employed in any course or educational program  
3 required for graduation;

4 (5) library materials [~~books~~] required to be used for  
5 any educational course or program, other than fines for lost,  
6 damaged, or overdue materials [~~books~~];

7 (6) admission to any activity the student is required  
8 to attend as a prerequisite to graduation;

9 (7) admission to or examination in any required  
10 educational course or program; or

11 (8) lockers.

12 SECTION 10. Section 11.164(a), Education Code, is amended  
13 to read as follows:

14 (a) The board of trustees of each school district shall  
15 limit redundant requests for information and the number and length  
16 of written reports that a classroom teacher is required to prepare.  
17 A classroom teacher may not be required to prepare any written  
18 information other than:

19 (1) any report concerning the health, safety, or  
20 welfare of a student;

21 (2) a report of a student's grade on an assignment or  
22 examination;

23 (3) a report of a student's academic progress in a  
24 class or course;

25 (4) a report of a student's grades at the end of each  
26 grade reporting period;

27 (5) a [~~textbook~~] report on instructional materials;

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

5           (7) an attendance report;

6           (8) any report required for accreditation review;

7           (9) any information required by a school district that  
8 relates to a complaint, grievance, or actual or potential  
9 litigation and that requires the classroom teacher's involvement;  
10 or

11           (10) any information specifically required by law,  
12 rule, or regulation.

13           SECTION 11. Section 19.007(e), Education Code, is amended  
14 to read as follows:

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

17           SECTION 12. Sections 26.006(a) and (c), Education Code, are  
18 amended to read as follows:

19           (a) A parent is entitled to:

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

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

25           (c) A student's parent is entitled to request that the  
26 school district or open-enrollment charter school the student  
27 attends allow the student to take home any instructional materials

1 ~~[textbook]~~ used by the student. Subject to the availability of the  
2 instructional materials [~~a textbook~~], the district or school shall  
3 honor the request. A student who takes home instructional  
4 materials [~~a textbook~~] must return the instructional materials  
5 ~~[textbook]~~ to school at the beginning of the next school day if  
6 requested to do so by the student's teacher. In this subsection,  
7 "instructional material" [~~"textbook"~~] has the meaning assigned by  
8 Section 31.002.

9 SECTION 13. Sections 28.002(a), (c), (h), and (n),  
10 Education Code, are amended to read as follows:

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

13 (1) a foundation curriculum that includes:

14 (A) English language arts;

15 (B) mathematics;

16 (C) science; and

17 (D) social studies, consisting of Texas, United  
18 States, and world history, government, economics, with emphasis on  
19 the free enterprise system and its benefits, and geography; and

20 (2) an enrichment curriculum that includes:

21 (A) to the extent possible, languages other than  
22 English;

23 (B) health, with emphasis on the importance of  
24 proper nutrition and exercise;

25 (C) physical education;

26 (D) fine arts;

27 (E) [~~economics, with emphasis on the free~~

1 ~~enterprise system and its benefits;~~

2 [~~(F)~~] career and technology education;

3 (F) [~~(C)~~] technology applications; and

4 (G) [~~(H)~~] religious literature, including the  
5 Hebrew Scriptures (Old Testament) and New Testament, and its impact  
6 on history and literature.

7 (c) The State Board of Education, with the direct  
8 participation of educators, parents, business and industry  
9 representatives, and employers shall by rule identify the essential  
10 knowledge and skills of each subject of the required curriculum  
11 that all students should be able to demonstrate and that will be  
12 used in evaluating instructional materials [~~textbooks~~] under  
13 Chapter 31 and addressed on the assessment instruments required  
14 under Subchapter B, Chapter 39. As a condition of accreditation,  
15 the board shall require each district to provide instruction in the  
16 essential knowledge and skills at appropriate grade levels.

17 (h) The State Board of Education and each school district  
18 shall foster the continuation of the tradition of teaching United  
19 States and Texas history and the free enterprise system in regular  
20 subject matter and in reading courses and in the adoption of  
21 instructional materials [~~textbooks~~]. A primary purpose of the  
22 public school curriculum is to prepare thoughtful, active citizens  
23 who understand the importance of patriotism and can function  
24 productively in a free enterprise society with appreciation for the  
25 basic democratic values of our state and national heritage.

26 (n) The State Board of Education may by rule develop and  
27 implement a plan designed to incorporate foundation curriculum

1 requirements into the career and technology education curriculum  
2 under Subsection (a)(2)(E) [~~(a)(2)(F)~~].

3 SECTION 14. Sections 28.0022(a) and (d), Education Code,  
4 are amended to read as follows:

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

7 (1) review and recommend revisions to the career and  
8 technical education curriculum under Section 28.002(a)(2)(E)  
9 [~~28.002(a)(2)(F)~~]; and

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

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

15 (1) complete the review as required by this section  
16 of:

17 (A) the career and technical education  
18 curriculum; and

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

22 (2) make recommendations to the State Board of  
23 Education as necessary to:

24 (A) increase the academic rigor of the career and  
25 technical education curriculum under Section 28.002(a)(2)(E)  
26 [~~28.002(a)(2)(F)~~]; and

27 (B) improve and increase participation in the



1 program under which high schools and articulated postsecondary  
2 institutions allow high school students to take advanced technical  
3 credit courses.

4 SECTION 15. Section 28.003(b), Education Code, is amended  
5 to read as follows:

6 (b) In this section, "educational program" means a course or  
7 series of courses in the required curriculum under Section 28.002,  
8 other than a fine arts course under Section 28.002(a)(2)(D) or a  
9 career and technology course under Section 28.002(a)(2)(E)  
10 [~~28.002(a)(2)(F)~~].

11 SECTION 16. Section 28.011(c), Education Code, is amended  
12 to read as follows:

13 (c) A student may not be required to use a specific  
14 translation as the sole text of the Hebrew Scriptures or New  
15 Testament and may use as the basic instructional material  
16 [~~textbook~~] a different translation of the Hebrew Scriptures or New  
17 Testament from that chosen by the board of trustees of the student's  
18 school district or the student's teacher.

19 SECTION 17. The heading to Chapter 31, Education Code, is  
20 amended to read as follows:

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

22 SECTION 18. Section 31.001, Education Code, is amended to  
23 read as follows:

24 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].  
25 Instructional materials [~~Textbooks~~] selected for use in the public  
26 schools shall be furnished without cost to the students attending  
27 those schools. Except as provided by Sections 31.104(d) and (d-1),

1 a school district may not charge a student for instructional  
2 material or technological equipment purchased by the district with  
3 the district's instructional materials allotment.

4 SECTION 19. Sections 31.002(1), (1-a), (2), and (4),  
5 Education Code, are amended to read as follows:

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

17 (1-a) "Open-source instructional material"  
18 [~~textbook~~] means [~~an~~] electronic instructional material  
19 [~~textbook~~] that is available for downloading from the Internet at  
20 no charge to a student and without requiring the purchase of an  
21 unlock code, membership, or other access or use charge, except for a  
22 charge to order an optional printed copy of all or part of the  
23 instructional material [~~textbook~~]. The term includes [~~a~~]  
24 state-developed open-source instructional material [~~textbook~~]  
25 purchased under Subchapter B-1.

26 (2) "Publisher" includes an on-line service or a  
27 developer or distributor of [~~an~~] electronic instructional

1 materials [~~textbook~~].

2 (4) "Technological equipment" means hardware, a  
3 device, or equipment necessary for:

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

7 (B) professional use by a classroom teacher.

8 SECTION 20. Subchapter A, Chapter 31, Education Code, is  
9 amended by amending Sections 31.003 and 31.004 and adding Section  
10 31.005 to read as follows:

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

15 Sec. 31.004. CERTIFICATION OF PROVISION OF [~~TEXTBOOKS,~~  
16 ~~ELECTRONIC TEXTBOOKS, AND~~] INSTRUCTIONAL MATERIALS. (a) Each  
17 school district and open-enrollment charter school shall annually  
18 certify to the State Board of Education and the commissioner that,  
19 for each subject in the foundation [~~required~~] curriculum under  
20 Section 28.002 and each grade level, the district provides each  
21 student with [~~textbooks, electronic textbooks, or~~] instructional  
22 materials that cover all elements of the essential knowledge and  
23 skills adopted by the State Board of Education for that subject and  
24 grade level.

25 (b) To determine whether each student has instructional  
26 materials that cover all elements of the essential knowledge and  
27 skills as required by Subsection (a), a school district or

1 open-enrollment charter school may consider:

2 (1) instructional materials adopted by the State Board  
3 of Education;

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

6 (3) open-source instructional materials submitted by  
7 eligible institutions and adopted by the State Board of Education  
8 under Section 31.0241;

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

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

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

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

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

19 Sec. 31.021. STATE INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~]  
20 FUND.

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

24 (a) The state instructional materials [~~textbook~~] fund  
25 consists of:

26 (1) an amount set aside by the State Board of Education  
27 from the available school fund, in accordance with Section

1 43.001(d); and

2 (2) [~~all funds accruing from the state's sale of~~  
3 ~~disused textbooks; and~~

4 [~~3~~] all amounts lawfully paid into the fund from any  
5 other source.

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

8 (1) fund the instructional materials allotment, as  
9 provided by Section 31.0211;

10 (2) purchase special instructional materials for the  
11 education of blind and visually impaired students in public  
12 schools;

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

15 (4) pay the expenses associated with the purchase or  
16 licensing of open-source instructional material, to the extent  
17 authorized by the General Appropriations Act;

18 (5) pay the expenses associated with the purchase of  
19 instructional material, including freight, shipping, and insurance  
20 expenses; and

21 (6) fund the technology lending grant program  
22 established under Section 32.201.

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

26 SECTION 23. Subchapter B, Chapter 31, Education Code, is  
27 amended by adding Sections 31.0211, 31.0212, 31.0213, and 31.0214

1 to read as follows:

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

13 (b) A juvenile justice alternative education program under  
14 Section 37.011 is entitled to an allotment from the state  
15 instructional materials fund in an amount determined by the  
16 commissioner. The program shall use the allotment to purchase  
17 items listed in Subsection (c) for students enrolled in the  
18 program. The commissioner's determination under this subsection is  
19 final and may not be appealed.

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

22 (1) purchase:

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

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

1                   (C) consumable instructional materials,  
2 including workbooks;

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

5                   (E) supplemental instructional materials, as  
6 provided by Section 31.035;

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

9                   (G) instructional materials and technological  
10 equipment under any continuing contracts of the district in effect  
11 on September 1, 2011; and

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

16                   (2) pay:

17                   (A) for training educational personnel directly  
18 involved in student learning in the appropriate use of  
19 instructional materials and for providing for access to  
20 technological equipment for instructional use; and

21                   (B) the salary and other expenses of an employee  
22 who provides technical support for the use of technological  
23 equipment.

24                   (d) Each year a school district shall use the district's  
25 allotment under this section to purchase:

26                   (1) a sufficient quantity of instructional materials  
27 or technological equipment that corresponds to the adoption cycle

1 under Section 31.022;

2 (2) instructional materials necessary to permit the  
3 district to certify that the district has instructional materials  
4 that cover all elements of the essential knowledge and skills of the  
5 foundation curriculum for each grade level as required by Section  
6 31.004; and

7 (3) any other instructional materials or  
8 technological equipment as determined by the district.

9 (d-1) Notwithstanding Subsection (d), for the state fiscal  
10 year beginning September 1, 2011, a school district may use an  
11 allotment received under this section to purchase any combination  
12 of:

13 (1) instructional materials available for selection  
14 under the 2011 proclamation issued by the State Board of Education;  
15 or

16 (2) other instructional materials or technological  
17 equipment available to the district under a continuing contract in  
18 effect on September 1, 2011.

19 (d-2) Subsection (d-1) and this subsection expire August  
20 31, 2012.

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



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

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

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

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

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

24 (d) Money deposited in a school district's instructional  
25 materials account during each state fiscal biennium remains in the  
26 account and available for use by the district for the entire  
27 biennium. At the end of each biennium, a district with unused money

1 in the district's account may carry forward any remaining balance  
2 to the next biennium.

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

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

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

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

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

25 Sec. 31.022. INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~] REVIEW AND  
26 ADOPTION. (a) The State Board of Education shall adopt a review  
27 and adoption cycle for instructional materials [~~textbooks~~] for

1 elementary grade levels, including prekindergarten, and secondary  
2 grade levels, for each subject in the required curriculum under  
3 Section 28.002. In adopting the cycle, the board:

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

6 (2) shall give priority to instructional materials for  
7 subjects in the following order:

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

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

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

22 (D) enrichment curriculum subjects.

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

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

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

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

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

26 (e) The board shall designate a request for production of  
27 instructional materials [~~textbooks~~] in a subject area and grade

1 level by the school year in which the instructional materials  
2 [~~textbooks~~] are intended to be made available in classrooms and not  
3 by the school year in which the board makes the request for  
4 production.

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

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

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

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

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

27 (3) a commitment from the publisher to provide the

1 instructional material [~~textbook~~] to school districts in the manner  
2 specified by the publisher, which may include:

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

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

8 (b) Sections 31.023 and 31.024 apply to instructional  
9 material [~~a textbook~~] adopted under this section. Section 31.027  
10 does not apply to instructional material [~~a textbook~~] adopted under  
11 this section.

12 SECTION 26. Section 31.023, Education Code, is amended to  
13 read as follows:

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

15 (a) For each subject and grade level, the State Board of Education  
16 shall adopt a list [~~two lists~~] of instructional materials  
17 [~~textbooks~~]. The [~~conforming~~] list includes each instructional  
18 material [~~textbook~~] submitted for the subject and grade level that  
19 meets applicable physical specifications adopted by the State Board  
20 of Education and contains material covering at least half of the  
21 elements [~~each element~~] of the essential knowledge and skills of  
22 the subject and grade level in the student version of the  
23 instructional material [~~textbook~~], as well as in the teacher  
24 version of the instructional material [~~textbook~~], as determined by  
25 the State Board of Education under Section 28.002 and adopted under  
26 Section 31.024[. ~~The nonconforming list includes each textbook~~  
27 ~~submitted for the subject and grade level that:~~

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

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

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

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

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

15           SECTION 27. Section 31.0231, Education Code, is amended to  
16 read as follows:

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

20           (1) electronic instructional material [~~textbooks~~];  
21 and

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

27           (b) A school district may select [~~an electronic textbook or~~

1 ~~instructional~~] material on the list adopted under Subsection (a) to  
2 be funded by the district's instructional materials allotment  
3 ~~[state textbook fund]~~ under Section 31.0211 ~~[31.021]~~.

4 (c) Before the commissioner places ~~[an electronic textbook~~  
5 ~~or instructional]~~ material on the list adopted under Subsection  
6 (a), the State Board of Education must be given an opportunity to  
7 comment on the ~~[electronic textbook or instructional]~~ material. If  
8 the commissioner places material on the list adopted under  
9 Subsection (a), the State Board of Education may, not later than the  
10 90th day after the date the material is placed on the list, require  
11 the commissioner to remove the material from the list. Material ~~[An~~  
12 ~~electronic textbook or instructional material]~~ placed on the list  
13 adopted under Subsection (a):

14 (1) must be reviewed and recommended to the  
15 commissioner by a panel of recognized experts in the subject area of  
16 the ~~[electronic textbook or instructional]~~ material and experts in  
17 education technology;

18 (2) must satisfy criteria adopted for the purpose by  
19 commissioner rule; and

20 (3) must meet the National Instructional Materials  
21 Accessibility Standard, to the extent practicable as determined by  
22 the commissioner.

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

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

27 (2) include coverage of the essential knowledge and



1 skills identified under Section 28.002 for the subject for which  
2 the [~~electronic textbook or instructional~~] material is intended to  
3 be used and identify:

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

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

10 (3) include appropriate training for teachers.

11 (e) The commissioner shall update, as necessary, the list  
12 adopted under Subsection (a). Before the commissioner places [~~an  
13 electronic textbook or instructional~~] material on the updated list,  
14 the requirements of Subsection (c) must be met. [~~Before the  
15 commissioner removes an electronic textbook or instructional  
16 material from the updated list, the removal must be recommended by a  
17 panel of recognized experts in the subject area of the electronic  
18 textbook or instructional material and experts in education  
19 technology.~~]

20 (f) After notice to the commissioner explaining in detail  
21 the changes, the provider of [~~an electronic textbook or  
22 instructional~~] material on the list adopted under Subsection (a)  
23 may update the navigational features or management system related  
24 to the [~~electronic textbook or instructional~~] material.

25 (g) After notice to the commissioner and a review by the  
26 commissioner, the provider of [~~an electronic textbook or  
27 instructional~~] material on the list adopted under Subsection (a)

1 may update the content of the [~~electronic textbook or~~  
2 ~~instructional~~] material if needed to accurately reflect current  
3 knowledge or information.

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

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

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

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

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

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

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

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

1 ~~conforming list.]~~

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

4 Sec. 31.0241. ADOPTION OF OPEN-SOURCE INSTRUCTIONAL  
5 MATERIALS [~~TEXTBOOKS~~].

6 SECTION 30. Sections 31.0241(b) and (c), Education Code,  
7 are amended to read as follows:

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

13 (1) the instructional material [~~textbook~~] is written,  
14 compiled, or edited primarily by faculty of the eligible  
15 institution who specialize in the subject area of the instructional  
16 material [~~textbook~~];

17 (2) the eligible institution identifies each  
18 contributing author;

19 (3) the appropriate department of the eligible  
20 institution certifies the instructional material [~~textbook~~] for  
21 accuracy; and

22 (4) the eligible institution determines that the  
23 instructional material [~~textbook~~] qualifies for placement on the  
24 [~~conforming or nonconforming~~] list based on the extent to which the  
25 instructional material [~~textbook~~] covers the essential knowledge  
26 and skills identified under Section 28.002 for the subject for  
27 which the instructional material [~~textbook~~] is written and

1 certifies that:

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

7 (B) for instructional material [~~a textbook~~] for a  
8 junior-level and senior-level course, a student who successfully  
9 completes the junior-level course based on the instructional  
10 material [~~textbook~~] will be prepared for entry into the  
11 senior-level course.

12 (c) This section does not prohibit an eligible institution  
13 from submitting instructional material [~~a textbook~~] for placement  
14 on the [~~a conforming or nonconforming~~] list adopted under Section  
15 31.023 through any other adoption process provided by this chapter.

16 SECTION 31. Section 31.026, Education Code, is amended to  
17 read as follows:

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

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

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

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

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

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

8 SECTION 32. Section 31.0261, Education Code, is amended to  
9 read as follows:

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

18 SECTION 33. Section 31.027, Education Code, is amended to  
19 read as follows:

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

27 (b) A publisher shall provide at least two sample copies in

1 digital format of each submitted instructional material [~~adopted~~  
2 ~~textbook~~] to be maintained at each regional education service  
3 center.

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

6 SECTION 34. Section 31.028, Education Code, is amended to  
7 read as follows:

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

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

18 (b) The publisher of [~~an~~] adopted instructional material  
19 [~~textbook~~] shall provide the agency with computerized  
20 instructional material [~~textbook~~] files for the production of  
21 Braille instructional materials [~~textbooks~~] or other versions of  
22 instructional materials [~~textbooks~~] to be used by students with  
23 disabilities, on request of the commissioner [~~State Board of~~  
24 ~~Education~~]. A publisher shall arrange computerized instructional  
25 material [~~textbook~~] files in one of several optional formats  
26 specified by the commissioner [~~State Board of Education~~].

27 (c) The commissioner [~~board~~] may also enter into agreements

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

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

8 (d) In this section:

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

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

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

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

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

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

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

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

11           Sec. 31.035. SUPPLEMENTAL           INSTRUCTIONAL           MATERIALS  
12 [~~TEXTBOOKS~~].

13           SECTION 38. Sections 31.035(a), (b), (c), (d), and (f),  
14 Education Code, are amended to read as follows:

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

22                   (1) contains material covering one or more primary  
23 focal points or primary topics of a subject in the required  
24 curriculum under Section 28.002, as determined by the State Board  
25 of Education;

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



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

3           (4) is free from factual errors.

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

8           (c) Supplemental instructional material ~~[A supplemental~~  
9 ~~textbook]~~ is subject to the review and adoption cycle provisions,  
10 including the midcycle review and adoption cycle provisions, of  
11 this subchapter.

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

15           ~~[(1) uses textbook credits received under Section~~  
16 ~~31.1011 to purchase the supplemental textbook; or~~

17           ~~[(2) instead of requisitioning a textbook on the~~  
18 ~~conforming list under Section 31.023 for a course in the foundation~~  
19 ~~curriculum under Section 28.002,]~~ requisitions the supplemental

20 instructional material ~~[textbook]~~ along with other supplemental  
21 instructional materials ~~[textbooks]~~ or instructional materials  
22 ~~[textbooks]~~ on the ~~[nonconforming]~~ list adopted under Section  
23 31.023 that in combination cover each element of the essential  
24 knowledge and skills for the course for which the district or school  
25 is requisitioning the supplemental instructional materials  
26 ~~[textbooks]~~.

27           (f) A school district or open-enrollment charter school

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

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

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

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

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

19 (b) The commissioner:

20 (1) shall purchase any state-developed open-source  
21 instructional materials [~~textbooks~~] through a competitive process;  
22 and

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

26 (c) State-developed [~~A state-developed~~] open-source  
27 instructional material [~~textbook~~] must be irrevocably owned by or

1 licensed to the state for use in the applicable subject or grade  
2 level. The state must have unlimited authority to modify, delete,  
3 combine, or add content to the instructional material [~~textbook~~]  
4 after purchase.

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

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

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

12 (e) The costs of administering this subchapter and  
13 purchasing state-developed open-source instructional materials  
14 [~~textbooks~~] shall be paid from the state instructional materials  
15 [~~textbook~~] fund, as determined by the commissioner and subject to  
16 Section 31.021.

17 SECTION 41. Sections 31.072(a) and (b), Education Code, are  
18 amended to read as follows:

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

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

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

26 (b) Following a curriculum revision by the State Board of  
27 Education, the commissioner shall require the revision of [a]

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

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

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

15 SECTION 43. Sections 31.073(c) and (d), Education Code, are  
16 amended to read as follows:

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

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

26 SECTION 44. Section 31.074, Education Code, is amended to  
27 read as follows:

1           Sec. 31.074. DISTRIBUTION. (a) The commissioner shall  
2 provide for the distribution of state-developed open-source  
3 instructional materials [~~textbooks~~] in a manner consistent with  
4 distribution of instructional materials [~~textbooks~~] adopted under  
5 Subchapter B.

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

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

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

19           (b) The commissioner shall provide a license to each public  
20 school in the state, including a school district, an  
21 open-enrollment charter school, and a state or local agency  
22 educating students in any grade from prekindergarten through high  
23 school, to use and reproduce [~~a~~] state-developed open-source  
24 instructional material [~~textbook~~].

25           (c) The commissioner may provide a license to use [~~a~~]  
26 state-developed open-source instructional material [~~textbook~~] to  
27 an entity not listed in Subsection (b). In determining the cost of

1 a license under this subsection, the commissioner shall seek, to  
2 the extent feasible, to recover the costs of developing, revising,  
3 and distributing state-developed open-source instructional  
4 materials [~~textbooks~~].

5 SECTION 46. Section 31.076(b), Education Code, is amended  
6 to read as follows:

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

10 SECTION 47. Section 31.077, Education Code, is amended to  
11 read as follows:

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

- 17 (1) the availability of funds;  
18 (2) the existing instructional material [~~textbook~~]  
19 adoption cycles under Subchapter B; and  
20 (3) the availability of instructional materials  
21 [~~textbooks~~] for development or purchase by the state.

22 SECTION 48. The heading to Section 31.101, Education Code,  
23 is amended to read as follows:

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

26 SECTION 49. Section 31.101, Education Code, is amended by  
27 amending Subsections (a), (d), and (e) and adding Subsection (f) to

1 read as follows:

2 (a) Each year, during a period established by the State  
3 Board of Education, the board of trustees of each school district  
4 and the governing body of each open-enrollment charter school  
5 shall:

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

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

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

19 (B) notify the State Board of Education that the  
20 board of trustees or governing body has selected instructional  
21 material [~~a textbook~~] that is not on the [~~conforming or~~  
22 ~~nonconforming~~] list.

23 (d) For instructional material [~~a textbook~~] that is not on  
24 the [~~conforming or nonconforming~~] list, a school district or  
25 open-enrollment charter school must use the instructional material  
26 [~~textbook~~] for the period of the review and adoption cycle the State  
27 Board of Education has established for the subject and grade level

1 for which the instructional material [~~textbook~~] is used.

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

12 (1) the district or school has used the [~~electronic~~  
13 ~~textbook or~~] instructional material for at least one school year;  
14 and

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

19 (f) The commissioner shall maintain an online requisition  
20 system for school districts to requisition instructional materials  
21 to be purchased with the district's instructional materials  
22 allotment.

23 SECTION 50. Section 31.102, Education Code, is amended to  
24 read as follows:

25 Sec. 31.102. TITLE AND CUSTODY. (a) Each instructional  
26 material [~~textbook~~] purchased as provided by this chapter for a  
27 school district or an open-enrollment charter school is the



1 property of the district or school [~~this state~~].

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

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

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

14 Sec. 31.103. INSTRUCTIONAL MATERIAL [~~TEXTBOOK~~]  
15 REQUISITIONS.

16 SECTION 52. Sections 31.103(b), (c), and (d), Education  
17 Code, are amended to read as follows:

18 (b) [~~A requisition for textbooks for the following school~~  
19 ~~year shall be based on the maximum attendance reports under~~  
20 ~~Subsection (a), plus an additional 10 percent, except as otherwise~~  
21 ~~provided.~~] A school district or open-enrollment charter school  
22 shall make a requisition for instructional material using the  
23 online requisition program maintained by [~~a textbook on the~~  
24 ~~conforming or nonconforming list through~~] the commissioner [~~to the~~  
25 ~~state depository designated by the publisher or as provided by~~  
26 ~~State Board of Education rule, as applicable,~~] not later than June 1  
27 of each year. The [~~designated state depository or, if the publisher~~

1 ~~or manufacturer does not have a designated textbook depository in~~  
 2 ~~this state under Section 31.151(a)(6)(B), the] publisher or~~  
 3 manufacturer shall fill a requisition approved by the agency [~~at~~  
 4 ~~any other time in the case of an emergency]. [As made necessary by~~  
 5 ~~available funds, the commissioner shall reduce the additional~~  
 6 ~~percentage of attendance for which a district or school may~~  
 7 ~~requisition textbooks. The commissioner may, on application of a~~  
 8 ~~district or school that is experiencing high enrollment growth,~~  
 9 ~~increase the additional percentage of attendance for which the~~  
 10 ~~district or school may requisition textbooks.]~~

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

18 (d) A school district or open-enrollment charter school  
 19 that selects [~~an~~] open-source instructional material [~~textbook~~]  
 20 shall requisition a sufficient number of printed copies for use by  
 21 students unable to access the instructional material [~~textbook~~]  
 22 electronically unless the district or school provides to each  
 23 student:

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

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

1 SECTION 53. Section 31.104, Education Code, is amended to  
2 read as follows:

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

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

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

13 [~~(2)~~] the [~~textbook~~] publisher of the instructional  
14 materials or [~~manufacturer if the textbook publisher or~~  
15 ~~manufacturer does not have a designated textbook depository in this~~  
16 ~~state under Section 31.151(a)(6)(B); or~~

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

19 (c) [~~Each textbook must state that the textbook is the~~  
20 ~~property of or is licensed to this state, as appropriate. Each~~  
21 ~~textbook, other than an electronic textbook or a printed copy of an~~  
22 ~~open-source textbook, must be covered by the student under the~~  
23 ~~direction of the teacher.~~] Except as provided by Subsection (g), a  
24 student must return all instructional materials [~~textbooks~~] to the  
25 teacher at the end of the school year or when the student withdraws  
26 from school.

27 (d) Each student, or the student's parent or guardian, is

1 responsible for all instructional materials [~~each textbook,~~  
2 ~~including an electronic textbook,~~] and [all] technological  
3 equipment not returned in an acceptable condition by the student.  
4 Except as provided by Subsection (d-1), a [A] student who fails to  
5 return in an acceptable condition all instructional materials  
6 [~~textbooks, including electronic textbooks,~~] and technological  
7 equipment forfeits the right to free instructional materials  
8 [~~textbooks, including electronic textbooks,~~] and technological  
9 equipment until all instructional materials [~~each textbook,~~  
10 ~~including an electronic textbook,~~] and [all] technological  
11 equipment previously issued but not returned in an acceptable  
12 condition are [~~is~~] paid for by the student, parent, or guardian. As  
13 provided by policy of the board of trustees or governing body, a  
14 school district or open-enrollment charter school may waive or  
15 reduce the payment requirement if the student is from a low-income  
16 family. The district or school shall allow the student to use  
17 instructional materials [~~textbooks, including electronic~~  
18 ~~textbooks,~~] and technological equipment at school during each  
19 school day. If instructional materials [~~a textbook, including an~~  
20 ~~electronic textbook,~~] or technological equipment is not returned in  
21 an acceptable condition or paid for, the district or school may  
22 withhold the student's records. A district or school may not,  
23 under this subsection, prevent a student from graduating,  
24 participating in a graduation ceremony, or receiving a diploma.  
25 The commissioner by rule shall adopt criteria for determining  
26 whether instructional materials [~~a textbook, including an~~  
27 ~~electronic textbook,~~] and technological equipment are returned in

1 an acceptable condition.

2 (d-1) A school district may require the payment of a fee by a  
3 student in the district to cover the cost of insuring technological  
4 equipment issued to the student. The fee may not exceed the amount  
5 necessary to cover the cost of insurance on lost, damaged, or stolen  
6 technological equipment. A district charging a fee under this  
7 subsection shall adopt a policy to waive or reduce the fee of a  
8 student who is from a low-income family. A student assessed a fee  
9 under this subsection may not be held financially responsible for  
10 any loss of or damage to technological equipment in the student's  
11 possession.

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

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

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

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

14 SECTION 54. Section 31.105, Education Code, is amended to  
15 read as follows:

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

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

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

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

21 SECTION 55. Section 31.106, Education Code, is amended to  
22 read as follows:

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

27 SECTION 56. Section 31.151, Education Code, is amended by

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

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

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

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

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

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

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



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

4 (6) shall~~+~~

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

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

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

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

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

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

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

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

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

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

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

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

19 SECTION 58. Sections 31.152(a), (b), and (d), Education  
20 Code, are amended to read as follows:

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

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

- 1           (1) is given to the person or the person's school;
- 2           (2) might reasonably tend to influence a trustee,  
3 administrator, or teacher in the selection of [~~a textbook,~~  
4 ~~electronic textbook,~~] instructional material[~~7~~] or technological  
5 equipment; and
- 6           (3) could not be lawfully purchased with state  
7 instructional materials funds [~~from the state textbook fund~~].
- 8           (d) In this section, "gift, favor, or service" does not  
9 include:
- 10           (1) staff development, in-service, or teacher  
11 training; [~~or~~]
- 12           (2) ancillary [~~instructional~~] materials, such as maps  
13 or worksheets, that convey information to the student or otherwise  
14 contribute to the learning process; or
- 15           (3) the provision of food or beverages with a value  
16 that does not exceed \$50.

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

19           Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS  
20 [~~TEXTBOOK~~] LAW.

21           SECTION 60. Section 31.153(a), Education Code, is amended  
22 to read as follows:

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

26           SECTION 61. Chapter 32, Education Code, is amended by  
27 adding Subchapter E to read as follows:

1           SUBCHAPTER E. TECHNOLOGY LENDING PROGRAM GRANTS

2           Sec. 32.201. ESTABLISHMENT OF PROGRAM. (a) The  
3 commissioner may establish a grant program under which grants are  
4 awarded to school districts and open-enrollment charter schools to  
5 implement a technology lending program to provide students access  
6 to equipment necessary to use electronic instructional materials.

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

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

13           (2) other funding available to the district or charter  
14 school.

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

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

21           Sec. 32.202. FUNDING. (a) The commissioner may set aside  
22 not more than 10 percent of the state instructional materials fund  
23 under Section 31.021 or a different amount determined by  
24 appropriation to administer a grant program established under this  
25 subchapter.

26           (b) The cost of administering a grant program under this  
27 subchapter must be paid from funds set aside under Subsection (a).

1       Sec. 32.203. USE OF GRANT FUNDS. (a) A school district or  
2 open-enrollment charter school may use a grant awarded under  
3 Section 32.201 or other local funds to purchase, maintain, and  
4 insure equipment for a technology lending program.

5       (b) Equipment purchased by a school district or  
6 open-enrollment charter school with a grant awarded under Section  
7 32.201 is the property of the district or charter school.

8       SECTION 62. Section 39.303(b), Education Code, is amended  
9 to read as follows:

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

19       SECTION 63. Section 41.124(c), Education Code, is amended  
20 to read as follows:

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

26       SECTION 64. Section 43.001(b), Education Code, as amended  
27 by Chapters 201 (H.B. 3459) and 328 (S.B. 206), Acts of the 78th

1 Legislature, Regular Session, 2003, is reenacted to read as  
2 follows:

3 (b) The available school fund, which shall be apportioned  
4 annually to each county according to its scholastic population,  
5 consists of:

6 (1) the distributions to the fund from the permanent  
7 school fund as provided by Section 5(a), Article VII, Texas  
8 Constitution;

9 (2) one-fourth of all revenue derived from all state  
10 occupation taxes, exclusive of delinquencies and cost of  
11 collection;

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

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

16 SECTION 65. Section 43.001, Education Code, is amended by  
17 adding Subsections (d) and (e) to read as follows:

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

24 (e) In calculating the amounts to be set aside as provided  
25 by Subsection (d) for the state fiscal biennium beginning September  
26 1, 2011, the State Board of Education shall consider only the  
27 amounts of the annual distribution of the permanent school fund for

1 that biennium. The board shall not consider amounts distributed  
2 for the state fiscal biennium beginning September 1, 2009,  
3 regardless of the date on which those amounts were approved for  
4 distribution. This subsection expires September 1, 2014.

5 SECTION 66. The following provisions of the Education Code  
6 are repealed:

- 7 (1) Section 7.108(c)(2);
- 8 (2) Section 31.002(3);
- 9 (3) Sections 31.021(b), (e), and (f);
- 10 (4) Section 31.0222;
- 11 (5) Section 31.025;
- 12 (6) Sections 31.035(e) and (g);
- 13 (7) Section 31.072(c);
- 14 (8) Sections 31.073(a) and (b);
- 15 (9) Sections 31.101(b), (b-1), (c), and (c-1);
- 16 (10) Section 31.1011;
- 17 (11) Sections 31.103(a) and (e);
- 18 (12) Section 31.1031;
- 19 (13) Subchapter E, Chapter 31;
- 20 (14) Section 32.005;
- 21 (15) Sections 32.251 through 32.257;
- 22 (16) Sections 32.259 through 32.263; and
- 23 (17) Subchapter H, Chapter 32.

24 SECTION 67. Sections 2175.128(a-1) and (b-1), Government  
25 Code, are repealed.

26 SECTION 68. The change in law made by this Act to Section  
27 7.108, Education Code, applies only to an offense committed on or

1 after the effective date of this Act. An offense committed before  
2 the effective date of this Act is governed by the law in effect when  
3 the offense was committed, and the former law is continued in effect  
4 for that purpose. For purposes of this section, an offense was  
5 committed before the effective date of this Act if any element of  
6 the offense occurred before that date.

7 SECTION 69. To the extent of any conflict, this Act prevails  
8 over another Act of the 82nd Legislature, Regular Session, 2011,  
9 relating to nonsubstantive additions to and corrections in enacted  
10 codes.

11 SECTION 70. This Act takes effect September 1, 2011.