

By: Shapiro, Van de Putte

S.B. No. 6

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

SECTION 2. Subsection (f), Section 7.056, Education Code, is amended to read as follows:

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

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

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

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

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

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

(4) ~~[textbook]~~ selection of instructional materials under Chapter 31.

SECTION 3. Subdivision (23), Subsection (c), Section 7.102, Education Code, is amended to read as follows:

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

SECTION 4. Subsections (a) and (c), Section 7.108, Education Code, are amended to read as follows:

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

(c) In this section:

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

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

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

SECTION 5. The heading to Section 7.112, Education Code, is

1 amended to read as follows:

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

4 SECTION 6. Subsection (a), Section 7.112, Education Code,
5 is amended to read as follows:

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

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

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

16 SECTION 7. Subdivision (2), Subsection (c), Section 7.112,
17 Education Code, is amended to read as follows:

18 (2) "Instructional material" and "publisher"
19 [~~"Publisher" and "textbook"~~] have the meanings assigned by Section
20 31.002.

21 SECTION 8. Subsection (b), Section 11.158, Education Code,
22 is amended to read as follows:

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

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

27 (2) field trips required as a part of a basic education

1 program or course;

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

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

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

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

12 (7) admission to or examination in any required
13 educational course or program; or

14 (8) lockers.

15 SECTION 9. Subsection (a), Section 11.164, Education Code,
16 is amended to read as follows:

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

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

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

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

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

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

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

(7) an attendance report;

(8) any report required for accreditation review;

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

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

SECTION 10. Subsection (e), Section 19.007, Education Code, is amended to read as follows:

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

SECTION 11. Subsections (a) and (c), Section 26.006, Education Code, are amended to read as follows:

(a) A parent is entitled to:

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

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

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

12 SECTION 12. Subsections (a), (c), (h), and (n), Section
 13 28.002, Education Code, are amended to read as follows:

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

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

- 23 (2) an enrichment curriculum that includes:
- 24 (A) to the extent possible, languages other than
 - 25 English;
 - 26 (B) health, with emphasis on the importance of
 - 27 proper nutrition and exercise;

(C) physical education;

(D) fine arts;

(E) ~~[economics, with emphasis on the free enterprise system and its benefits,~~

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

(F) ~~[(G)]~~ technology applications; and

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

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

(h) The State Board of Education and each school district shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter and in reading courses and in the adoption of instructional materials ~~[textbooks]~~. A primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the

1 basic democratic values of our state and national heritage.

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

6 SECTION 13. Subsections (a) and (d), Section 28.0022,
7 Education Code, are amended to read as follows:

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

10 (1) review and recommend revisions to the career and
11 technical education curriculum under Section 28.002(a)(2)(E)
12 [~~28.002(a)(2)(F)~~]; and

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

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

18 (1) complete the review as required by this section
19 of:

20 (A) the career and technical education
21 curriculum; and

22 (B) the program under which high schools and
23 articulated postsecondary institutions allow high school students
24 to take advanced technical credit courses; and

25 (2) make recommendations to the State Board of
26 Education as necessary to:

27 (A) increase the academic rigor of the career and

technical education curriculum under Section 28.002(a)(2)(E)
[~~28.002(a)(2)(F)~~]; and

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

SECTION 14. Subsection (b), Section 28.003, Education Code,
is amended to read as follows:

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

SECTION 15. Subsection (c), Section 28.011, Education Code,
is amended to read as follows:

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

SECTION 16. The heading to Chapter 31, Education Code, is
amended to read as follows:

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

SECTION 17. Section 31.001, Education Code, is amended to
read as follows:

Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

Instructional materials [~~Textbooks~~] selected for use in the public schools shall be furnished without cost to the students attending those schools. Except as provided by Section 31.104(d), a school district may not charge a student for instructional material or technological equipment purchased by the district with the district's instructional materials allotment.

SECTION 18. Subdivisions (1), (1-a), (2), and (4), Section 31.002, Education Code, are amended to read as follows:

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

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

1 purchased under Subchapter B-1.

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

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

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

10 (B) professional use by a classroom teacher.

11 SECTION 19. Subchapter A, Chapter 31, Education Code, is
12 amended by amending Sections 31.003 and 31.004 and adding Section
13 31.005 to read as follows:

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

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

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

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

4 SECTION 20. The heading to Section 31.021, Education Code,
5 is amended to read as follows:

6 Sec. 31.021. STATE INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~]
7 FUND.

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

11 (a) The state instructional materials [~~textbook~~] fund
12 consists of:

13 (1) an amount set aside by the State Board of Education
14 from the available school fund, in accordance with Section
15 43.001(d); and

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

18 [~~(3)~~] all amounts lawfully paid into the fund from any
19 other source.

20 (c) Money in the state instructional materials fund shall be
21 used to:

22 (1) fund the instructional materials allotment, as
23 provided by Section 31.0211;

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

27 (3) pay the expenses associated with the instructional

1 materials adoption and review process under this chapter;

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

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

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

11 SECTION 22. Subchapter B, Chapter 31, Education Code, is
12 amended by adding Sections 31.0211, 31.0212, 31.0213, and 31.0214
13 to read as follows:

14 Sec. 31.0211. INSTRUCTIONAL MATERIALS ALLOTMENT. (a) A
15 school district is entitled to an annual allotment from the state
16 instructional materials fund for each student enrolled in the
17 district on a date during the preceding school year specified by the
18 commissioner. The commissioner shall determine the amount of the
19 allotment per student each year on the basis of the amount of money
20 available in the state instructional materials fund to fund the
21 allotment. An allotment under this section shall be transferred
22 from the state instructional materials fund to the credit of the
23 district's instructional materials account as provided by Section
24 31.0212.

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

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

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

7 (1) purchase:

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

10 (B) instructional materials, regardless of
11 whether the instructional materials are on the conforming or
12 nonconforming list, as provided by Section 31.024;

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

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

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

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

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

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

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

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

7 (1) instructional materials necessary to permit the
8 district to certify that the district has instructional materials
9 that cover all elements of the essential knowledge and skills of the
10 required curriculum for each grade level as required by Section
11 28.002; and

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

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

21 (d-2) Subsection (d-1) and this subsection expire August
22 31, 2013.

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

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

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

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

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

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

(d) Money deposited in a school district's instructional materials account during each state fiscal biennium remains in the

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

5 (e) The commissioner may adopt rules as necessary to
6 implement this section.

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

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

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

22 SECTION 23. The heading to Section 31.022, Education Code,
23 is amended to read as follows:

24 Sec. 31.022. INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~] REVIEW AND
25 ADOPTION.

26 SECTION 24. Subsections (a), (b), (c), (e), and (f),
27 Section 31.022, Education Code, are amended to read as follows:

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

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

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

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

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

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

(D) enrichment curriculum subjects.

(b) The board shall organize the cycle for subjects in the foundation curriculum so that not more than one-fourth [~~one-sixth~~] of the instructional materials [~~textbooks~~] for subjects in the

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

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

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

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

23 SECTION 25. Section 31.0221, Education Code, is amended to
24 read as follows:

25 Sec. 31.0221. MIDCYCLE REVIEW AND ADOPTION OF INSTRUCTIONAL
26 MATERIALS [~~TEXTBOOKS~~]. (a) The State Board of Education shall
27 adopt rules for the midcycle review and adoption of instructional

1 material [~~a textbook~~] for a subject for which instructional
2 materials [~~textbooks~~] are not currently under review by the board
3 under Section 31.022. The rules must require:

4 (1) the publisher of the instructional material
5 [~~textbook~~] to pay a fee to the board to cover the cost of the
6 midcycle review and adoption of the instructional material
7 [~~textbook~~];

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

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

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

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

22 (b) Sections 31.023 and 31.024 apply to instructional
23 material [~~a textbook~~] adopted under this section. Section 31.027
24 does not apply to instructional material [~~a textbook~~] adopted under
25 this section.

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

1 Sec. 31.023. INSTRUCTIONAL MATERIAL [~~TEXTBOOK~~] LISTS.

2 (a) For each subject and grade level, the State Board of Education
3 shall adopt two lists of instructional materials [~~textbooks~~]. The
4 conforming list includes each instructional material [~~textbook~~]
5 submitted for the subject and grade level that meets applicable
6 physical specifications adopted by the State Board of Education and
7 contains material covering each element of the essential knowledge
8 and skills of the subject and grade level in the student version of
9 the instructional material [~~textbook~~], as well as in the teacher
10 version of the instructional material [~~textbook~~], as determined by
11 the State Board of Education under Section 28.002 and adopted under
12 Section 31.024. The nonconforming list includes each instructional
13 material [~~textbook~~] submitted for the subject and grade level that:

14 (1) meets applicable physical specifications adopted
15 by the State Board of Education;

16 (2) contains material covering at least half, but not
17 all, of the elements of the essential knowledge and skills of the
18 subject and grade level in the student version of the instructional
19 material [~~textbook~~], as well as in the teacher version of the
20 instructional material [~~textbook~~]; and

21 (3) is adopted under Section 31.024.

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

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

26 Sec. 31.0231. COMMISSIONER'S [~~ELECTRONIC TEXTBOOK AND~~
27 ~~INSTRUCTIONAL MATERIAL~~] LIST. (a) The commissioner shall adopt a

1 list of:

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

3 and

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

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

13 (c) Before the commissioner places [~~an electronic textbook~~
14 ~~or instructional~~] material on the list adopted under Subsection
15 (a), the State Board of Education must be given an opportunity to
16 comment on the [~~electronic textbook or instructional~~] material.
17 Material [~~An electronic textbook or instructional material~~] placed
18 on the list adopted under Subsection (a):

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

23 (2) must satisfy criteria adopted for the purpose by
24 commissioner rule; and

25 (3) must meet the National Instructional Materials
26 Accessibility Standard, to the extent practicable as determined by
27 the commissioner.

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

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

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

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

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

(3) include appropriate training for teachers.

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

(f) After notice to the commissioner explaining in detail the changes, the provider of ~~[an electronic textbook or instructional]~~ material on the list adopted under Subsection (a)

1 may update the navigational features or management system related
2 to the [~~electronic textbook or instructional~~] material.

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

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

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

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

16 SECTION 28. Section 31.024, Education Code, is amended to
17 read as follows:

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

20 (1) place each submitted instructional material
21 [~~textbook~~] on a conforming or nonconforming list; or

22 (2) reject instructional material [~~a textbook~~]
23 submitted for placement on a conforming or nonconforming list.

24 (b) Not later than December 1 of the year preceding the
25 school year for which the instructional materials [~~textbooks~~] for a
26 particular subject and grade level will be purchased under the
27 cycle adopted by the board under Section 31.022, the board shall

1 provide the lists of adopted instructional materials [~~textbooks~~] to
2 each school district. Each nonconforming list must include the
3 reasons [~~an~~] adopted instructional material [~~textbook~~] is not
4 eligible for the conforming list.

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

7 Sec. 31.0241. ADOPTION OF OPEN-SOURCE INSTRUCTIONAL
8 MATERIALS [~~TEXTBOOKS~~].

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

11 (b) The State Board of Education shall place [~~an~~]
12 open-source instructional material [~~textbook~~] for a
13 secondary-level course submitted for adoption by an eligible
14 institution on a conforming or nonconforming list if:

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

19 (2) the eligible institution identifies each
20 contributing author;

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

24 (4) the eligible institution determines that the
25 instructional material [~~textbook~~] qualifies for placement on the
26 conforming or nonconforming list based on the extent to which the
27 instructional material [~~textbook~~] covers the essential knowledge

and skills identified under Section 28.002 for the subject for which the instructional material [~~textbook~~] is written and certifies that:

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

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

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

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

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

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

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

(b) A contract must require the publisher to provide the number of instructional materials [~~textbooks~~] required by school

districts in this state for the term of the contract, which must coincide with the board's adoption cycle.

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

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

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

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

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

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

1 (b) A publisher shall provide at least two sample copies in
2 digital format of each submitted instructional material [~~adopted~~
3 ~~textbook~~] to be maintained at each regional education service
4 center.

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

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

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

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

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

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

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

9 (d) In this section:

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

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

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

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

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

27 SECTION 36. Section 31.030, Education Code, is amended to

read as follows:

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

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

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

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

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

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

(2) is not designed to serve as the sole instructional

1 material [~~textbook~~] for a full course;

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

4 (4) is free from factual errors.

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

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

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

16 [~~(1) uses textbook credits received under Section~~
17 ~~31.1011 to purchase the supplemental textbook, or~~

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

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

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

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

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

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

20 (b) The commissioner:

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

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

27 (c) State-developed [~~A state-developed~~] open-source

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

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

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

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

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

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

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

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

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

(b) Following a curriculum revision by the State Board of

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

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

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

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

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

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

27 SECTION 44. Section 31.074, Education Code, is amended to

read as follows:

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

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

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

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

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

(c) The commissioner may provide a license to use [~~a~~] state-developed open-source instructional material [~~textbook~~] to

1 an entity not listed in Subsection (b). In determining the cost of
2 a license under this subsection, the commissioner shall seek, to
3 the extent feasible, to recover the costs of developing, revising,
4 and distributing state-developed open-source instructional
5 materials [~~textbooks~~].

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

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

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

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

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

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

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

27 SECTION 49. Section 31.101, Education Code, is amended by

amending Subsections (a), (d), and (e) and adding Subsection (f) to read as follows:

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

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

(2) for a subject in the enrichment curriculum:

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

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

(d) For instructional material ~~[a textbook]~~ that is not on the conforming or nonconforming list, a school district or open-enrollment charter school must use the instructional material ~~[textbook]~~ for the period of the review and adoption cycle the State

Board of Education has established for the subject and grade level for which the instructional material [~~textbook~~] is used.

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

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

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

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

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

Sec. 31.102. TITLE AND CUSTODY. (a) Except as provided by Subsection (d), printed instructional material [~~Each textbook~~]

1 purchased as provided by this chapter is the property of this state.
 2 Any electronic instructional material or technological equipment
 3 purchased with a school district's instructional materials
 4 allotment is the property of the school district.

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

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

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

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

22 Sec. 31.103. INSTRUCTIONAL MATERIAL ~~[TEXTBOOK]~~
 23 REQUISITIONS.

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

26 (b) ~~[A requisition for textbooks for the following school~~
 27 ~~year shall be based on the maximum attendance reports under~~

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

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

26 (d) A school district or open-enrollment charter school
27 that selects ~~[an]~~ open-source instructional material ~~[textbook]~~

1 shall requisition a sufficient number of printed copies for use by
2 students unable to access the instructional material [~~textbook~~]
3 electronically unless the district or school provides to each
4 student:

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

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

9 SECTION 53. Section 31.1031, Education Code, is amended to
10 read as follows:

11 Sec. 31.1031. SHORTAGE OF REQUISITIONED PRINTED
12 INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. If a school district or
13 open-enrollment charter school does not have a sufficient number of
14 copies of printed instructional materials [~~a textbook~~] used by the
15 district or school for use during the following school year, and a
16 sufficient number of additional copies will not be available from
17 the [~~depository or the~~] publisher within the time specified by
18 Section 31.151(a)(8), the district or school is entitled to[+]

19 [~~(1) be reimbursed from the state textbook fund, at a~~
20 ~~rate and in the manner provided by State Board of Education rule,~~
21 ~~for the purchase of a sufficient number of used adopted textbooks,~~
22 ~~or~~

23 [~~(2)~~] return currently used printed instructional
24 materials [~~textbooks~~] to the commissioner in exchange for
25 sufficient copies, if available, of other printed instructional
26 materials [~~textbooks~~] on the conforming or nonconforming list to be
27 used during the following school year.

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

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

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

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

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

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

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

1 or when the student withdraws from school.

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

1 technological equipment are returned in an acceptable condition.

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

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

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

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

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

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

(c) The board of trustees of a school district or the governing body of an open-enrollment charter school shall notify the commissioner that the district or school intends to sell or otherwise dispose of instructional material as authorized by this

1 section.

2 SECTION 56. Section 31.106, Education Code, is amended to
3 read as follows:

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

8 SECTION 57. Subsections (a) and (d), Section 31.151,
9 Education Code, are amended to read as follows:

10 (a) A publisher or manufacturer of instructional materials
11 [~~textbooks~~]:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 is associated as a trustee, administrator, or teacher.

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

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

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

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

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

13 (1) staff development, in-service, or teacher
14 training; or

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

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

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

22 SECTION 61. Subsection (a), Section 31.153, Education Code,
23 is amended to read as follows:

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

27 SECTION 62. Subsection (b), Section 39.303, Education Code,

1 is amended to read as follows:

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

11 SECTION 63. Subsection (c), Section 41.124, Education Code,
12 is amended to read as follows:

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

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

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

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

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

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

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

8 SECTION 65. Section 43.001, Education Code, is amended by
9 adding Subsections (d) through (g) to read as follows:

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

16 (e) Subsection (d) applies beginning with the state fiscal
17 biennium beginning September 1, 2013. For the state fiscal
18 biennium beginning September 1, 2011, each year the State Board of
19 Education shall set aside an amount equal to 40 percent of the
20 annual distribution for that year from the permanent school fund to
21 the available school fund as provided by Section 5(a), Article VII,
22 Texas Constitution, to be placed, subject to the General
23 Appropriations Act, in the state instructional materials fund
24 established under Section 31.021.

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

amounts of the annual distribution of the permanent school fund for that biennium. The board shall not consider amounts distributed for the state fiscal biennium beginning September 1, 2009, regardless of the date on which those amounts were approved for distribution.

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

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

- (1) Subdivision (3), Section 31.002;
- (2) Subsections (b), (e), and (f), Section 31.021;
- (3) Subsection (d), Section 31.022;
- (4) Section 31.0222;
- (5) Section 31.025;
- (6) Subsections (e) and (g), Section 31.035;
- (7) Subsection (c), Section 31.072;
- (8) Subsections (a) and (b), Section 31.073;
- (9) Subsections (b), (b-1), (c), and (c-1), Section 31.101;
- (10) Section 31.1011;
- (11) Subsections (a) and (e), Section 31.103;
- (12) Subchapter E, Chapter 31;
- (13) Section 32.005;
- (14) Sections 32.251 through 32.257; and
- (15) Sections 32.259 through 32.263.

SECTION 67. This Act takes effect September 1, 2011.