

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

H.B. No. 6

Substitute the following for H.B. No. 6:

By: Eissler

C.S.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 (e), a

1 school district may not charge a student for instructional material
 2 or technological equipment purchased by the district with the
 3 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. Each school
17 district and open-enrollment charter school shall annually certify
18 to the State Board of Education and the commissioner that, for each
19 subject in the foundation [~~required~~] curriculum under Section
20 28.002 and each grade level, the district provides each student
21 with [~~textbooks, electronic textbooks, or~~] instructional materials
22 that cover all elements of the essential knowledge and skills
23 adopted by the State Board of Education for that subject and grade
24 level.

25 Sec. 31.005. FUNDING FOR OPEN-ENROLLMENT CHARTER SCHOOLS.
26 An open-enrollment charter school is entitled to the instructional
27 materials allotment under this chapter and is subject to this

1 chapter as if the school were a school district.

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

4 Sec. 31.021. STATE INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~]
5 FUND.

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

9 (a) The state instructional materials [~~textbook~~] fund
10 consists of:

11 (1) an amount set aside by the State Board of Education
12 from the available school fund, in accordance with Section
13 43.001(d); and

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

16 [~~3~~] all amounts lawfully paid into the fund from any
17 other source.

18 (c) Money in the state instructional materials fund shall be
19 used to:

20 (1) fund the instructional materials allotment, as
21 provided by Section 31.0211;

22 (2) purchase special instructional materials for the
23 education of blind and visually impaired students in public
24 schools;

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

27 (4) pay the expenses associated with the purchase or

1 licensing of open-source instructional material, to the extent
2 authorized by the General Appropriations Act; and

3 (5) pay the expenses associated with the purchase of
4 instructional material, including freight, shipping, and insurance
5 expenses.

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

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

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

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

1 program. The commissioner's determination under this subsection is
2 final and may not be appealed.

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

5 (1) purchase:

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

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

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

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

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

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

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

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

26 (2) pay:

27 (A) for training educational personnel directly

1 involved in student learning in the appropriate use of
2 instructional materials and for providing for access to
3 technological equipment for instructional use; and

4 (B) the salary and other expenses of an employee
5 who provides technical support for the use of technological
6 equipment.

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

9 (1) a sufficient quantity of instructional materials
10 or technological equipment that corresponds to the adoption cycle
11 under Section 31.022;

12 (2) instructional materials necessary to permit the
13 district to certify that the district has instructional materials
14 that cover all elements of the essential knowledge and skills of the
15 foundation curriculum for each grade level as required by Section
16 31.004; and

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

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

23 (1) instructional materials available for selection
24 under the 2011 proclamation issued by the State Board of Education;
25 or

26 (2) other instructional materials or technological
27 equipment available to the district under a continuing contract in

1 effect on September 1, 2011.

2 (d-2) Subsection (d-1) and this subsection expire August
3 31, 2012.

4 (e) Not later than May 31 of each school year, a school
5 district may request that the commissioner adjust the number of
6 students for which the district is entitled to receive an allotment
7 under Subsection (a) on the grounds that the number of students
8 attending school in the district will increase or decrease during
9 the school year for which the allotment is provided. The
10 commissioner may also adjust the number of students for which a
11 district is entitled to receive an allotment, without a request by
12 the district, if the commissioner determines a different number of
13 students is a more accurate reflection of students who will be
14 attending school in the district. The commissioner's determination
15 under this subsection is final.

16 (f) The commissioner may adopt rules as necessary to
17 implement this section.

18 Sec. 31.0212. INSTRUCTIONAL MATERIALS ACCOUNT. (a) The
19 commissioner shall maintain an instructional materials account for
20 each school district. Each school year, the commissioner shall
21 deposit in the account for each district the amount of the
22 district's instructional materials allotment under Section
23 31.0211.

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

27 (c) A school district may also use funds in the district's

1 account to purchase electronic instructional materials or
2 technological equipment. The district shall submit to the
3 commissioner a request for funds for this purpose from the
4 district's account. The commissioner shall adopt rules regarding
5 the documentation a school district must submit to receive funds
6 under this subsection.

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

13 (e) The commissioner may adopt rules as necessary to
14 implement this section.

15 Sec. 31.0213. CERTIFICATION OF USE OF INSTRUCTIONAL
16 MATERIALS ALLOTMENT. Each school district shall annually certify
17 to the commissioner that the district's instructional materials
18 allotment has been used only for expenses allowed by Section
19 31.0211.

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

1 (b) The commissioner may adopt rules as necessary to
2 implement this section.

3 SECTION 24. The heading to Section 31.022, Education Code,
4 is amended to read as follows:

5 Sec. 31.022. INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~] REVIEW AND
6 ADOPTION.

7 SECTION 25. Section 31.022, Education Code, is amended by
8 amending Subsections (a), (b), (c), (e), and (f) and adding
9 Subsection (b-1) to read as follows:

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

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

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

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

25 (B) foundation curriculum subjects for which the
26 essential knowledge and skills have been substantially revised,
27 including career and technology courses that satisfy foundation

1 curriculum requirements as provided by Section 28.002(n);

2 (C) foundation curriculum subjects not described
3 by Paragraph (A) or (B), including career and technology courses
4 that satisfy foundation curriculum requirements as provided by
5 Section 28.002(n); and

6 (D) enrichment curriculum subjects.

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

18 (b-1) For purposes of the cycle described by Subsection (b),
19 the State Board of Education is considered to have adopted
20 instructional materials for English language arts, English as a
21 second language, and prekindergarten, as included in Proclamation
22 2011, for the biennium beginning September 1, 2011. This
23 subsection expires September 1, 2013.

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

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

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

11 SECTION 26. Section 31.0221, Education Code, is amended to
12 read as follows:

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

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

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

1 grade level; and

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

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

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

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

14 SECTION 27. Section 31.023, Education Code, is amended to
15 read as follows:

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

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

1 Section 31.024[. ~~The nonconforming list includes each textbook~~
2 ~~submitted for the subject and grade level that:~~

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

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

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

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

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

17 SECTION 28. Section 31.0231, Education Code, is amended to
18 read as follows:

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

22 (1) electronic instructional material [~~textbooks~~];
23 and

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

1 kindergarten through grade five.

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

6 (c) Before the commissioner places [~~an electronic textbook~~
7 ~~or instructional~~] material on the list adopted under Subsection
8 (a), the State Board of Education must be given an opportunity to
9 comment on the [~~electronic textbook or instructional~~] material.
10 Material [~~An electronic textbook or instructional material~~] placed
11 on the list adopted under Subsection (a):

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

16 (2) must satisfy criteria adopted for the purpose by
17 commissioner rule; and

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

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

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

25 (2) include coverage of the essential knowledge and
26 skills identified under Section 28.002 for the subject for which
27 the [~~electronic textbook or instructional~~] material is intended to

1 be used and identify:

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

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

8 (3) include appropriate training for teachers.

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

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

23 (g) After notice to the commissioner and a review by the
24 commissioner, the provider of [~~an electronic textbook or~~
25 ~~instructional~~] material on the list adopted under Subsection (a)
26 may update the content of the [~~electronic textbook or~~
27 ~~instructional~~] material if needed to accurately reflect current

1 knowledge or information.

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

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

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

9 SECTION 29. Section 31.024, Education Code, is amended to
10 read as follows:

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

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

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

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

27 SECTION 30. The heading to Section 31.0241, Education Code,

1 is amended to read as follows:

2 Sec. 31.0241. ADOPTION OF OPEN-SOURCE INSTRUCTIONAL
3 MATERIALS [~~TEXTBOOKS~~].

4 SECTION 31. Sections 31.0241(b) and (c), Education Code,
5 are amended to read as follows:

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

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

15 (2) the eligible institution identifies each
16 contributing author;

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

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

27 (A) for instructional material [~~a textbook~~] for a

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

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

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

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

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

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

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

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

26 (c) As applicable, a contract must provide for the purchase
27 or licensing of instructional material [~~a textbook~~] at a specific

1 price, which may not exceed the lowest price paid by any other state
2 or any school or school district. The price must be fixed for the
3 term of the contract.

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

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

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

16 SECTION 34. Section 31.027, Education Code, is amended to
17 read as follows:

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

25 (b) A publisher shall provide at least two sample copies in
26 digital format of each submitted instructional material [~~adopted~~
27 ~~textbook~~] to be maintained at each regional education service

1 center.

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

4 SECTION 35. Section 31.028, Education Code, is amended to
5 read as follows:

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

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

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

25 (c) The commissioner [~~board~~] may also enter into agreements
26 providing for the acceptance, requisition, and distribution of
27 special instructional materials [~~textbooks~~] and instructional aids

1 pursuant to 20 U.S.C. Section 101 et seq. for use by students
2 enrolled in:

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

6 (d) In this section:

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

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

15 SECTION 36. Section 31.029, Education Code, is amended to
16 read as follows:

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

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

24 SECTION 37. Section 31.030, Education Code, is amended to
25 read as follows:

26 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The
27 State Board of Education shall adopt rules to ensure that used

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

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

9 Sec. 31.035. SUPPLEMENTAL INSTRUCTIONAL MATERIALS
10 [~~TEXTBOOKS~~].

11 SECTION 39. Sections 31.035(a), (b), (c), (d), and (f),
12 Education Code, are amended to read as follows:

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

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

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

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

1 (4) is free from factual errors.

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

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

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

13 ~~[(1) uses textbook credits received under Section~~
14 ~~31.1011 to purchase the supplemental textbook, or~~

15 ~~[(2) instead of requisitioning a textbook on the~~
16 ~~conforming list under Section 31.023 for a course in the foundation~~
17 ~~curriculum under Section 28.002,]~~ requisitions the supplemental
18 instructional material ~~[textbook]~~ along with other supplemental
19 instructional materials ~~[textbooks]~~ or instructional materials
20 ~~[textbooks]~~ on the ~~[nonconforming]~~ list adopted under Section
21 31.023 that in combination cover each element of the essential
22 knowledge and skills for the course for which the district or school
23 is requisitioning the supplemental instructional materials
24 ~~[textbooks]~~.

25 (f) A school district or open-enrollment charter school
26 that requisitions supplemental instructional materials ~~[textbooks~~
27 ~~under Subsection (d)(2)]~~ shall certify to the agency that the

1 supplemental instructional materials [~~textbooks~~], in combination
2 with any other instructional materials [~~textbooks~~] or supplemental
3 instructional materials [~~textbooks~~] used by the district or school,
4 cover the essential knowledge and skills identified under Section
5 28.002 by the State Board of Education for the subject and grade
6 level for which the district or school is requisitioning the
7 supplemental instructional materials [~~textbooks~~].

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

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

12 SECTION 41. Section 31.071, Education Code, is amended to
13 read as follows:

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

17 (b) The commissioner:

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

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

24 (c) State-developed [~~A state-developed~~] open-source
25 instructional material [~~textbook~~] must be irrevocably owned by or
26 licensed to the state for use in the applicable subject or grade
27 level. The state must have unlimited authority to modify, delete,

1 combine, or add content to the instructional material [~~textbook~~]
2 after purchase.

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

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

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

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

15 SECTION 42. Sections 31.072(a) and (b), Education Code, are
16 amended to read as follows:

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

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

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

24 (b) Following a curriculum revision by the State Board of
25 Education, the commissioner shall require the revision of [~~a~~]
26 state-developed open-source instructional material [~~textbook~~]
27 relating to that curriculum. The commissioner may, at any time,

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

10 SECTION 43. The heading to Section 31.073, Education Code,
11 is amended to read as follows:

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

13 SECTION 44. Sections 31.073(c) and (d), Education Code, are
14 amended to read as follows:

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

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

24 SECTION 45. Section 31.074, Education Code, is amended to
25 read as follows:

26 Sec. 31.074. DISTRIBUTION. (a) The commissioner shall
27 provide for the distribution of state-developed open-source

1 instructional materials [~~textbooks~~] in a manner consistent with
2 distribution of instructional materials [~~textbooks~~] adopted under
3 Subchapter B.

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

12 SECTION 46. Section 31.075, Education Code, is amended to
13 read as follows:

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

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

23 (c) The commissioner may provide a license to use [~~a~~]
24 state-developed open-source instructional material [~~textbook~~] to
25 an entity not listed in Subsection (b). In determining the cost of
26 a license under this subsection, the commissioner shall seek, to
27 the extent feasible, to recover the costs of developing, revising,

1 and distributing state-developed open-source instructional
2 materials [~~textbooks~~].

3 SECTION 47. Section 31.076(b), Education Code, is amended
4 to read as follows:

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

8 SECTION 48. Section 31.077, Education Code, is amended to
9 read as follows:

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

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

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

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

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

27 (a) Each year, during a period established by the State

1 Board of Education, the board of trustees of each school district
2 and the governing body of each open-enrollment charter school
3 shall:

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

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

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

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

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

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

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

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

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

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

21 SECTION 51. Section 31.102, Education Code, is amended to
22 read as follows:

23 Sec. 31.102. TITLE AND CUSTODY. (a) Except as provided by
24 Subsection (d), printed instructional material [~~Each textbook~~]
25 purchased as provided by this chapter is the property of this state.
26 Any electronic instructional material or technological equipment
27 purchased with a school district's instructional materials

1 allotment is the property of the school district.

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 printed instructional materials [~~textbooks~~] purchased
8 as provided by this chapter for the district or school. The board
9 of trustees shall distribute printed instructional materials
10 [~~textbooks~~] to students in the manner that the board or governing
11 body determines is most effective and economical.

12 (d) Printed instructional material purchased with a school
13 district's instructional materials allotment becomes the property
14 of the district on the date the printed instructional material is
15 discontinued for use in the public schools by the State Board of
16 Education or the commissioner.

17 SECTION 52. The heading to Section 31.103, Education Code,
18 is amended to read as follows:

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

21 SECTION 53. Sections 31.103(b), (c), and (d), Education
22 Code, are amended to read as follows:

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

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

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

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

1 student:

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

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

6 SECTION 54. Section 31.104, Education Code, is amended to
7 read as follows:

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

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

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

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

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

24 (c) Each instructional material [~~textbook~~] must state that
25 the instructional material [~~textbook~~] is the property of or is
26 licensed to this state or the school district, as appropriate. Each
27 instructional material [~~textbook~~], other than [~~an~~] electronic

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

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

1 an acceptable condition or paid for, the district or school may
2 withhold the student's records. A district or school may not,
3 under this subsection, prevent a student from graduating,
4 participating in a graduation ceremony, or receiving a diploma.
5 The commissioner by rule shall adopt criteria for determining
6 whether instructional materials [~~a textbook, including an~~
7 ~~electronic textbook,~~] and technological equipment are returned in
8 an acceptable condition.

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

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

1 off school property or outside of a school-sponsored event in
2 consideration for the ability of the school employee to use the
3 electronic instructional material [~~textbook~~] or technological
4 equipment for personal business. Such a written agreement shall be
5 separate from the employee's contract of employment, if applicable,
6 and shall clearly inform the employee of the amount of the financial
7 responsibility and advise the employee to consider obtaining
8 appropriate insurance. An employee may not be required to agree to
9 such an agreement as a condition of employment.

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

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

18 SECTION 55. Section 31.105, Education Code, is amended to
19 read as follows:

20 Sec. 31.105. SALE OR DISPOSAL OF INSTRUCTIONAL MATERIALS
21 AND TECHNOLOGICAL EQUIPMENT [~~TEXTBOOKS~~]. (a) The board of
22 trustees of a school district or governing body of an
23 open-enrollment charter school may sell printed instructional
24 materials on the date the instructional material is discontinued
25 for use in the public schools by the State Board of Education or the
26 commissioner. The board of trustees or governing body may also sell
27 electronic instructional materials and technological equipment

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

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

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

25 SECTION 56. Section 31.106, Education Code, is amended to
26 read as follows:

27 Sec. 31.106. USE OF LOCAL FUNDS. In addition to any

1 instructional material [~~textbook~~] selected under this chapter, a
2 school district or open-enrollment charter school may use local
3 funds to purchase any instructional materials [~~textbooks~~].

4 SECTION 57. Sections 31.151(a) and (d), Education Code, are
5 amended to read as follows:

6 (a) A publisher or manufacturer of instructional materials
7 [~~textbooks~~]:

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

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

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

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

1 (5) may not become associated or connected with,
2 directly or indirectly, any combination in restraint of trade in
3 instructional materials [~~textbooks~~] or enter into any
4 understanding or combination to control prices or restrict
5 competition in the sale of instructional materials [~~textbooks~~] for
6 use in this state;

7 (6) shall[+]

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

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

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

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

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

1 (8) shall guarantee delivery of instructional
2 materials [~~textbooks~~] at least 10 business days before the opening
3 day of school of the year for which the instructional materials
4 [~~textbooks~~] are ordered if the instructional materials [~~textbooks~~]
5 are ordered by a date specified in the sales contract; and

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

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

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

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

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

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

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

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

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

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

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

9 (1) staff development, in-service, or teacher
10 training; [~~or~~]

11 (2) ancillary [~~instructional~~] materials, such as maps
12 or worksheets, that convey information to the student or otherwise
13 contribute to the learning process; or

14 (3) the provision of food or beverages with a value
15 that does not exceed \$50.

16 SECTION 60. The heading to Section 31.153, Education Code,
17 is amended to read as follows:

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

20 SECTION 61. Section 31.153(a), Education Code, is amended
21 to read as follows:

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

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

27 (b) For a student who failed to perform satisfactorily as

1 determined under either performance standard under Section 39.0241
2 on an assessment instrument administered under Section 39.023(a),
3 (c), or (l), the school district shall include in the notice
4 specific information relating to access to ~~[online]~~ educational
5 resources at the appropriate assessment instrument content level,
6 including ~~[educational resources described by Section 32.252(b)(2)~~
7 ~~and]~~ assessment instrument questions and answers released under
8 Section 39.023(e).

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

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

16 SECTION 64. Section 43.001(b), Education Code, as amended
17 by Chapters 201 (H.B. 3459) and 328 (S.B. 206), Acts of the 78th
18 Legislature, Regular Session, 2003, is reenacted to read as
19 follows:

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

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

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

1 collection;

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

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

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

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

14 (e) In calculating the amounts to be set aside as provided
15 by Subsection (d) for the state fiscal biennium beginning September
16 1, 2011, the State Board of Education shall consider only the
17 amounts of the annual distribution of the permanent school fund for
18 that biennium. The board shall not consider amounts distributed
19 for the state fiscal biennium beginning September 1, 2009,
20 regardless of the date on which those amounts were approved for
21 distribution. This subsection expires September 1, 2014.

22 SECTION 66. The following provisions of the Education Code
23 are repealed:

24 (1) Section 7.108(c)(2);

25 (2) Section 31.002(3);

26 (3) Sections 31.021(b), (e), and (f);

27 (4) Section 31.022(d);

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

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

22 SECTION 68. To the extent of any conflict, this Act prevails
23 over another Act of the 82nd Legislature, Regular Session, 2011,
24 relating to nonsubstantive additions to and corrections in enacted
25 codes.

26 SECTION 69. This Act takes effect September 1, 2011.