

SENATE AMENDMENTS

2nd Printing

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (B) improve and increase participation in the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 materials [~~textbook~~].

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

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

7 (B) professional use by a classroom teacher.

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

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

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

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

1 open-enrollment charter school may consider:

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

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

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

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

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

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

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

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

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

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

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

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

1 43.001(d); and

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

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

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

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

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

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

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

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

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

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

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

1 to read as follows:

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

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

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

22 (1) purchase:

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

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

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

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

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

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

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

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

16 (2) pay:

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

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

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

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

1 under Section 31.022;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (D) enrichment curriculum subjects.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (2) include coverage of the essential knowledge and

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

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

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

10 (3) include appropriate training for teachers.

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~conforming list.]~~

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

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

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

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

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

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

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

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

1 certifies that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (d) In this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (4) is free from factual errors.

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

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

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

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

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

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

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

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

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

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

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

19 (b) The commissioner:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 an acceptable condition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (6) shall[+]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 SUBCHAPTER E. TECHNOLOGY LENDING PROGRAM GRANTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ADOPTED

MAY 24 2011

Atty Gen
Secretary of the Senate

By: Eissler/Shapiro

H.B. No. 6

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

By: Lawrence Proctor

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

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

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

14 (f) A school district or campus that is required to develop
15 and implement a student achievement improvement plan under Section
16 39.102 or 39.103 may receive an exemption or waiver under this
17 section from any law or rule other than:

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

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

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

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

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

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

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

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

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

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

20 (c) In this section:

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

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

25 [~~(2) "Textbook" has the meaning assigned by Section~~
26 ~~31.002.~~]

27 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;

- 1 (4) a report of a student's grades at the end of each
2 grade reporting period;
- 3 (5) a [~~textbook~~] report on instructional materials;
- 4 (6) a unit or weekly lesson plan that outlines, in a
5 brief and general manner, the information to be presented during
6 each period at the secondary level or in each subject or topic at
7 the elementary level;
- 8 (7) an attendance report;
- 9 (8) any report required for accreditation review;
- 10 (9) any information required by a school district that
11 relates to a complaint, grievance, or actual or potential
12 litigation and that requires the classroom teacher's involvement;
13 or
- 14 (10) any information specifically required by law,
15 rule, or regulation.

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

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

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

22 (a) A parent is entitled to:

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

26 (2) review each test administered to the parent's
27 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;

1 (C) physical education;
2 (D) fine arts;
3 (E) [~~economics, with emphasis on the free~~
4 ~~enterprise system and its benefits,~~
5 [~~F~~] career and technology education;
6 (F) [~~G~~] technology applications; and
7 (G) [~~H~~] religious literature, including the
8 Hebrew Scriptures (Old Testament) and New Testament, and its impact
9 on history and literature.

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

20 (h) The State Board of Education and each school district
21 shall foster the continuation of the tradition of teaching United
22 States and Texas history and the free enterprise system in regular
23 subject matter and in reading courses and in the adoption of
24 instructional materials [~~textbooks~~]. A primary purpose of the
25 public school curriculum is to prepare thoughtful, active citizens
26 who understand the importance of patriotism and can function
27 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

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

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

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

9 (b) In this section, "educational program" means a course or
10 series of courses in the required curriculum under Section 28.002,
11 other than a fine arts course under Section 28.002(a)(2)(D) or a
12 career and technology course under Section 28.002(a)(2)(E)
13 [~~28.002(a)(2)(F)~~].

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

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

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

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

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

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

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

7 SECTION 18. Subdivisions (1), (1-a), (2), and (4), Section
8 31.002, Education Code, are amended to read as follows:

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

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

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

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

10 Sec. 31.0212. INSTRUCTIONAL MATERIALS ACCOUNT. (a) The
11 commissioner shall maintain an instructional materials account for
12 each school district. Each school year, the commissioner shall
13 deposit in the account for each district the amount of the
14 district's instructional materials allotment under Section
15 31.0211.

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

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

26 (d) Money deposited in a school district's instructional
27 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:

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

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

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

10 (A) foundation curriculum subjects for which the
11 essential knowledge and skills have been substantially revised and
12 for which assessment instruments are required under Subchapter B,
13 Chapter 39, including career and technology courses that satisfy
14 foundation curriculum requirements as provided by Section
15 28.002(n);

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

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

24 (D) enrichment curriculum subjects.

25 (b) The board shall organize the cycle for subjects in the
26 foundation curriculum so that not more than one-fourth [~~one-sixth~~]
27 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.

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

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

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

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

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

15 (3) include appropriate training for teachers.

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

25 (f) After notice to the commissioner explaining in detail
26 the changes, the provider of [~~an electronic textbook or~~
27 ~~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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 read as follows:

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

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

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

14 SECTION 38. Subsections (a) through (d) and (f), Section
15 31.035, Education Code, are amended to read as follows:

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

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

27 (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

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

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

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

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

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

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

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

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

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

27 (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

1 read as follows:

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

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

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

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

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

26 (c) The commissioner may provide a license to use [a]
27 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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 Sec. 31.102. TITLE AND CUSTODY. (a) Except as provided by
27 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.

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

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

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

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

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

19 (c) Each instructional material [~~textbook~~] must state that
20 the instructional material [~~textbook~~] is the property of or is
21 licensed to this state or the school district, as appropriate. Each
22 instructional material [~~textbook~~], other than [~~an~~] electronic
23 instructional material [~~textbook~~] or a printed copy of [~~an~~]
24 open-source instructional material [~~textbook~~], must be covered by
25 the student under the direction of the teacher. Except as provided
26 by Subsection (g), a student must return all instructional
27 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~~].

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

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

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

24 (c) The board of trustees of a school district or the
25 governing body of an open-enrollment charter school shall notify
26 the commissioner that the district or school intends to sell or
27 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[~~r~~] 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;

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

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

11 (6) shall[+]

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

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

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

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

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

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

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

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

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

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

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

24 (a) A school trustee, administrator, or teacher commits an
25 offense if that person receives any commission or rebate on any
26 [~~textbooks, electronic textbooks,~~] instructional materials[~~7~~] or
27 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[~~,~~] 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

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

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

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

- 10 (1) Subdivision (3), Section 31.002;
- 11 (2) Subsections (b), (e), and (f), Section 31.021;
- 12 (3) Subsection (d), Section 31.022;
- 13 (4) Section 31.0222;
- 14 (5) Section 31.025;
- 15 (6) Subsections (e) and (g), Section 31.035;
- 16 (7) Subsection (c), Section 31.072;
- 17 (8) Subsections (a) and (b), Section 31.073;
- 18 (9) Subsections (b), (b-1), (c), and (c-1), Section
19 31.101;
- 20 (10) Section 31.1011;
- 21 (11) Subsections (a) and (e), Section 31.103;
- 22 (12) Subchapter E, Chapter 31;
- 23 (13) Section 32.005;
- 24 (14) Sections 32.251 through 32.257; and
- 25 (15) Sections 32.259 through 32.263.

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

ADOPTED

3rd Reading

MAY 24 2011

FLOOR AMENDMENT NO. 1

BY:

[Signature]

2nd Rdg Amendment No. 8 (Patrick) by striking all below line 1

Amend H.B. No. 6 on third reading as follows:

and substituting the following therefor:

1 Amend H.B. No. 6 on third reading as follows:
2 (1) In SECTION 27 of the bill, amending Section
3 31.0231(c), Education Code (page 9, line 42), following the
4 period, insert "The State Board of Education may review and
5 comment on the material until the 90th day after the date the
6 material is placed on the list."

7 (2) In SECTION 27 of the bill, amending Section
8 31.0231(e), Education Code (page 10, line 3), between the period
9 and "[Before", insert "The State Board of Education may, in the
10 manner provided by Subsection (c), review and comment on
11 material placed on the updated list."

ADOPTED

3rd Reading

MAY 24 2011

FLOOR AMENDMENT NO. 2

Atty. Gen.
Secretary of the Senate

BY: 

1 Amend H.B. No. 6, on third reading, in SECTION 30 of the
2 bill, by striking amended Section 31.0241(b), Education Code
3 (page 10, line 49, through page 11, line 9), and substituting
4 the following:

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

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

13 (2) the eligible institution identifies each
14 contributing author;

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

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

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

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

6 (5) by not later than the 90th day after the date the
7 instructional material is submitted and before placement of the
8 instructional material on the list, the board reviews and
9 comments on the instructional material.

ADOPTED

MAY 24 2011

FLOOR AMENDMENT NO. 1

Atty. Gen. Paul BY: *Francis Rajin*
Secretary of the Senate

1 Amend H.B. No. 6 by inserting the following new
2 SECTIONS, appropriately numbered, and renumbering the subsequent
3 SECTIONS accordingly:

4 SECTION _____. Subchapter A, Chapter 30A, Education Code, is
5 amended by adding Section 30A.007 to read as follows:

6 Sec. 30A.007. LOCAL POLICY ON ELECTRONIC COURSES. (a) A
7 school district or open-enrollment charter school shall adopt a
8 policy that provides district or school students with the
9 opportunity to enroll in electronic courses provided through the
10 state virtual school network. The policy must be consistent with
11 the requirements imposed by Section 26.0031.

12 (b) For purposes of a policy adopted under Subsection (a),
13 the determination of whether or not an electronic course will meet
14 the needs of a student with a disability shall be made by the
15 student's admission, review, and dismissal committee in a manner
16 consistent with state and federal law, including the Individuals
17 with Disabilities Education Act (20 U.S.C. Section 1400 et seq.)
18 and Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section
19 794).

20 SECTION _____. Subchapter C, Chapter 30A, Education Code, is
21 amended by adding Section 30A.1021 to read as follows:

22 Sec. 30A.1021. PUBLIC ACCESS TO USER COMMENTS REGARDING
23 ELECTRONIC COURSES. (a) The administering authority shall provide
24 students who have completed or withdrawn from electronic courses
25 offered through the virtual school network and their parents with a
26 mechanism for providing comments regarding courses that are part of
27 the foundation curriculum under Section 28.002(a)(1).

28 (b) The administering authority may provide students who
29 have completed or withdrawn from electronic courses offered through

1 the virtual school network and their parents with a mechanism for
2 providing comments regarding courses that are part of the
3 enrichment curriculum under Section 28.002(a)(2).

4 (c) The mechanism required by Subsection (a) and authorized
5 by Subsection (b) must include a quantitative rating system and a
6 list of verbal descriptors that a student or parent may select as
7 appropriate.

8 (d) The administering authority shall provide public access
9 to the comments submitted by students and parents under this
10 section. The comments must be in a format that permits a person to
11 sort the comments by teacher, electronic course, and provider
12 school district or school.

13 SECTION _____. Section 30A.104, Education Code, is amended
14 to read as follows:

15 Sec. 30A.104. COURSE ELIGIBILITY IN GENERAL. (a) A course
16 offered through the state virtual school network must:

17 (1) be in a specific subject that is part of the
18 required curriculum under Section 28.002(a);

19 (2) be aligned with the essential knowledge and skills
20 identified under Section 28.002(c) for a grade level at or above
21 grade level three; and

22 (3) be the equivalent in instructional rigor and scope
23 to a course that is provided in a traditional classroom setting
24 during:

25 (A) a semester of 90 instructional days; and

26 (B) a school day that meets the minimum length of
27 a school day required under Section 25.082.

28 (b) For purposes of Subsection (a)(2), a course is
29 considered in compliance with the requirement imposed under that
30 subdivision if:

31 (1) the course contains at least 80 percent of the

1 applicable essential knowledge and skills; and

2 (2) the provider school district or school provides
3 written documentation that the remaining 20 percent of the
4 applicable essential knowledge and skills will be provided by the
5 teacher of the course and instructional materials.

6 (c) If the essential knowledge and skills with which an
7 approved course is aligned in accordance with Subsection (a)(2) are
8 modified, the provider school district or school must be provided
9 the same time period to revise the course and instructional
10 materials to achieve alignment with the modified essential
11 knowledge and skills as is provided for the modification of a course
12 provided in a traditional classroom setting.

13 SECTION _____. Section 30A.105, Education Code, is amended
14 by adding Subsections (a-1) and (a-2) and amending Subsection (d)
15 to read as follows:

16 (a-1) The administering authority shall publish the
17 schedule established under Subsection (a)(1), including any
18 deadlines specified in that schedule, and any guidelines applicable
19 to the submission and approval process for electronic courses.

20 (a-2) The evaluation required by Subsection (a)(2) must
21 include review of each electronic course component, including
22 off-line material proposed to be used in the course.

23 (d) If the agency determines that the costs of evaluating
24 and approving a submitted electronic course will not be paid by the
25 agency due to a shortage of funds available for that purpose, the
26 school district, open-enrollment charter school, or public or
27 private institution of higher education that submitted the course
28 for evaluation and approval may pay a fee equal to the amount of the
29 costs in order to ensure that evaluation of the course occurs. The
30 agency shall establish and publish a fee schedule for purposes of
31 this subsection.

1 implement this section, including rules regarding attendance
2 accounting.

3 SECTION _____. Section 42.302(a), Education Code, is amended
4 to read as follows:

5 (a) Each school district is guaranteed a specified amount
6 per weighted student in state and local funds for each cent of tax
7 effort over that required for the district's local fund assignment
8 up to the maximum level specified in this subchapter. The amount
9 of state support, subject only to the maximum amount under Section
10 42.303, is determined by the formula:

11
$$\text{GYA} = (\text{GL} \times \text{WADA} \times \text{DTR} \times 100) - \text{LR}$$

12 where:

13 "GYA" is the guaranteed yield amount of state funds to be
14 allocated to the district;

15 "GL" is the dollar amount guaranteed level of state and local
16 funds per weighted student per cent of tax effort, which is an
17 amount described by Subsection (a-1) or a greater amount for any
18 year provided by appropriation;

19 "WADA" is the number of students in weighted average daily
20 attendance, which is calculated by dividing the sum of the school
21 district's allotments under Subchapters B and C, less any allotment
22 to the district for transportation, any allotment under Section
23 42.158[~~42.159~~], or 42.160, and 50 percent of the adjustment under
24 Section 42.102, by the basic allotment for the applicable year;

25 "DTR" is the district enrichment tax rate of the school
26 district, which is determined by subtracting the amounts specified
27 by Subsection (b) from the total amount of maintenance and
28 operations taxes collected by the school district for the
29 applicable school year and dividing the difference by the quotient
30 of the district's taxable value of property as determined under
31 Subchapter M, Chapter 403, Government Code, or, if applicable,

1 under Section 42.2521, divided by 100; and

2 "LR" is the local revenue, which is determined by multiplying
3 "DTR" by the quotient of the district's taxable value of property as
4 determined under Subchapter M, Chapter 403, Government Code, or, if
5 applicable, under Section 42.2521, divided by 100.

6 SECTION _____. Section 42.159, Education Code, is repealed.

FLOOR AMENDMENT NO. 3

ADOPTED

BY: *Thomas Crain*

MAY 24 2011

Atty Gen
Secretary of the Senate

1 Amend H.B. 6 by striking SECTION 67 of the bill (senate
2 committee printing, page 21, line 34) and substituting the
3 following new SECTION 67:

4 SECTION 67. This Act takes effect immediately if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas
7 Constitution. If this Act does not receive the vote necessary
8 for immediate effect, this Act takes effect September 1, 2011.

ADOPTED

FLOOR AMENDMENT NO. 4

MAY 24 2011

BY:

Atay Drew
Secretary of the Senate

Lawrence Rozier

1 Amend C.S.H.B. No. 6 (senate committee printing) by adding
2 the following appropriately numbered SECTIONS to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Subchapter D, Chapter 12, Education Code, is
5 amended by adding Section 12.135 to read as follows:

6 Sec. 12.135. DESIGNATION AS CHARTER DISTRICT FOR PURPOSES
7 OF BOND GUARANTEE. (a) On the application of the charter
8 holder, the commissioner may grant designation as a charter
9 district to an open-enrollment charter school that meets
10 financial standards adopted by the commissioner. The financial
11 standards must require an open-enrollment charter school to have
12 an investment grade credit rating as specified by Section
13 45.0541.

14 (b) A charter district may apply for bonds issued under
15 Chapter 53 for the open-enrollment charter school to be
16 guaranteed by the permanent school fund as provided by Chapter
17 45.

18 SECTION _____. Section 45.051, Education Code, is amended by
19 adding Subdivision (1-a) and amending Subdivision (2) to read as
20 follows:

21 (1-a) "Charter district" means an open-enrollment
22 charter school designated as a charter district under Section
23 12.135.

24 (2) "Paying agent" means the financial institution
25 that is designated by a school district or charter district as
26 its agent for the payment of the principal of and interest on
27 guaranteed bonds.

28 SECTION _____. Section 45.052, Education Code, is amended to
29 read as follows:

1 Sec. 45.052. GUARANTEE. (a) On approval by the
2 commissioner, bonds issued under Subchapter A by a school
3 district or Chapter 53 for a charter district, including
4 refunding bonds, are guaranteed by the corpus and income of the
5 permanent school fund.

6 (b) Notwithstanding any amendment of this subchapter or
7 other law, the guarantee under this subchapter of school
8 district or charter district bonds remains in effect until the
9 date those bonds mature or are defeased in accordance with state
10 law.

11 SECTION _____. Subchapter C, Chapter 45, Education Code, is
12 amended by adding Section 45.0532 to read as follows:

13 Sec. 45.0532. LIMITATION ON GUARANTEE OF CHARTER DISTRICT
14 BONDS. (a) In addition to the general limitation under Section
15 45.053, the commissioner may not approve charter district bonds
16 for guarantee under this subchapter in a total amount that
17 exceeds the percentage of the total available capacity of the
18 guaranteed bond program that is equal to the percentage of the
19 number of students enrolled in open-enrollment charter schools
20 in this state compared to the total number of students enrolled
21 in all public schools in this state, as determined by the
22 commissioner.

23 (b) For purposes of Subsection (a), the total available
24 capacity of the guaranteed bond program is the limit established
25 by the board under Sections 45.053(d) and 45.0531 minus the
26 total amount of outstanding guaranteed bonds. Each time the
27 board increases the limit under Section 45.053(d), the total
28 amount of charter district bonds that may be guaranteed
29 increases accordingly under Subsection (a).

30 (c) Notwithstanding Subsections (a) and (b), the
31 commissioner may not approve charter district bonds for
32 guarantee under this subchapter if the guarantee will result in

1 lower bond ratings for school district bonds for which a
2 guarantee is requested under this subchapter.

3 (d) The commissioner may request that the comptroller
4 place the portion of the permanent school fund committed to the
5 guarantee of charter district bonds in a segregated account if
6 the commissioner determines that a separate account is needed to
7 avoid any negative impact on the bond ratings of school district
8 bonds for which a guarantee is requested under this subchapter.

9 (e) A guarantee of charter district bonds must be made in
10 accordance with this chapter and any applicable federal law.

11 SECTION ____ . Section 45.054, Education Code, is amended to
12 read as follows:

13 Sec. 45.054. ELIGIBILITY OF SCHOOL DISTRICT BONDS. To be
14 eligible for approval by the commissioner, school district bonds
15 must be issued under Subchapter A of this chapter or under
16 Subchapter A, Chapter 1207, Government Code, to make a deposit
17 under Subchapter B or C of that chapter, by an accredited school
18 district.

19 SECTION ____ . Subchapter C, Chapter 45, Education Code, is
20 amended by adding Section 45.0541 to read as follows:

21 Sec. 45.0541. ELIGIBILITY OF CHARTER DISTRICT BONDS. To
22 be eligible for approval by the commissioner, charter district
23 bonds must:

24 (1) without the guarantee, be rated as investment
25 grade by a nationally recognized investment rating firm; and

26 (2) be issued under Chapter 53.

27 SECTION ____ . Subsections (a) and (b), Section 45.055,
28 Education Code, are amended to read as follows:

29 (a) A school district or charter district seeking
30 guarantee of eligible bonds under this subchapter shall apply to
31 the commissioner using a form adopted by the commissioner for
32 the purpose. The commissioner may adopt a single form on which

1 a school district seeking guarantee or credit enhancement of
2 eligible bonds may apply simultaneously first for guarantee
3 under this subchapter and then, if that guarantee is rejected,
4 for credit enhancement under Subchapter I.

5 (b) An application under Subsection (a) must include:

6 (1) the name of the school district or charter
7 district and the principal amount of the bonds to be issued;

8 (2) the name and address of the district's paying
9 agent for those bonds; and

10 (3) the maturity schedule, estimated interest rate,
11 and date of the bonds.

12 SECTION _____. Section 45.056, Education Code, is amended to
13 read as follows:

14 Sec. 45.056. INVESTIGATION. (a) Following receipt of an
15 application for the guarantee of bonds, the commissioner shall
16 conduct an investigation of the applicant school district or
17 charter district in regard to:

18 (1) the status of the district's accreditation; and

19 (2) the total amount of outstanding guaranteed bonds.

20 (b) If following the investigation the commissioner is
21 satisfied that the school district's bonds should be guaranteed
22 under this subchapter or provided credit enhancement under
23 Subchapter I, as applicable, or the charter district's bonds
24 should be guaranteed under this subchapter, the commissioner
25 shall endorse the bonds.

26 SECTION _____. Subsection (b), Section 45.057, Education
27 Code, is amended to read as follows:

28 (b) The guarantee is not effective unless the attorney
29 general approves the bonds under Section 45.005 or 53.40, as
30 applicable.

31 SECTION _____. Subchapter C, Chapter 45, Education Code, is
32 amended by adding Section 45.0571 to read as follows:

1 Sec. 45.0571. CHARTER DISTRICT BOND GUARANTEE RESERVE

2 FUND. (a) The charter district bond guarantee reserve fund is
3 a special fund in the state treasury outside the general revenue
4 fund. The following amounts shall be deposited in the fund:

5 (1) money due from a charter district as provided by
6 Subsection (b); and

7 (2) interest earned on balances in the fund.

8 (b) A charter district that has a bond guaranteed as
9 provided by this subchapter must annually remit to the
10 commissioner, for deposit in the charter district bond guarantee
11 reserve fund, an amount equal to 10 percent of the savings to
12 the charter district that is a result of the lower interest rate
13 on the bond due to the guarantee by the permanent school fund.
14 The amount due under this section shall be amortized and paid
15 over the duration of the bond. Each payment is due on the
16 anniversary of the date the bond was issued. The commissioner
17 shall adopt rules to determine the total and annual amounts due
18 under this section.

19 (c) The commissioner may direct the comptroller to
20 annually withhold the amount due to the charter district bond
21 guarantee reserve fund under Subsection (b) for that year from
22 the state funds otherwise payable to the charter district.

23 (d) Each year, the commissioner shall:

24 (1) review the condition of the bond guarantee
25 program and the amount that must be deposited in the charter
26 district bond guarantee reserve fund from charter districts; and

27 (2) determine if charter districts should be required
28 to submit a greater percentage of the savings resulting from the
29 guarantee.

30 (e) The commissioner shall make recommendations to the
31 legislature based on the review under Subsection (d).

1 SECTION ____ . Section 45.058, Education Code, is amended to
2 read as follows:

3 Sec. 45.058. NOTICE OF DEFAULT. Immediately following a
4 determination that a school district or charter district will be
5 or is unable to pay maturing or matured principal or interest on
6 a guaranteed bond, but not later than the fifth day before
7 maturity date, the school district or charter district shall
8 notify the commissioner.

9 SECTION ____ . The heading to Section 45.059, Education
10 Code, is amended to read as follows:

11 Sec. 45.059. PAYMENT OF SCHOOL DISTRICT BOND ON DEFAULT
12 [~~FROM PERMANENT SCHOOL FUND~~].

13 SECTION ____ . Subsection (a), Section 45.059, Education
14 Code, is amended to read as follows:

15 (a) Immediately following receipt of notice under Section
16 45.058 that a school district will be or is unable to pay
17 maturing or matured principal or interest on a guaranteed bond,
18 the commissioner shall instruct the comptroller to transfer from
19 the appropriate account in the permanent school fund to the
20 district's paying agent the amount necessary to pay the maturing
21 or matured principal or interest.

22 SECTION ____ . Subchapter C, Chapter 45, Education Code, is
23 amended by adding Section 45.0591 to read as follows:

24 Sec. 45.0591. PAYMENT OF CHARTER DISTRICT BOND ON DEFAULT.

25 (a) Immediately following receipt of notice under Section
26 45.058 that a charter district will be or is unable to pay
27 maturing or matured principal or interest on a guaranteed bond,
28 the commissioner shall instruct the comptroller to transfer from
29 the charter district bond guarantee reserve fund created under
30 Section 45.0571 to the district's paying agent the amount
31 necessary to pay the maturing or matured principal or interest.

1 (b) If money in the charter district bond guarantee
2 reserve fund is insufficient to pay the amount due on a bond
3 under Subsection (a), the commissioner shall instruct the
4 comptroller to transfer from the appropriate account in the
5 permanent school fund to the district's paying agent the amount
6 necessary to pay the balance of the unpaid maturing or matured
7 principal or interest.

8 (c) Immediately following receipt of the funds for payment
9 of the principal or interest, the paying agent shall pay the
10 amount due and forward the canceled bond or coupon to the
11 comptroller. The comptroller shall hold the canceled bond or
12 coupon on behalf of the fund or funds from which payment was
13 made.

14 (d) Following full reimbursement to the charter district
15 bond guarantee reserve fund and the permanent school fund, if
16 applicable, with interest, the comptroller shall further cancel
17 the bond or coupon and forward it to the charter district for
18 which payment was made.

19 SECTION ____ . Section 45.060, Education Code, is amended to
20 read as follows:

21 Sec. 45.060. BONDS NOT ACCELERATED ON DEFAULT. If a
22 school district or charter district fails to pay principal or
23 interest on a guaranteed bond when it matures, other amounts not
24 yet mature are not accelerated and do not become due by virtue
25 of the school district's or charter district's default.

26 SECTION ____ . The heading to Section 45.061, Education
27 Code, is amended to read as follows:

28 Sec. 45.061. REIMBURSEMENT OF FUNDS [~~PERMANENT SCHOOL~~
29 ~~FUND~~].

30 SECTION ____ . Section 45.061, Education Code, is amended by
31 amending Subsections (a) and (b) and adding Subsection (a-1) to
32 read as follows:

1 (a) If the commissioner orders payment from the permanent
2 school fund or the charter district bond guarantee reserve fund
3 on behalf of a school district or charter district, the
4 commissioner shall direct the comptroller to withhold the amount
5 paid, plus interest, from the first state money payable to the
6 school district or charter district. Except as provided by
7 Subsection (a-1), the [The] amount withheld shall be deposited
8 to the credit of the permanent school fund.

9 (a-1) After the permanent school fund has been reimbursed
10 for all money paid from the fund as the result of a default of a
11 charter district bond guaranteed under this subchapter, any
12 remaining amounts withheld under Subsection (a) shall be
13 deposited to the credit of the charter district bond guarantee
14 reserve fund.

15 (b) In accordance with the rules of the board, the
16 commissioner may authorize reimbursement to the permanent school
17 fund or charter district bond guarantee reserve fund with
18 interest in a manner other than that provided by this section.

19 SECTION ____ . Section 45.062, Education Code, is amended by
20 adding Subsection (a-1) to read as follows:

21 (a-1) If a total of two or more payments are made under
22 this subchapter on charter district bonds and the commissioner
23 determines that the charter district is acting in bad faith
24 under the guarantee program under this subchapter, the
25 commissioner may request the attorney general to institute
26 appropriate legal action to compel the charter district and its
27 officers, agents, and employees to comply with the duties
28 required of them by law in regard to the bonds.

29 SECTION ____ . Subdivision (10), Section 53.02, Education
30 Code, is amended to read as follows:

31 (10) "Authorized charter school" means an open-
32 enrollment charter school that holds a charter granted under

1 Subchapter D, Chapter 12, and includes an open-enrollment
2 charter school designated as a charter district as provided by
3 Section 12.135.

4 SECTION ____ . Section 53.351, Education Code, is amended by
5 amending Subsection (f) and adding Subsection (f-1) to read as
6 follows:

7 (f) Except as provided by Subsection (f-1), a [A] revenue
8 bond issued under this section is not a debt of the state or any
9 state agency, political corporation, or political subdivision of
10 the state and is not a pledge of the faith and credit of any of
11 these entities. A revenue bond is payable solely from the
12 revenue of the authorized open-enrollment charter school on
13 whose behalf the bond is issued. A revenue bond issued under
14 this section must contain on its face a statement to the effect
15 that:

16 (1) neither the state nor a state agency, political
17 corporation, or political subdivision of the state is obligated
18 to pay the principal of or interest on the bond; and

19 (2) neither the faith and credit nor the taxing power
20 of the state or any state agency, political corporation, or
21 political subdivision of the state is pledged to the payment of
22 the principal of or interest on the bond.

23 (f-1) Subsection (f) does not apply to a revenue bond
24 issued under this section for a charter district if the bond is
25 approved for guarantee by the permanent school fund under
26 Subchapter C, Chapter 45.

27 SECTION ____ . The changes in law made by this Act relating
28 to a charter district and the guarantee of a charter district's
29 bonds apply only to a bond issued or refunded on or after the
30 effective date of this Act by an open-enrollment charter school
31 designated as a charter district under Section 12.135, Education
32 Code, as added by this Act. A bond issued or refunded by an

1 open-enrollment charter school before the effective date of this
2 Act is governed by the law in effect immediately before that
3 date, and that law is continued in effect for that purpose.

ADOPTED

MAY 24 2011

Atty Gen
Secretary of the Senate

FLOOR AMENDMENT NO. 7

BY:

1 Amend C.S.H.B. No. 6 (senate committee printing) as follows:

2 (1) In SECTION 24 of the bill, strike the recital (page 7,
3 lines 55-56) and substitute the following:

4 Section 31.022, Education Code, is amended by amending Subsections
5 (a), (b), (c), (e), and (f) and adding Subsection (d-1) to read as
6 follows:

7 (2) In SECTION 24 of the bill, following amended Section
8 31.022(c), Education Code (page 8, between lines 26 and 27), insert
9 the following:

10 (d-1) A notice published under Subsection (d) must state
11 that a publisher of adopted instructional materials for a grade
12 level other than prekindergarten must submit an electronic sample
13 of the instructional materials as required by Sections 31.027(a)
14 and (b) and may not submit a print sample copy.

15 (3) In SECTION 33 of the bill, in the heading to amended
16 Section 31.027, Education Code (page 11, lines 44-45), strike
17 "SAMPLE COPIES" and substitute "ELECTRONIC SAMPLE [~~COPIES~~"]".

18 (4) In SECTION 33 of the bill, in amended Section 31.027(a),
19 Education Code (page 11, line 49), strike "a sample copy in digital
20 format" and substitute "an electronic [~~a~~] sample [~~copy~~"]".

21 (5) In SECTION 33 of the bill, in amended Section 31.027(b),
22 Education Code (page 11, lines 51-52), strike "at least two sample
23 copies in digital format" and substitute "an electronic [~~at least~~
24 ~~two~~] sample [~~copies~~"]".

ADOPTED

17-13
MAY 24 2011

Atay Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 8

BY: *[Signature]*

1 Amend C.S.H.B. No. 6 (senate committee printing) as follows:

2 (1) In SECTION 27 of the bill, amending Section 31.0231(c),
3 Education Code (page 9, line 42), following the period, insert "If
4 the commissioner places material on the list adopted under
5 Subsection (a), the State Board of Education may, not later than the
6 90th day after the date the material is placed on the list, require
7 the commissioner to remove the material from the list."

8 (2) In SECTION 27 of the bill, amending Section 31.0231(e),
9 Education Code (page 10, line 3), between the period and "~~Before~~",
10 insert "The State Board of Education may, in the manner provided by
11 Subsection (c), require the commissioner to remove material placed
12 on the updated list."

ADOPTED

MAY 24 2011

FLOOR AMENDMENT NO. 10

Atty Gen
Secretary of the Senate BY:

Chris Harris
Wentworth

Amend C.S.H.B. No. 6 (senate committee printing) as follows:

(1) In SECTION 21 of the bill, strike added Section 31.021(c)(5), Education Code (page 5, lines 64-66), and substitute the following:

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

(2) In SECTION 57 of the bill, strike amended Section 31.151(a)(6), Education Code (page 19, lines 22-38), and substitute the following:

(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,~~

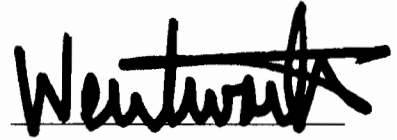
~~on line textbooks, or on line textbook components];~~


ADOPTED

FLOOR AMENDMENT NO. 11

MAY 24 2011

BY:




Secretary of the Senate

1 Amend H.B. No. 6 by adding to the bill the following
2 appropriately numbered SECTIONS and renumbering subsequent
3 SECTIONS of the bill accordingly:

4 SECTION ____ . Section 44.031, Education Code, is amended by
5 adding Subsection (n) to read as follows:

6 (n) A school district contract to which Subsection (a)
7 applies under which the district contracts with another entity
8 for that entity to manage or otherwise provide food services at
9 one or more district schools must require that any other
10 contract the entity makes in performance of its duties under the
11 contract with the district and to which Subsection (a) would
12 apply if the district were making the contract be made:

13 (1) under the method listed by Subsection (a) that
14 provides the best value to the entity and the district;

15 (2) with consideration of the factors specified under
16 Subsection (b) and, as applicable, under Subsection (b-1), in
17 determining to whom to award the contract; and

18 (3) as provided by Subsection (g).

19 SECTION ____ . Section 44.031(n), Education Code, as added
20 by this Act, applies only to a contract entered into on or after
21 the effective date of this Act by a school district with another
22 entity for that entity to manage or otherwise provide food
23 services at one or more district schools. A contract entered
24 into before the effective date of this Act by a school district
25 with another entity for that entity to manage or otherwise
26 provide food services at one or more district schools is
27 governed by the law in effect on the date the contract was
28 entered into, and that law is continued in effect for that
29 purpose.

30

ADOPTED

Jane Nelson

FLOOR AMENDMENT NO. 12

MAY 24 2011

BY: _____

Atay Spaw
Secretary of the Senate

Amend CSHB 6 by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly.

1 SECTION _____. Section 28.0216, Education Code, is
2 amended to read as follows:

3 Sec. 28.0216. DISTRICT GRADING POLICY. (a) Before each
4 school year, a [A] school district shall adopt a grading policy,
5 including provisions for the assignment of grades on class
6 assignments and examinations and the calculation of cumulative
7 averages of grades~~[, before each school year]~~. A district
8 grading policy:

9 (1) must require a [~~classroom~~] teacher to assign a
10 grade that reflects the student's relative mastery of the
11 subject without employing grade inflation or misrepresenting a
12 student's deserved grade [~~an assignment~~];

13 (2) may not require a [~~classroom~~] teacher to assign a
14 minimum grade [~~for an assignment~~] without regard to the
15 student's quality of work; and

16 (3) may allow a student a reasonable opportunity to
17 make up or redo a class assignment or examination for which the
18 student received a failing grade.

19 (b) A district grading policy shall apply to the
20 assignment of a grade for which written notice is required under
21 Section 28.022(a)(2), in addition to any other grade assigned by
22 the district.

23 SECTION _____. This Act applies beginning with the 2011-
24 2012 school year.

25 SECTION _____. This Act takes effect immediately if it

1 receives a vote of two-thirds of all the members elected to each
2 house, as provided by Section 39, Article III, Texas
3 Constitution. If this Act does not receive the vote necessary
4 for immediate effect, this Act takes effect September 1, 2011.

ADOPTED

FLOOR AMENDMENT NO. 13

MAY 24 2011

BY:

VanderPutte

Amen
Secretary of the Senate

1 ~~Amendment~~ ~~to amendment~~ to H.B. No. 6 by adding the
2 following appropriately numbered SECTIONS to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION ____ . Subchapter D, Chapter 12, Education Code, is
5 amended by adding Section 12.1141 to read as follows:

6 Sec. 12.1141. REVISION: ADDING SCHOOLS UNDER CERTAIN
7 CIRCUMSTANCES. (a) Except as provided by Subsection (b), the
8 commissioner may not deny approval for a charter holder to add
9 one or more additional open-enrollment charter schools under an
10 existing open-enrollment charter granted to the charter holder
11 if:

12 (1) considering available data, the charter holder
13 meets all criteria established by rule for adding a charter
14 school under an existing charter other than criteria for
15 performance based on dropout and completion rates of one or more
16 existing charter schools under the charter and the charter
17 holder demonstrates through a process developed by the agency
18 that those criteria would be met if:

19 (A) a student enrolled at the charter school who
20 is at least 17 years of age at the time of enrollment were not
21 considered a dropout; and

22 (B) a student who graduates from the charter
23 school before or during the student's sixth year of high school
24 were considered a high school graduate;

25 (2) the charter holder, at the time of submission of
26 the application for approval to add one or more additional
27 charter schools, has been assigned a financial accountability
28 rating under Subchapter D, Chapter 39, indicating financial
29 performance that is satisfactory or better; and

1 (3) each additional charter school:

2 (A) will serve only high school students;

3 (B) will have an enrollment of students of whom
4 at least 50 percent did not graduate with a ninth grade cohort;
5 and

6 (C) will be in the geographical area described
7 for the charter under Section 12.111(a)(14).

8 (b) The commissioner may not approve a total of more than
9 10 additional charter schools under Subsection (a). The
10 commissioner may, in accordance with commissioner rule, limit
11 the enrollment of an additional charter school as necessary to
12 conform to the capacity limits of the charter holder or the
13 demand for services in the geographical area, as determined by
14 the commissioner, but may not limit the enrollment of an
15 additional charter school to less than the number of students
16 currently enrolled at the high school level at a charter school
17 operated by the charter holder that focuses on dropout recovery.

18 (c) This section expires September 1, 2013.

19 SECTION _____. Subchapter D, Chapter 12, Education Code, is
20 amended by adding Section 12.1151 to read as follows:

21 Sec. 12.1151. LIMITATION ON REVOCATION OR DENIAL OF
22 RENEWAL FOR CERTAIN CHARTER SCHOOLS. (a) This section applies
23 only to an open-enrollment charter school that has an enrollment
24 of students of whom at least 50 percent did not graduate with a
25 ninth grade cohort.

26 (b) The commissioner may not revoke or deny renewal of the
27 charter of an open-enrollment charter school to which this
28 section applies if:

29 (1) considering available data, the charter holder
30 meets all criteria established by rule for adding a charter
31 school under an existing charter other than criteria for

1 performance based on dropout and completion rates of one or more
2 existing charter schools under the charter and the charter
3 holder demonstrates through a process developed by the agency
4 that those criteria would be met if:

5 (A) a student enrolled at the charter school who
6 is at least 17 years of age at the time of enrollment were not
7 considered a dropout; and

8 (B) a student who graduates from the charter
9 school before or during the student's sixth year of high school
10 were considered a high school graduate; and

11 (2) the charter holder, at the time the ratings
12 appeal is filed, has been assigned a financial accountability
13 rating under Subchapter D, Chapter 39, that indicates financial
14 performance that is satisfactory or better.

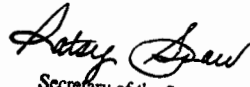
15 (c) This section expires September 1, 2013.

FLOOR AMENDMENT NO. 14

BY: 

ADOPTED

MAY 24 2011


Secretary of the Senate

Amend C.S.H.B. No. 6 (Senate Committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION —. The heading to Section 12.101, Education Code, is amended to read as follows:

Sec. 12.101. AUTHORIZATION FOR LICENSE.

SECTION —. Section 12.101, Education Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (e) and (f) to read as follows:

(a) In accordance with this subchapter, the State Board of Education may issue [~~grant~~] a license [~~charter~~] on the application of an eligible entity for an open-enrollment charter school to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. In this subsection, "eligible entity" means:

(1) an institution of higher education as defined under Section 61.003;

(2) a private or independent institution of higher education as defined under Section 61.003;

(3) an organization that is exempt from taxation under

Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)); or

(4) a governmental entity.

(b) The State Board of Education, after thoroughly investigating and evaluating an applicant, may issue ~~[grant]~~ a license ~~[charter]~~ for an open-enrollment charter school only to an applicant that meets any financial, governing, curriculum development and implementation, and operational standards adopted by the commissioner under this subchapter. In a state fiscal year, the ~~[The]~~ State Board of Education may not issue ~~[grant a total of]~~ more than 10 new licenses ~~[215 charters]~~ for an open-enrollment charter school plus a number of licenses equal to any number of charters for an open-enrollment charter school revoked or surrendered during the preceding state fiscal year.

(d) An educator employed by a school district before the effective date of a license ~~[charter]~~ for an open-enrollment charter school operated at a school district facility may not be transferred to or employed by the open-enrollment charter school over the educator's objection.

(e) A license holder is subject to any law applicable to a charter holder.

(f) The commissioner shall adopt rules for the form of a license, the basis and a procedure for modification or revocation of a license, and any other rules necessary for the issuance and administration of licenses under this subchapter. A rule adopted

under this subsection must, to the greatest extent practicable, be consistent with a provision of this subchapter or a rule adopted under this subchapter for the same purpose as applicable to a charter.

SECTION ____ Subchapter D, Chapter 12, Education Code, is amended by adding Sections 12.1011 and 12.10111 to read as follows:

Sec. 12.1011. AUTHORIZATION FOR ISSUANCE OF LICENSES FOR SCHOOLS PRIMARILY SERVING STUDENTS WITH DISABILITIES. (a) The State Board of Education may issue under Section 12.101 a license on the application of an eligible entity for an open-enrollment charter school intended primarily to serve students with disabilities, including students with autism. The State Board of Education may not issue more than two new licenses for an open-enrollment charter school under this section each state fiscal year. A license issued under this section is not considered for purposes of the limit on the number of licenses imposed by Section 12.101(b).

(b) For purposes of the applicability of state and federal law, including a law prescribing requirements concerning students with disabilities, an open-enrollment charter school described by Subsection (a) is considered the same as any other school for which a license or charter is issued under this subchapter.

(c) To the fullest extent permitted under federal law, a parent of a student with a disability may choose to enroll the parent's child in an open-enrollment charter school described by

Subsection (a) regardless of whether a disproportionate number of the school's students are students with disabilities.

(d) This section does not authorize an open-enrollment charter school to discriminate in admissions or in the services provided based on the presence, absence, or nature of an applicant's or student's disability.

Sec. 12.10111. AUTHORIZATION FOR CHARTER. (a) The State Board of Education shall grant a charter for an open-enrollment charter school to a license holder under Section 12.101 if:

(1) the open-enrollment charter school for which the license has been issued has been assigned an acceptable performance rating as provided by Subchapter C, Chapter 39, for any two of the preceding three school years;

(2) no campus operating under the license has been assigned an unacceptable performance rating as provided by Subchapter C, Chapter 39, for any two of the three preceding school years or such a campus has been closed; and

(3) the license holder satisfies standards of financial solvency and financial accountability established by the commissioner under Subchapter D, Chapter 39.

(b) Notwithstanding Section 12.101 and in accordance with Section 12.110, the State Board of Education may grant a charter for an open-enrollment charter school to an applicant for a charter that:

(1) is an entity described by Section 12.101(a)(3) that

has operated one or more charter schools in another state and, as determined by the commissioner in accordance with commissioner rule, has achieved high performance under federal accountability and other appropriate academic and financial criteria, including at a minimum having achieved adequate yearly progress in accordance with federal law for the preceding three school years; or

(2) is an entity that has operated one or more charter schools established under Subchapter C, D, or E and, as determined by the commissioner in accordance with commissioner rule, has performed well under appropriate academic and financial criteria.

(c) A charter for an open-enrollment charter school granted under Subsection (b)(1) is considered a license for purposes of the limit on the number of licenses imposed by Section 12.101(b).

(d) A charter holder may establish one or more new open-enrollment charter school campuses under a charter without applying for authorization if:

(1) each open-enrollment charter school campus operating under the charter has been assigned an acceptable performance rating as provided by Subchapter C, Chapter 39, for the two preceding school years;

(2) the charter holder satisfies standards of financial solvency and financial accountability established by commissioner rule under Subchapter D, Chapter 39;

(3) the charter holder provides written notice, in the time, manner, and form provided by commissioner rule, to the State

Board of Education and the commissioner of the establishment of any campus under this subsection; and

(4) not later than the 90th day after the date the charter holder provides written notice under Subdivision (3), the commissioner does not provide written notice to the charter holder disapproving a new campus under this section.

(e) For purposes of Subsection (d), an open-enrollment charter school campus rated as academically acceptable or higher under Subchapter D, Chapter 39, as that subchapter existed January 1, 2009, for the 2009-2010 or 2010-2011 school year is considered to have been assigned an acceptable performance rating for the applicable school year. This subsection expires January 1, 2015.

SECTION __. Section 12.1012, Education Code, is amended by adding Subdivision (7) to read as follows:

(7) "License holder" means the entity to which a license is granted under this subchapter.

SECTION __. Section 12.1056, Education Code, is amended to read as follows:

Sec. 12.1056. IMMUNITY [~~FROM LIABILITY~~]. (a) In matters related to operation of an open-enrollment charter school, an open-enrollment charter school is immune [~~from liability~~] to the same extent as a school district, and its employees and volunteers are immune [~~from liability~~] to the same extent as school district employees and volunteers. A member of the governing body of an open-enrollment charter school or of a charter holder is immune

~~[from liability]~~ to the same extent as a school district trustee.

(b) An open-enrollment charter school is a governmental unit as defined by Section 101.001, Civil Practice and Remedies Code, and is subject to liability only as provided by Chapter 101, Civil Practice and Remedies Code, and only in the manner that liability is provided by that chapter for a school district.

(c) An open-enrollment charter school is a local government as defined by Section 102.001, Civil Practice and Remedies Code, and a payment on a tort claim must comply with Chapter 102, Civil Practice and Remedies Code.

(d) An open-enrollment charter school is a local governmental entity as defined by Section 271.151, Local Government Code, and is subject to liability on a contract as provided by Subchapter I, Chapter 271, Local Government Code, and only in the manner that liability is provided by that subchapter for a school district.

SECTION —. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1058 to read as follows:

Sec. 12.1058. APPLICABILITY OF OTHER LAWS. (a) An open-enrollment charter school is considered to be:

(1) a local government for purposes of Chapter 791, Government Code;

(2) a local government for purposes of Chapter 2259, Government Code, except that an open-enrollment charter school may not issue public securities as provided by Section 2259.031(b), Government Code; and

(3) a political subdivision for purposes of Chapter 172, Local Government Code.

(b) An open-enrollment charter school may elect to extend workers' compensation benefits to employees of the school through any method available to a political subdivision under Chapter 504, Labor Code, except that an open-enrollment charter school that self-insures either individually or collectively under Chapter 504, Labor Code, may not provide workers' compensation medical benefits to injured employees in the manner described by Section 504.053(b)(2), Labor Code. An open-enrollment charter school that elects to extend workers' compensation benefits as permitted under this section is considered to be a political subdivision for all purposes under Chapter 504, Labor Code. An open-enrollment charter school that self-insures either individually or collectively under Chapter 504, Labor Code, is considered to be an insurance carrier for purposes of Subtitle A, Title 5, Labor Code.

SECTION —. Section 12.110, Education Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (a-1) and (e) to read as follows:

(a) The State Board of Education shall adopt:

(1) an application form and a procedure that must be used to apply for a license [~~charter~~] for an open-enrollment charter school; and

(2) criteria to use in selecting a program for which to issue [~~grant~~] a license [~~charter~~].

(a-1) The State Board of Education shall adopt:

(1) an application form and a procedure that must be used by an applicant described by Section 12.10111(b)(1) or (2) to apply for a charter for an open-enrollment charter school; and

(2) criteria to use in selecting a program for which to grant a charter.

(b) The application forms under Subsections (a) and (a-1) [~~form~~] must provide for including the information required under Section 12.111 [~~to be contained in a charter~~].

(c) As part of the application procedure, the board may require a petition supporting a license or charter for a school signed by a specified number of parents or guardians of school-age children residing in the area in which a school is proposed or may hold a public hearing to determine parental support for the school.

(e) The commissioner by rule may establish a fee for applying for a license or charter for an open-enrollment charter school. A fee established under this subsection must be sufficient to cover the agency's administrative costs for the application process, including the costs of investigating the applicant.

SECTION -. Section 12.1101, Education Code, is amended to read as follows:

Sec. 12.1101. NOTIFICATION OF LICENSE OR CHARTER APPLICATION OR ESTABLISHMENT OF CAMPUS. The commissioner by rule shall adopt a procedure for providing notice to the following persons on receipt by the State Board of Education of an application for a license or

charter for an open-enrollment charter school under Section 12.110 or on receipt by the board and the commissioner of notice of the establishment of a campus as authorized under Section 12.10111(d):

(1) the board of trustees of each school district from which the proposed open-enrollment charter school or campus is likely to draw students, as determined by the commissioner; and

(2) each member of the legislature that represents the geographic area to be served by the proposed school or campus, as determined by the commissioner.

SECTION —. Section 12.111, Education Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (c) to read as follows:

(a) Except as provided by Subsection (a-1), each license issued or ~~Each~~ charter granted under this subchapter must:

(1) describe the educational program to be offered, which must include the required curriculum as provided by Section 28.002;

(2) specify the period for which the charter or, consistent with Section 12.116(b-1), any charter renewal is valid;

(3) provide that continuation or renewal of the charter is contingent on the status of the charter as provided by Section 12.116(b-1) ~~[acceptable student performance on assessment instruments adopted under Subchapter B, Chapter 39, and on compliance with any accountability provision specified by the charter, by a deadline or at intervals specified by the charter];~~

(4) [~~establish the level of student performance that is considered acceptable for purposes of Subdivision (3)~~];

[~~(5)~~] specify any basis, in addition to a basis specified by this subchapter, on which the charter may be placed on probation or revoked or on which an alternative to revoking the charter, as described by Section 12.115(a-1), may be used [~~renewal of the charter may be denied~~];

(5) [~~(6)~~] prohibit discrimination in admission policy on the basis of sex, national origin, ethnicity, religion, disability, academic, artistic, or athletic ability, or the district the child would otherwise attend in accordance with this code, although the license or charter, as applicable, may:

(A) provide for the exclusion of a student who has a documented history of a criminal offense, a juvenile court adjudication, or discipline problems under Subchapter A, Chapter 37; and

(B) provide for an admission policy that requires a student to demonstrate artistic ability if the school specializes in performing arts;

(6) [~~(7)~~] specify the grade levels to be offered;

(7) [~~(8)~~] describe the governing structure of the program, including:

(A) the officer positions designated;

(B) the manner in which officers are selected and removed from office;

(C) the manner in which members of the governing body of the school are selected and removed from office;

(D) the manner in which vacancies on that governing body are filled;

(E) the term for which members of that governing body serve; and

(F) whether the terms are to be staggered;

(8) [~~+9~~] specify the powers or duties of the governing body of the school that the governing body may delegate to an officer;

(9) [~~+10~~] specify the manner in which the school will distribute to parents information related to the qualifications of each professional employee of the program, including any professional or educational degree held by each employee, a statement of any certification under Subchapter B, Chapter 21, held by each employee, and any relevant experience of each employee;

(10) [~~+11~~] describe the process by which the person providing the program will adopt an annual budget;

(11) [~~+12~~] describe the manner in which an annual audit of the financial and programmatic operations of the program is to be conducted, including the manner in which the person providing the program will provide information necessary for the school district in which the program is located to participate, as required by this code or by State Board of Education rule, in the Public Education Information Management System (PEIMS);

(12) [~~(13)~~] describe the facilities to be used;

(13) [~~(14)~~] describe the geographical area served by the program; and

(14) [~~(15)~~] specify any type of enrollment criteria to be used.

(a-1) A license issued under this subchapter is not required to comply with Subsection (a) (2), (3), or (4).

(b) A license holder or charter holder [~~of an open enrollment charter school~~] shall consider including in the school's license or charter, as applicable, a requirement that the school develop and administer personal graduation plans under Section 28.0212.

(c) The enrollment of a student with a disability, including autism, is not considered for purposes of any maximum student enrollment described by the charter.

SECTION __. Section 12.115, Education Code, is amended to read as follows:

Sec. 12.115. BASIS FOR MODIFICATION, PLACEMENT ON PROBATION, OR REVOCATION; ALTERNATIVES TO REVOCATION [~~, OR DENIAL OF RENEWAL~~].

(a) The commissioner shall [~~may~~] modify, place on probation, or revoke [~~, or deny renewal of~~] the charter of an open-enrollment charter school if the commissioner determines that the charter holder:

(1) committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;

(2) failed to satisfy generally accepted accounting standards of fiscal management;

(3) failed to protect the health, safety, or welfare of the students enrolled at the school; or

(4) failed to comply with this subchapter or another applicable law or rule.

(a-1) Based on a determination described by Subsection (a) concerning the charter holder, as an alternative to revoking the charter of an open-enrollment charter school, the commissioner may:

(1) reconstitute the governing body of the charter holder; or

(2) assign operations of a school campus to a different charter holder.

(b) The action the commissioner takes under Subsection (a) or (a-1) shall be based on:

(1) the best interest of the school's students;

(2) [7] the severity of the violation[7] and any previous violation the school has committed; and

(3) the accreditation status of the school under Subchapter C, Chapter 39.

SECTION —. Section 12.116, Education Code, is amended to read as follows:

Sec. 12.116. PROCEDURE FOR MODIFICATION, PLACEMENT ON PROBATION, REVOCATION, ALTERNATIVE TO REVOCATION, OR DENIAL OF RENEWAL. (a) The commissioner shall adopt a procedure [~~to be~~

~~used~~] for modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school or for using an alternative to revocation as described by Section 12.115(a-1).

~~[(b)]~~ The procedure ~~[adopted under Subsection (a)]~~ must, except as provided by Subsection (b), provide an opportunity for a hearing to the charter holder and to parents and guardians of students enrolled in the school. A hearing under this subsection must be held in the county in which the school is located ~~[at the facility at which the program is operated].~~

(a-1) The commissioner shall revoke the charter of an open-enrollment charter school in accordance with the procedure adopted under Subsection (a) if, after all information required for determining a performance rating under Subchapter D, Chapter 39, has been considered, the commissioner determines that the school is insolvent. In determining whether the school is insolvent, the commissioner shall consider whether the insolvency is a result of recovery of overallocated state funds under Section 42.258(a).

(b) The commissioner shall revoke the charter of an open-enrollment charter school without a hearing if each campus operated under the school's charter has been ordered closed under Section 39.107.

(b-1) The procedure adopted under Subsection (a) for denying renewal of the charter of an open-enrollment charter school must provide that the charter automatically renews unless the school's

charter is revoked under Subchapter E, Chapter 39, before the expiration of a charter term. In addition, the procedure must require the commissioner and the charter holder to act in a timely manner, according to the procedure, to initiate revocation or renewal of the charter, as applicable. The term for which a charter is renewed shall not be less than 10 years.

(c) Chapter 2001, Government Code, does not apply to a hearing that is related to a modification, placement on probation, revocation, alternative to revocation, or denial of renewal under this subchapter.

SECTION __. Subsection (a), Section 12.1164, Education Code, is amended to read as follows:

(a) The commissioner must notify the Teacher Retirement System of Texas in writing of the revocation~~[, denial of renewal,]~~ or surrender of a charter under this subchapter not later than the 10th business day after the date of the event.

SECTION __. Section 12.117, Education Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) An open-enrollment charter school for which a license is issued on or after September 1, 2011, may not admit a student unless the student:

(1) was enrolled in a public school in this state during the school year preceding the school year for which the student is seeking admission to the charter school; or

(2) is seeking admission for the first grade or a lower

grade level.

(d) An open-enrollment charter school authorized by a license issued or charter granted under this subchapter to a municipality:

(1) is considered a work-site open-enrollment charter school for purposes of federal regulations regarding admissions policies that apply to open-enrollment charter schools receiving federal funding; and

(2) notwithstanding Subsection (a), may admit children of employees of the municipality to the school before conducting a lottery to fill remaining available positions, provided that the number of children admitted under this subdivision constitutes only a small percentage, as may be further specified by federal regulation, of the school's total enrollment.

SECTION __. Subsection (a), Section 12.118, Education Code, is amended to read as follows:

(a) The commissioner shall designate an impartial organization with experience in evaluating school choice programs to conduct, under the supervision of the commissioner, an annual evaluation of open-enrollment charter schools.

SECTION __. Subsection (c), Section 12.119, Education Code, is amended to read as follows:

(c) On request, the State Board of Education shall provide the information required by this section and Section 12.111(a)(7) [~~12.111(8)~~] to a member of the public. The board may charge a reasonable fee to cover the board's cost in providing the

information.

SECTION —. Section 12.156, Education Code, is amended to read as follows:

Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a) Except as otherwise provided by this subchapter, Subchapter D applies to a college or university charter school or junior college charter school as though the college or university charter school or junior college charter school, as applicable, were issued a license or granted a charter under that subchapter.

(b) A license issued or charter granted under this subchapter is not considered for purposes of the limit on the number of open-enrollment charter schools imposed by Section 12.101(b).

SECTION —. Subsection (b), Section 12.113, Education Code, is repealed.

SECTION —. The amendment of Subchapter D, Chapter 12, Education Code, by this Act, does not affect the status of a charter granted under Subchapter D, Chapter 12, Education Code, before the effective date of this Act and the implementation of licensing under Subchapter D, Chapter 12, Education Code, in accordance with this Act.

SECTION —. Section 12.101, Education Code, as amended by this Act, and Sections 12.1011 and 12.10111, Education Code, as added by this Act, apply beginning with the 2012-2013 school year.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 26, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB6 by Eissler (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.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB6, As Passed 2nd House: a positive impact of \$355,536,291 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$385,352,384
2013	(\$29,816,093)
2014	\$247,557,783
2015	\$480,185,636
2016	\$37,268,747

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from State Textbook Fund 3	Probable Savings/ (Cost) from Foundation School Fund 193	Probable Savings/ (Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Fund 1
2012	(\$282,650)	\$382,611,354	\$2,690,953	\$332,727
2013	(\$49,730)	(\$32,359,261)	\$1,899,643	\$693,255
2014	(\$49,730)	\$245,095,431	\$1,818,827	\$693,255
2015	(\$49,730)	\$478,142,888	\$1,399,223	\$693,255
2016	(\$49,730)	\$35,390,045	\$1,235,177	\$693,255

Fiscal Year	Change in Number of State Employees from FY 2011
2012	3.8
2013	13.5
2014	15.5
2015	20.5
2016	22.0

Fiscal Analysis

The bill would establish an instructional materials allotment to which school districts and open-enrollment charter schools would be entitled. School districts would be entitled to an allotment per enrolled student based on the amount of funds available in the Instructional Materials Fund (created in the bill) as determined by appropriation and student enrollment in the prior school year on a date established by the Commissioner of Education. The bill provides for adjustments to the student enrollment count used for purposes of determining a school district's entitlement to Instructional Materials Allotment funds based on student population growth or decline. Such adjustments may be requested by a school district or determined by the Commissioner without a request.

The bill would establish instructional materials accounts for each school district into which Instructional Materials Allotment funds would be deposited. Funds in the account would be available to school districts for permissible purchases throughout the biennium in which they were appropriated and could be carried forward to the next biennium.

The bill would direct the Commissioner to maintain an online requisition system for instructional materials.

The bill would amend provisions related to the sale of textbooks to allow proceeds from permissible sales of instructional material or electronic equipment to be used by the school district to purchase instructional materials or technological equipment.

The bill would direct the State Board of Education to set aside 40 percent of the annual distribution from the Permanent School Fund to the Available School Fund in the 2012-13 biennium and 50 percent of the annual distribution in each subsequent state fiscal biennium to be deposited to the Instructional Materials Fund, subject to appropriation in the General Appropriations Act.

The bill would repeal provisions related to limitations on the cost of instructional materials, textbook credits, requirements that publishers maintain a textbook depository, the technology allotment, and the education internet portal.

The bill would repeal the Technology Allotment.

The bill would repeal the state virtual school network allotment in the FSP, including the commissioner's authority to grant allotments for courses that exceed a normal course load.

The bill would create a Permanent School Fund (PSF) bond guarantee for qualified charter schools. The commissioner of education would administer the program and issue guarantees for qualified charter school bonds. The bill would limit the total amount of charter school bonds to be guaranteed to the portion of total available capacity in the PSF school bond guarantee program that is equal to the proportion of charter school enrollment to total enrollment. The bill would create a special fund in the state treasury outside the general revenue fund to be known as the charter district bond guarantee reserve fund. The bill would require each charter school that has a bond guaranteed to remit an annually amortized amount equal in total to 10 percent of the savings realized due to the bond guarantee. These amounts would be deposited in the charter district bond guarantee reserve fund and would serve as the first source of payment of any defaults of charter bonds carrying PSF guarantees.

The bill would require a person serving as a member of a governing body of a charter holder or open-enrollment charter school or a person serving as an officer of an open-enrollment charter school who receives one of the five highest salaries to submit proof of U.S. citizenship to the Texas Education Agency.

The bill would prohibit the commissioner of education from denying approval for a charter holder to add additional campuses if the charter holder fails to meet performance criteria solely on the basis of dropout and completion rates provided that the charter demonstrates through a process developed by the Agency that those criteria would have been met by excluding from the count of dropouts any students who were at least 17 years of age at the time of enrollment and by counting as graduates those students who complete high school prior to the end of their sixth year of high school enrollment. The bill would also require affected charter holders to have a financial accountability rating of satisfactory or better. The prohibition would expire September 1, 2013.

The bill would limit the number of campuses the commissioner would be authorized to approve under these criteria to 10 campuses in total. Campuses added under the provisions of the bill would also be limited to those that would be located in the charter's specific geographical area, serve only high school students, and enroll a student body with at least 50% representing students who did not graduate with a ninth grade cohort. In addition, the commissioner would have the authority to limit the enrollment at additional campuses to the capacity limit applicable to the charter holder or the demand for services in the geographical area. However, limitations on enrollment at the new campuses could not be less than the number of high school students currently enrolled at a campus operated by the charter holder that focuses on dropout recovery.

The bill would prohibit the commissioner of education from revoking or denying the renewal of a charter if the charter holder has been assigned a financial accountability rating of satisfactory or better and if the charter holder meets all criteria established for adding an additional campus other than performance criteria based on dropout and completion rates provided that the charter holder demonstrates through a process developed by the Agency that those criteria would have been met by excluding from the count of dropouts any students who were at least 17 years of age at the time of enrollment and by counting as graduates those students who complete high school prior to the end of their sixth year of high school enrollment. This prohibition would also expire September 1, 2013.

The bill would allow the State Board of Education (SBOE) to grant up to 10 new licenses for open-enrollment charter schools in a state fiscal year plus a number of licenses equal to any number of charters revoked or surrendered during the preceding state fiscal year, and would enable certain existing charter holders to establish new charter school campuses without applying for authorization.

The bill would permit the SBOE to grant a license to an eligible entity applying for an open-enrollment charter school intended primarily to serve students with disabilities, including students with autism. The SBOE could grant up to two new licenses for open-enrollment charter schools under this section each state fiscal year. Licenses granted under this section would not count toward the annual limit.

The bill would permit the commissioner to establish a fee for applying for an open-enrollment charter school sufficient to cover administrative costs for the application process and investigation of the proposed charter holder.

The limitation on new licenses described above, provided in new Section 21.10111(c), Education Code would not apply to charters granted under Section 12.10111(b)(2) as added under the bill.

The bill would provide for alternatives to revocation and to eliminate the commissioner's authorization to deny renewal of the charter of an open-enrollment charter school and require that the commissioner modify, place on probation, or revoke a charter for certain actions. The bill would make other changes related to the process by which the commissioner may pursue charter revocation or alternatives to revocation.

The bill would require open-enrollment charter schools licensed on or after September 1, 2011, to limit enrollment to students either enrolled in a public school in this state during the preceding school year or enrolling in first grade or lower grade levels.

The bill would take immediate effect contingent on receipt of required voting margins.

Methodology

The bill would direct that in the 2012-13 biennium, 40 percent of the annual distribution from the Permanent School Fund (PSF) to the Available School Fund (ASF) be deposited into the Instructional Materials Fund created by the bill to fund school districts' Instructional Materials Allotment. In each subsequent biennium, that amount would increase to 50 percent of annual distribution.

Under current law, the Legislature appropriates a portion of the ASF revenues available to fund instructional materials and the technology allotment, and the remainder is used as a method of financing the Foundation School Program (FSP). To the extent that more or less ASF is used for

instructional materials, more or less funding from Fund 193, Foundation School Fund (General Revenue) is required to fund the state's obligations under the FSP.

The distribution rate from the PSF to the ASF is 4.2 percent of the 16-quarter trailing average value of the fund for fiscal years 2012 and 2013. For purposes of this estimate, it is assumed that the distribution rate is 3.5 percent in each subsequent fiscal year. An annual rate of return on investment of 8.0 percent is also assumed. These assumptions yield a distribution of \$943.2 million annually in fiscal years 2012 and 2013, \$901.3 million annually in fiscal years 2014 and 2015, and \$973.4 million in fiscal year 2016.

For purposes of determining current law instructional materials costs, instructional materials under Proclamation 2011 (English Language Arts and Reading, part 2) are estimated to cost \$430.0 million and are assumed to enter classrooms in fiscal year 2012. For purposes of this estimate, it is assumed that instructional materials under Proclamation 2012 (Science), which were scheduled to be purchased in fiscal year 2013, but were postponed by the State Board of Education, would be purchased in fiscal year 2014 at a cost of \$343.5 million. It is assumed that Proclamation 2013 (Social Studies) materials would be purchased in fiscal year 2015 at a cost of \$571.9 million, and that Proclamation 2014 (Career and Technical Education and Technology Applications) materials would be purchased in fiscal year 2014 at a cost of \$155.4 million.

Based on the statutory formula of \$30 per student in average daily attendance (ADA), Technology Allotment costs under current law are estimated at \$138.6 million in fiscal year 2012, increasing to \$148.7 million by fiscal year 2016.

Based on these assumptions, the total cost of instructional materials, including continuing contracts, and the technology allotment under current law is estimated at \$758.7 million in fiscal year 2012, \$344.1 million in fiscal year 2013, \$694.8 million in fiscal year 2014, \$927.8 million in fiscal year 2015, and \$521.0 million in fiscal year 2016. Deducting these estimated costs from the total estimated distribution from the PSF to the ASF yields the amount that would serve as a method of financing the Foundation School Program in each year under current law, estimated at \$184.5 million in fiscal year 2012, \$599.1 million in fiscal year 2013, \$206.4 million in fiscal year 2014, (\$26.6 million) in fiscal year 2015, and \$452.3 million in fiscal year 2016. In the case of fiscal year 2015, when the estimated cost of instructional materials exceeds the estimated distribution from the PSF to the ASF, other revenues that are deposited to the ASF make up the difference. These funds would otherwise serve as a method of financing the FSP.

Under the provisions of the bill, the amount of ASF used for instructional materials would be limited to 40 percent of the PSF distribution to the ASF in fiscal years 2012 and 2013 and 50 percent of the distribution in subsequent fiscal years. Based on the methodology described above, it is estimated that the amount of ASF available as a method of financing the FSP would change as follows: increase by \$381.5 million in fiscal year 2012, decrease by \$33.2 million in fiscal year 2013, increase by \$244.2 million in fiscal year 2014, increase by \$477.2 million in fiscal year 2015, and increase by \$34.4 million in fiscal year 2016. Increases in ASF available for financing the FSP yield savings to Fund 193 in like amounts, and decreases in ASF available for financing the FSP yield cost to Fund 193 in like amounts.

Note that estimates of current law instructional materials and technology allotment cost are made without consideration of current legislative deliberations regarding the budget for the 2012-13 biennium. To the extent that less funding is provided relative to costs identified above, the savings or costs attributable to the provisions of this bill would vary.

In addition to savings and costs associated with the FSP, the Texas Education Agency estimates that 1.75 contract FTEs in fiscal year 2012 and 0.5 contract FTEs in each subsequent fiscal year would be required to implement changes to the Educational Materials Online (EMAT) system at an estimated cost of \$282,650 in fiscal year 2012 and \$49,730 in each subsequent fiscal year.

For purposes of this estimate, it is assumed that school districts are already claiming full attendance and therefore earning full FSP funding for students enrolled in courses through the VSN. As a result, no additional FSP cost would accrue by entitling school districts to FSP formula funding for students'

enrollment in courses offered through the state virtual school network (VSN) for courses that are successfully completed. The repeal of the state virtual school network allotment in the FSP would yield a savings estimated at \$1,159,704 in fiscal year 2012 and \$1,217,689 in fiscal year 2013, assumed to increase by 5 percent annually up to \$1,409,627 by fiscal year 2016. Additionally, since the bill repeals the statutory basis for the appropriation supporting allotments for courses in excess of a normal course load, the elimination of that appropriation is estimated to yield a savings of \$3,023,680 (this estimated fiscal year 2011 funding level) in fiscal year 2012 and each year thereafter.

The Texas Education Agency (TEA) indicates that there are currently 214 charter holders operating 649 open-enrollment charter school campuses in the state. Students enrolled in these schools make up approximately 2.7 percent of the total public school population. Accordingly, the amount of charter bonds for which guarantee could be made would be limited to approximately 2.7 percent of available capacity for the overall PSF bond guarantee program.

The TEA states that costs would be incurred for additional administrative functions associated with designating of financially qualified charter districts, determinations of bond guarantee capacity, charter bond issuance tracking, analysis of charter district bond guarantee applications, and technical assistance to charter districts seeking guarantee. The estimated costs for two additional FTE positions and associated operating expenses for these functions are \$178,727 in FY12 and \$162,727 each year thereafter. The Agency estimates revenues generated by application fees will be sufficient to offset costs.

It is assumed for the purpose of this estimate that receiving submitted proof of citizenship as required under the amended bill would not have significant fiscal implications for Agency operations.

The bill would authorize up to 10 additional charter school campuses primarily designed to serve students who had previously dropped out of school. To the extent that such students were not in attendance at another charter school or school district, there would be additional cost to the Foundation School Program in the form of state aid generated by their attendance at the new charter campuses.

Assuming that initial implementation activities at the Agency would occur in FY12, new campuses approved under the bill would be expected to open for enrollment at the beginning of FY13. Based on the average size of charter campuses of potentially affected charter holders, it is assumed that each of the new campuses authorized under the bill would have about 100 students in average daily attendance. For the purpose of this estimate, it is assumed that approximately five percent of the students enrolled at each new campus would be students who had previously dropped out of school and had not been generating Foundation School Program state aid. The estimated additional state cost associated with these students' attendance would be estimated to be \$387,500 in FY13. Although the authority to create new campuses would expire September 1, 2013, the campuses opening under the bill's provisions would be assumed to continue operating. For the purpose of this estimate, it is assumed that the student population served each year by the campuses initiated in FY13 would continue to consist of 95% of students who had been generating Foundation School Program funding at that school or another public school district or charter school and about 5 percent who had previously dropped out of school and had not been generating Foundation School Program state aid. As a result, the cost for additional Foundation School Program entitlement would be expected to remain at the FY13 level with no significant increases in cost expected over time.

The Texas Education Agency (TEA) assumes that the SBOE would continue to exercise careful deliberation in issuing new licenses such that 10 licenses would be issued for traditional charter schools each year and another two licenses for schools that focused on students with disabilities, including autism, would be issued. In addition, the estimated 165 charter holders that currently exist could add charter campuses without the approval of the SBOE. The TEA estimates that 35 campuses a year would be established, even with the commissioner's exercising authority to disapprove of new campuses. The Agency further assumes, in view of the unlimited authority to grant charters under Section 12.10111(b)(2), Education Code, that 10 additional charters would be granted under this provision.

The establishment of new license holders, charter holders, and charter campuses would require additional staff at the TEA to perform the administrative functions that are required to support the

addition of newly licensed charter schools and new charter campuses and to design and maintain an application process for those seeking a license for a school with a focus on students with disabilities, as well as charter school funding, monitoring, and audits. As additional charter schools and campuses were created, more audit and funding staff would be needed, as well as additional staff for assessment, accountability, accreditation, and monitoring and interventions. In total, the TEA estimates that the provisions of the bill would require 11 additional full-time equivalents beginning in FY 2013. Total funding for these positions, including salary, benefits and other operating costs, is estimated at \$1,045,380 in FY 2013; however, it is assumed that \$476,529 of this amount would be covered by collected license application fee revenue, and another \$138,070 could be covered by existing federal administrative funds, leaving a General Revenue cost of \$430,781. These positions would increase to 20 in FY 2016, with General Revenue costs increasing to \$1,095,247.

According to the TEA, the agency would require one new Program Specialist V full-time equivalent (FTE) in FY 2013 in its Discretionary Grants Division to support the addition of new schools by flowing funds to new charter schools through the federal public charter schools start-up grant. The TEA's Formula Grants Administration Division would require one new Contract Specialist IV FTE in FY 2013 to support the addition of new charter schools.

The TEA's Fiscal Accountability and Federal Reporting Unit would require one new Grant Coordinator III FTE in FY 2015 to support the addition of new licensed charter schools. The TEA's Financial Audits Division would require new FTEs to comply with its financial and attendance auditing and investigation and monitoring responsibilities. The Financial Audits Division also has to review all the new charter license applicants and provide the successful applicants with training. In FY 2013, two Auditor VI FTEs would be needed to review license applications and provide training and technical assistance. Two additional Auditor V FTEs would be added in FY 2015 as the number of licensed charter schools increased. Estimated travel costs per trip, assuming the majority of trips were made by car, would be \$1,355 for two staff members. The TEA estimates auditors would make six visits in FY 2015 with an annual travel cost of \$8,130. Costs for travel would grow as the number of charter schools and charter campuses grew. The TEA estimates auditors would make 12 visits in FY 2016 with an estimated cost of \$16,260.

The Program Monitoring and Interventions Division would require one Program Specialist VII FTE and one Program Specialist VI in FY 2015 and two additional Program Specialist VI FTEs in FY 2016, when there would be 88 new licensed charter schools and 140 new charter campuses. Travel costs are estimated at \$27,100 in FY 2016 for 20 visits.

The Individuals with Disabilities Education Act (IDEA) Coordination Division would require one Program Specialist VII FTE beginning in FY 2013 to work with licensed charter schools that focused on students with disabilities.

The Charter School Administration Division would require one new Program Specialist VI FTE beginning in FY 2013 and two additional Program Specialist VI FTEs beginning in FY 2014 to accommodate the increased number of licensed charters and coordinate the new fee collection and administrative penalty requirements.

The Student Assessment, Performance Reporting, Accountability Research, and Performance-Based Monitoring Divisions would each require an additional Program Specialist VII FTE position in FY 2013 to provide technical assistance in each of these areas as soon as the new provisions went into effect to increase the number of charter schools and campuses.

One Attorney VI FTEs would be required beginning in FY 2013 to work on charter school legal issues.

For purposes of estimating fees to cover the administrative costs for charter applications, it was assumed that the administrative costs for three Program Specialist VI positions in the Charter School Division, two Auditor VI positions in Financial Audits, and one Attorney VI positions would be required for the review of applications and investigation of new license holders. The TEA receives approximately 30 open-enrollment charter school applications. Assuming a similar number of applications for licenses, the associated average annual administrative costs are estimated at \$476,529.

The estimated application fee would be \$15,885 per license applicant, for a total of \$476,550 in application fees, assuming approximately 30 applications annually. It was assumed that one position in Formula Funding and the IDEA position would be funded from federal funds.

Technology

The Texas Education Agency estimates that 1.75 contract FTEs in fiscal year 2012 and 0.5 contract FTEs in each subsequent fiscal year would be required to implement changes to the Educational Materials Online (EMAT) system at an estimated cost of \$282,650 in fiscal year 2012 and \$49,730 in each subsequent fiscal year.

Significant systems development costs would also be incurred to implement the PSF bond guarantee program for charter schools. Initial system development costs of \$154,000 would be estimated in FY12, with ongoing maintenance and licensing costs of approximately \$54,000 annually in FY13 and beyond.

Local Government Impact

The provisions of this bill would fundamentally change the way school districts order instructional materials. School districts would order instructional materials based on the availability of funds in the district's instructional materials account instead of based on enrollment figures. There would be additional flexibility on how the funds were expended as long as the expenditures were for allowable expenses. School districts would be required to annually certify that the district's IMA had been used only for allowable expenses.

Charter holders operating additional campuses would realize additional Foundation School Program revenue based on student attendance at the new campuses.

School districts that experience reduced enrollment due to increased enrollment in charter schools could experience reduced revenues.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, LXH, JGM, JSc, SD

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 5, 2011

TO: Honorable Florence Shapiro, Chair, Senate Committee on Education

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB6 by Eissler (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.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB6, Committee Report 2nd House, Substituted: a positive impact of \$347,929,820 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$381,169,000
2013	(\$33,239,180)
2014	\$244,154,627
2015	\$477,138,156
2016	\$34,318,188

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from State Textbook Fund 3	Probable Savings/(Cost) from Foundation School Fund 193	Change in Number of State Employees from FY 2011
2012	(\$282,650)	\$381,451,650	1.8
2013	(\$49,730)	(\$33,189,450)	0.5
2014	(\$49,730)	\$244,204,357	0.5
2015	(\$49,730)	\$477,187,886	0.5
2016	(\$49,730)	\$34,367,918	0.5

Fiscal Analysis

The bill would establish an instructional materials allotment to which school districts and open-enrollment charter schools would be entitled. School districts would be entitled to an allotment per enrolled student based on the amount of funds available in the Instructional Materials Fund (created in the bill) as determined by appropriation and student enrollment in the prior school year on a date established by the Commissioner of Education. The bill provides for adjustments to the student enrollment count used for purposes of determining a school district's entitlement to Instructional Materials Allotment funds based on student population growth or decline. Such adjustments may be requested by a school district or determined by the Commissioner without a request.

The bill would establish instructional materials accounts for each school district into which Instructional Materials Allotment funds would be deposited. Funds in the account would be available to school districts for permissible purchases throughout the biennium in which they were appropriated and could be carried forward to the next biennium.

The bill would direct the Commissioner to maintain an online requisition system for instructional materials.

The bill would amend provisions related to the sale of textbooks to allow proceeds from permissible sales of instructional material or electronic equipment to be used by the school district to purchase instructional materials or technological equipment.

The bill would direct the State Board of Education to set aside 40 percent of the annual distribution from the Permanent School Fund to the Available School Fund in the 2012-13 biennium and 50 percent of the annual distribution in each subsequent state fiscal biennium to be deposited to the Instructional Materials Fund, subject to appropriation in the General Appropriations Act.

The bill would repeal provisions related to limitations on the cost of instructional materials, textbook credits, requirements that publishers maintain a textbook depository, the technology allotment, and the education internet portal.

The bill would repeal the Technology Allotment.

Methodology

The bill would direct that in the 2012-13 biennium, 40 percent of the annual distribution from the Permanent School Fund (PSF) to the Available School Fund (ASF) be deposited into the Instructional Materials Fund created by the bill to fund school districts' Instructional Materials Allotment. In each subsequent biennium, that amount would increase to 50 percent of annual distribution.

Under current law, the Legislature appropriates a portion of the ASF revenues available to fund instructional materials and the technology allotment, and the remainder is used as a method of financing the Foundation School Program (FSP). To the extent that more or less ASF is used for instructional materials, more or less funding from Fund 193, Foundation School Fund (General Revenue) is required to fund the state's obligations under the FSP.

The distribution rate from the PSF to the ASF is 4.2 percent of the 16-quarter trailing average value of the fund for fiscal years 2012 and 2013. For purposes of this estimate, it is assumed that the distribution rate is 3.5 percent in each subsequent fiscal year. An annual rate of return on investment of 8.0 percent is also assumed. These assumptions yield a distribution of \$943.2 million annually in fiscal years 2012 and 2013, \$901.3 million annually in fiscal years 2014 and 2015, and \$973.4 million in fiscal year 2016.

For purposes of determining current law instructional materials costs, instructional materials under Proclamation 2011 (English Language Arts and Reading, part 2) are estimated to cost \$430.0 million and are assumed to enter classrooms in fiscal year 2012. For purposes of this estimate, it is assumed that instructional materials under Proclamation 2012 (Science), which were scheduled to be purchased in fiscal year 2013, but were postponed by the State Board of Education, would be purchased in fiscal year 2014 at a cost of \$343.5 million. It is assumed that Proclamation 2013 (Social Studies) materials would be purchased in fiscal year 2015 at a cost of \$571.9 million, and that Proclamation 2014 (Career and Technical Education and Technology Applications) materials would be purchased in fiscal year 2014 at a cost of \$155.4 million.

Based on the statutory formula of \$30 per student in average daily attendance (ADA), Technology Allotment costs under current law are estimated at \$138.6 million in fiscal year 2012, increasing to \$148.7 million by fiscal year 2016.

Based on these assumptions, the total cost of instructional materials, including continuing contracts, and the technology allotment under current law is estimated at \$758.7 million in fiscal year

2012, \$344.1 million in fiscal year 2013, \$694.8 million in fiscal year 2014, \$927.8 million in fiscal year 2015, and \$521.0 million in fiscal year 2016. Deducting these estimated costs from the total estimated distribution from the PSF to the ASF yields the amount that would serve as a method of financing the Foundation School Program in each year under current law, estimated at \$184.5 million in fiscal year 2012, \$599.1 million in fiscal year 2013, \$206.4 million in fiscal year 2014, (\$26.6 million) in fiscal year 2015, and \$452.3 million in fiscal year 2016. In the case of fiscal year 2015, when the estimated cost of instructional materials exceeds the estimated distribution from the PSF to the ASF, other revenues that are deposited to the ASF make up the difference. These funds would otherwise serve as a method of financing the FSP.

Under the provisions of the bill, the amount of ASF used for instructional materials would be limited to 40 percent of the PSF distribution to the ASF in fiscal years 2012 and 2013 and 50 percent of the distribution in subsequent fiscal years. Based on the methodology described above, it is estimated that the amount of ASF available as a method of financing the FSP would change as follows: increase by \$381.5 million in fiscal year 2012, decrease by \$33.2 million in fiscal year 2013, increase by \$244.2 million in fiscal year 2014, increase by \$477.2 million in fiscal year 2015, and increase by \$34.4 million in fiscal year 2016. Increases in ASF available for financing the FSP yield savings to Fund 193 in like amounts, and decreases in ASF available for financing the FSP yield cost to Fund 193 in like amounts.

Note that estimates of current law instructional materials and technology allotment cost are made without consideration of current legislative deliberations regarding the budget for the 2012-13 biennium. To the extent that less funding is provided relative to costs identified above, the savings or costs attributable to the provisions of this bill would vary.

In addition to savings and costs associated with the FSP, the Texas Education Agency estimates that 1.75 contract FTEs in fiscal year 2012 and 0.5 contract FTEs in each subsequent fiscal year would be required to implement changes to the Educational Materials Online (EMAT) system at an estimated cost of \$282,650 in fiscal year 2012 and \$49,730 in each subsequent fiscal year.

Technology

The Texas Education Agency estimates that 1.75 contract FTEs in fiscal year 2012 and 0.5 contract FTEs in each subsequent fiscal year would be required to implement changes to the Educational Materials Online (EMAT) system at an estimated cost of \$282,650 in fiscal year 2012 and \$49,730 in each subsequent fiscal year.

Local Government Impact

The provisions of this bill would fundamentally change the way school districts order instructional materials. School districts would order instructional materials based on the availability of funds in the district's instructional materials account instead of based on enrollment figures. There would be additional flexibility on how the funds were expended as long as the expenditures were for allowable expenses. School districts would be required to annually certify that the district's IMA had been used only for allowable expenses.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, LXH, JGM, JSc, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 4, 2011

TO: Honorable Florence Shapiro, Chair, Senate Committee on Education

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB6 by Eissler (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.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB6, As Engrossed: a positive impact of \$159,289,340 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$286,848,760
2013	(\$127,559,420)
2014	\$244,154,627
2015	\$477,138,156
2016	\$34,318,188

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>State Textbook Fund</i> 3	Probable Savings/(Cost) from <i>Foundation School Fund</i> 193	Change in Number of State Employees from FY 2011
2012	(\$282,650)	\$287,131,410	2.8
2013	(\$49,730)	(\$127,509,690)	1.5
2014	(\$49,730)	\$244,204,357	1.5
2015	(\$49,730)	\$477,187,886	1.5
2016	(\$49,730)	\$34,367,918	1.5

Fiscal Analysis

The bill would establish an instructional materials allotment to which school districts and open-enrollment charter schools would be entitled. School districts would be entitled to an allotment per enrolled student based on the amount of funds available in the Instructional Materials Fund (created in the bill) as determined by appropriation and student enrollment in the prior school year on a date established by the Commissioner of Education. The bill provides for adjustments to the student enrollment count used for purposes of determining a school district's entitlement to Instructional Materials Allotment funds based on student population growth or decline. Such adjustments may be requested by a school district or determined by the Commissioner without a request.

The bill would establish instructional materials accounts for each school district into which Instructional Materials Allotment funds would be deposited. Funds in the account would be available to school districts for permissible purchases throughout the biennium in which they were appropriated and could be carried forward to the next biennium.

School districts would be permitted to purchase materials adopted by the State Board of Education, materials on the Commissioner's list of electronic materials, open-source materials, consumable materials and other materials subject to a continuing contract, and technological equipment and would be permitted to pay for training and technical support for technological equipment using Instructional Materials Allotment funds.

The bill would limit allowable purchases for the 2012-13 biennium to materials adopted under Proclamation 2011 and continuing contracts.

The bill would direct the Commissioner to maintain an online requisition system for instructional materials.

The bill would amend provisions related to the sale of textbooks to allow proceeds from permissible sales of instructional material or electronic equipment to be used by the school district to purchase instructional materials or technological equipment.

The bill would authorize the establishment of the Technology Lending Program Grants to be funded from amounts set aside from the Instructional Materials Fund created by the bill not to exceed 10 percent or a different amount as determined by appropriation. Under the program, school districts and charter schools could be awarded funds to provide students access to technological equipment necessary for the use of of electronic instructional materials. The provisions of the bill stipulate that all costs associated with administering the program be paid from amounts set aside from the Instructional Materials Fund.

The bill would direct the State Board of Education to set aside 50 percent of the annual distribution from the Permanent School Fund to the Available School Fund each biennium to be deposited to the Instructional Materials Fund, subject to appropriation in the General Appropriations Act.

The bill would repeal provisions related to limitations on the cost of instructional materials, textbook credits, requirements that publishers maintain a textbook depository, the technology allotment, and the education internet portal.

The bill would repeal the Technology Allotment.

Methodology

The bill would direct that 50 percent of the annual distribution from the Permanent School Fund (PSF) to the Available School Fund (ASF) be deposited into the Instructional Materials Fund created by the bill to fund school districts' Instructional Materials Allotment.

Under current law, the Legislature appropriates a portion of the ASF revenues available to fund instructional materials and the technology allotment, and the remainder is used as a method of financing the Foundation School Program (FSP). To the extent that more or less ASF is used for instructional materials, more or less funding from Fund 193, Foundation School Fund (General Revenue) is required to fund the state's obligations under the FSP.

For purposes of this estimate, it is assumed that the distribution from the PSF to the ASF is 4.2 percent of the 16-quarter trailing average value of the fund for fiscal years 2012 and 2013 and 3.5 percent in each subsequent fiscal year. An annual rate of return on investment of 8.0 percent is also assumed. These assumptions yield a distribution of \$943.2 million annually in fiscal years 2012 and 2013, \$901.3 million annually in fiscal years 2014 and 2015, and \$973.4 million in fiscal year 2016.

For purposes of determining current law instructional materials costs, instructional materials under Proclamation 2011 (English Language Arts and Reading, part 2) are estimated to cost \$430.0 million

and are assumed to enter classrooms in fiscal year 2012. For purposes of this estimate, it is assumed that instructional materials under Proclamation 2012 (Science), which were scheduled to be purchased in fiscal year 2013, but were postponed by the State Board of Education, would be purchased in fiscal year 2014 at a cost of \$343.5 million. It is assumed that Proclamation 2013 (Social Studies) materials would be purchased in fiscal year 2015 at a cost of \$571.9 million, and that Proclamation 2014 (Career and Technical Education and Technology Applications) materials would be purchased in fiscal year 2014 at a cost of \$155.4 million.

Based on the statutory formula of \$30 per student in average daily attendance (ADA), Technology Allotment costs under current law are estimated at \$138.6 million in fiscal year 2012, increasing to \$148.7 million by fiscal year 2016.

Based on these assumptions, the total costs of instructional materials, including continuing contracts, and the technology allotment under current law are estimated at \$758.7 million in fiscal year 2012, \$344.1 million in fiscal year 2013, \$694.8 million in fiscal year 2014, \$927.8 million in fiscal year 2015, and \$521.0 million in fiscal year 2016. Deducting these estimated costs from the total estimated distribution from the PSF to the ASF yields the amount that would serve as a method of financing the Foundation School Program in each year, estimated at \$184.5 million in fiscal year 2012, \$599.1 million in fiscal year 2013, \$206.4 million in fiscal year 2014, (\$26.6 million) in fiscal year 2015, and \$452.3 million in fiscal year 2016. In the case of fiscal year 2015, when the estimated cost of instructional materials exceeds the estimated distribution from the PSF to the ASF, other revenues that are deposited to the ASF make up the difference. These funds would otherwise serve as a method of financing the FSP.

Under the provisions of the bill, the amount of ASF used for instructional materials would be limited to 50 percent of the PSF distribution to the ASF. Based on the methodology described above, it is estimated that the amount of ASF available as a method of financing the FSP would change as follows: increase by \$287.1 million in fiscal year 2012, decrease by \$127.5 million in fiscal year 2013, increase by \$244.2 million in fiscal year 2014, increase by \$477.2 million in fiscal year 2015, and increase by \$34.5 million in fiscal year 2016. Increases in ASF available for financing the FSP yield savings to Fund 193 in like amounts, and decreases in ASF available for financing the FSP yield cost to Fund 193 in like amounts.

Note that estimates of current law instructional materials and technology allotment cost are made without consideration of current legislative deliberations regarding the budget for the 2012-13 biennium. To the extent that less funding is provided relative to costs identified above, the savings or costs attributable to the provisions of this bill would vary.

In addition to savings and costs associated with the FSP, the Texas Education Agency estimates that 1.75 contract FTEs in fiscal year 2012 and 0.5 contract FTEs in each subsequent fiscal year would be required to implement changes to the Educational Materials Online (EMAT) system at an estimated cost of \$282,650 in fiscal year 2012 and \$49,730 in each subsequent fiscal year.

TEA estimates that 1.0 FTE would be required to administer the Technology Lending Program Grants at a cost of \$94,319 in fiscal year 2012 and \$86,319 in each subsequent fiscal year, inclusive of salary, other operating expenses, and benefits. Costs are estimated to be paid from funds set aside from the Instructional Materials Fund, resulting in no net fiscal impact to the bill.

Technology

The Texas Education Agency estimates that 1.75 contract FTEs in fiscal year 2012 and 0.5 contract FTEs in each subsequent fiscal year would be required to implement changes to the Educational Materials Online (EMAT) system at an estimated cost of \$282,650 in fiscal year 2012 and \$49,730 in each subsequent fiscal year.

Local Government Impact

The provisions of this bill would fundamentally change the way school districts order instructional materials. School districts would order instructional materials based on the availability of funds in the

district's instructional materials account instead of based on enrollment figures. There would be additional flexibility on how the funds were expended as long as the expenditures were for allowable expenses. School districts would be required to annually certify that the district's IMA had been used only for allowable expenses. School districts would be permitted to charge a fee to students to cover the cost of insurance on lost, damaged, or stolen technological equipment.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, LXH, JGM, JSc

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 30, 2011

TO: Honorable Rob Eissler, Chair, House Committee on Public Education

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB6 by Eissler (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.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB6, Committee Report 1st House, Substituted: a positive impact of \$159,289,340 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$286,848,760
2013	(\$127,559,420)
2014	\$244,154,627
2015	\$477,138,156
2016	\$34,318,188

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from State Textbook Fund 3	Probable Savings/(Cost) from Foundation School Fund 193	Change in Number of State Employees from FY 2011
2012	(\$282,650)	\$287,131,410	1.8
2013	(\$49,730)	(\$127,509,690)	0.5
2014	(\$49,730)	\$244,204,357	0.5
2015	(\$49,730)	\$477,187,886	0.5
2016	(\$49,730)	\$34,367,918	0.5

Fiscal Analysis

The bill would establish an instructional materials allotment to which school districts and open-enrollment charter schools would be entitled. School districts would be entitled to an allotment per enrolled student based on the amount of funds available in the Instructional Materials Fund (created in the bill) as determined by appropriation and student enrollment in the prior school year on a date established by the Commissioner of Education. The bill provides for adjustments to the student enrollment count used for purposes of determining a school district's entitlement to Instructional Materials Allotment funds based on student population growth or decline. Such adjustments may be requested by a school district or determined by the Commissioner without a request.

The bill would establish instructional materials accounts for each school district into which Instructional Materials Allotment funds would be deposited. Funds in the account would be available to school districts for permissible purchases throughout the biennium in which they were appropriated and could be carried forward to the next biennium.

School districts would be permitted to purchase materials adopted by the State Board of Education, materials on the Commissioner's list of electronic materials, open-source materials, consumable materials and other materials subject to a continuing contract, and technological equipment and would be permitted to pay for training and technical support for technological equipment using Instructional Materials Allotment funds.

The bill would limit allowable purchases for the 2012-13 biennium to materials adopted under Proclamation 2011 and continuing contracts.

The bill would direct the Commissioner to maintain an online requisition system for instructional materials.

The bill would amend provisions related to the sale of textbooks to allow proceeds from permissible sales of instructional material or electronic equipment to be used by the school district to purchase instructional materials or technological equipment.

The bill would direct the State Board of Education to set aside 50 percent of the annual distribution from the Permanent School Fund to the Available School Fund each biennium to be deposited to the Instructional Materials Fund, subject to appropriation in the General Appropriations Act.

The bill would repeal provisions related to limitations on the cost of instructional materials, textbook credits, requirements that publishers maintain a textbook depository, the technology allotment, and the education internet portal.

The bill would repeal the Technology Allotment.

Methodology

The bill would direct that 50 percent of the annual distribution from the Permanent School Fund (PSF) to the Available School Fund (ASF) be deposited into the Instructional Materials Fund created by the bill to fund school districts' Instructional Materials Allotment.

Under current law, the Legislature appropriates a portion of the ASF revenues available to fund instructional materials and the technology allotment, and the remainder is used as a method of financing the Foundation School Program (FSP). To the extent that more or less ASF is used for instructional materials, more or less funding from Fund 193, Foundation School Fund (General Revenue) is required to fund the state's obligations under the FSP.

For purposes of this estimate, it is assumed that the distribution from the PSF to the ASF is 4.2 percent of the 16-quarter trailing average value of the fund for fiscal years 2012 and 2013 and 3.5 percent in each subsequent fiscal year. An annual rate of return on investment of 8.0 percent is also assumed. These assumptions yield a distribution of \$943.2 million annually in fiscal years 2012 and 2013, \$901.3 million annually in fiscal years 2014 and 2015, and \$973.4 million in fiscal year 2016.

For purposes of determining current law instructional materials costs, instructional materials under Proclamation 2011 (English Language Arts and Reading, part 2) are estimated to cost \$430.0 million and are assumed to enter classrooms in fiscal year 2012. For purposes of this estimate, it is assumed that instructional materials under Proclamation 2012 (Science), which were scheduled to be purchased in fiscal year 2013, but were postponed by the State Board of Education, would be purchased in fiscal year 2014 at a cost of \$343.5 million. It is assumed that Proclamation 2013 (Social Studies) materials would be purchased in fiscal year 2015 at a cost of \$571.9 million, and that Proclamation 2014 (Career and Technical Education and Technology Applications) materials would be purchased in fiscal year 2014 at a cost of \$155.4 million.

Based on the statutory formula of \$30 per student in average daily attendance (ADA), Technology Allotment costs under current law are estimated at \$138.6 million in fiscal year 2012, increasing to \$148.7 million by fiscal year 2016.

Based on these assumptions, the total costs of instructional materials, including continuing contracts, and the technology allotment under current law are estimated at \$758.7 million in fiscal year 2012, \$344.1 million in fiscal year 2013, \$694.8 million in fiscal year 2014, \$927.8 million in fiscal year 2015, and \$521.0 million in fiscal year 2016. Deducting these estimated costs from the total estimated distribution from the PSF to the ASF yields the amount that would serve as a method of financing the Foundation School Program in each year, estimated at \$184.5 million in fiscal year 2012, \$599.1 million in fiscal year 2013, \$206.4 million in fiscal year 2014, (\$26.6 million) in fiscal year 2015, and \$452.3 million in fiscal year 2016. In the case of fiscal year 2015, when the estimated cost of instructional materials exceeds the estimated distribution from the PSF to the ASF, other revenues that are deposited to the ASF make up the difference. These funds would otherwise serve as a method of financing the FSP.

Under the provisions of the bill, the amount of ASF used for instructional materials would be limited to 50 percent of the PSF distribution to the ASF. Based on the methodology described above, it is estimated that the amount of ASF available as a method of financing the FSP would change as follows: increase by \$287.1 million in fiscal year 2012, decrease by \$127.5 million in fiscal year 2013, increase by \$244.2 million in fiscal year 2014, increase by \$477.2 million in fiscal year 2015, and increase by \$34.5 million in fiscal year 2016. Increases in ASF available for financing the FSP yield savings to Fund 193 in like amounts, and decreases in ASF available for financing the FSP yield cost to Fund 193 in like amounts.

Note that estimates of current law instructional materials and technology allotment cost are made without consideration of current legislative deliberations regarding the budget for the 2012-13 biennium. To the extent that less funding is provided relative to costs identified above, the savings or costs attributable to the provisions of this bill would vary.

In addition to savings and costs associated with the FSP, the Texas Education Agency estimates that 1.75 contract FTEs in fiscal year 2012 and 0.5 contract FTEs in each subsequent fiscal year would be required to implement changes to the Educational Materials Online (EMAT) system at an estimated cost of \$282,650 in fiscal year 2012 and \$49,730 in each subsequent fiscal year.

Technology

The Texas Education Agency estimates that 1.75 contract FTEs in fiscal year 2012 and 0.5 contract FTEs in each subsequent fiscal year would be required to implement changes to the Educational Materials Online (EMAT) system at an estimated cost of \$282,650 in fiscal year 2012 and \$49,730 in each subsequent fiscal year.

Local Government Impact

The provisions of this bill would fundamentally change the way school districts order instructional materials. School districts would order instructional materials based on the availability of funds in the district's instructional materials account instead of based on enrollment figures. There would be additional flexibility on how the funds were expended as long as the expenditures were for allowable expenses. School districts would be required to annually certify that the district's IMA had been used only for allowable expenses. School districts would be permitted to charge a fee to students to cover the cost of insurance on lost, damaged, or stolen technological equipment.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, LXH, JGM, JSc

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 22, 2011

TO: Honorable Rob Eissler, Chair, House Committee on Public Education

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB6 by Eissler (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.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB6, As Introduced: a positive impact of \$159,289,340 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$286,848,760
2013	(\$127,559,420)
2014	\$244,154,627
2015	\$477,138,156
2016	\$34,318,188

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>State Textbook Fund</i> 3	Probable Savings/(Cost) from <i>Foundation School Fund</i> 193	Change in Number of State Employees from FY 2011
2012	(\$282,650)	\$287,131,410	1.8
2013	(\$49,730)	(\$127,509,690)	0.5
2014	(\$49,730)	\$244,204,357	0.5
2015	(\$49,730)	\$477,187,886	0.5
2016	(\$49,730)	\$34,367,918	0.5

Fiscal Analysis

The bill would establish an instructional materials allotment to which school districts and open-enrollment charter schools would be entitled. School districts would be entitled to an allotment per enrolled student based on the amount of funds available in the Instructional Materials Fund (created in the bill) as determined by appropriation and student enrollment in the prior school year on a date established by the Commissioner of Education. The bill provides for adjustments to the student enrollment count used for purposes of determining a school district's entitlement to Instructional Materials Allotment funds based on student population growth or decline. Such adjustments may be requested by a school district or determined by the Commissioner without a request.

The bill would establish instructional materials accounts for each school district into which Instructional Materials Allotment funds would be deposited. Funds in the account would be available to school districts for permissible purchases throughout the biennium in which they were appropriated and could be carried forward to the next biennium.

School districts would be permitted to purchase materials adopted by the State Board of Education, materials on the Commissioner's list of electronic materials, open-source materials, consumable materials and other materials subject to a continuing contract, and technological equipment using Instructional Materials Allotment funds.

The bill would limit allowable purchases for the 2012-13 biennium to materials adopted under Proclamation 2011 and continuing contracts.

The bill would direct the Commissioner to maintain an online requisition system for instructional materials.

The bill would amend provisions related to the sale of textbooks to allow proceeds from permissible sales of instructional material or electronic equipment to be used by the school district to purchase instructional materials or technological equipment.

The bill would direct the State Board of Education to set aside 50 percent of the annual distribution from the Permanent School Fund to the Available School Fund each biennium to be deposited to the Instructional Materials Fund, subject to appropriation in the General Appropriations Act.

The bill would repeal provisions related to limitations on the cost of instructional materials, textbook credits, requirements that publishers maintain a textbook depository, the technology allotment, and the education internet portal.

The bill would repeal the Technology Allotment.

Methodology

The bill would direct that 50 percent of the annual distribution from the Permanent School Fund (PSF) to the Available School Fund (ASF) be deposited into the Instructional Materials Fund created by the bill to fund school districts' Instructional Materials Allotment.

Under current law, the Legislature appropriates a portion of the ASF revenues available to fund instructional materials and the technology allotment, and the remainder is used as a method of financing the Foundation School Program (FSP). To the extent that more or less ASF is used for instructional materials, more or less funding from Fund 193, Foundation School Fund (General Revenue) is required to fund the state's obligations under the FSP.

For purposes of this estimate, it is assumed that the distribution from the PSF to the ASF is 4.2 percent of the 16-quarter trailing average value of the fund for fiscal years 2012 and 2013 and 3.5 percent in each subsequent fiscal year. An annual rate of return on investment of 8.0 percent is also assumed. These assumptions yield a distribution of \$943.2 million annually in fiscal years 2012 and 2013, \$901.3 million annually in fiscal years 2014 and 2015, and \$973.4 million in fiscal year 2016.

For purposes of determining current law instructional materials costs, instructional materials under Proclamation 2011 (English Language Arts and Reading, part 2) are estimated to cost \$430.0 million and are assumed to enter classrooms in fiscal year 2012. For purposes of this estimate, it is assumed that instructional materials under Proclamation 2012 (Science), which were scheduled to be purchased in fiscal year 2013, but were postponed by the State Board of Education, would be purchased in fiscal year 2014 at a cost of \$343.5 million. It is assumed that Proclamation 2013 (Social Studies) materials would be purchased in fiscal year 2015 at a cost of \$571.9 million, and that Proclamation 2014 (Career and Technical Education and Technology Applications) materials would be purchased in fiscal year 2014 at a cost of \$155.4 million.

Based on the statutory formula of \$30 per student in average daily attendance (ADA), Technology

Allotment costs under current law are estimated at \$138.6 million in fiscal year 2012, increasing to \$148.7 million by fiscal year 2016.

Based on these assumptions, the total costs of instructional materials, including continuing contracts, and the technology allotment under current law are estimated at \$758.7 million in fiscal year 2012, \$344.1 million in fiscal year 2013, \$694.8 million in fiscal year 2014, \$927.8 million in fiscal year 2015, and \$521.0 million in fiscal year 2016. Deducting these estimated costs from the total estimated distribution from the PSF to the ASF yields the amount that would serve as a method of financing the Foundation School Program in each year, estimated at \$184.5 million in fiscal year 2012, \$599.1 million in fiscal year 2013, \$206.4 million in fiscal year 2014, (\$26.6 million) in fiscal year 2015, and \$452.3 million in fiscal year 2016. In the case of fiscal year 2015, when the estimated cost of instructional materials exceeds the estimated distribution from the PSF to the ASF, other revenues that are deposited to the ASF make up the difference. These funds would otherwise serve as a method of financing the FSP.

Under the provisions of the bill, the amount of ASF used for instructional materials would be limited to 50 percent of the PSF distribution to the ASF. Based on the methodology described above, it is estimated that the amount of ASF available as a method of financing the FSP would change as follows: increase by \$287.1 million in fiscal year 2012, decrease by \$127.5 million in fiscal year 2013, increase by \$244.2 million in fiscal year 2014, increase by \$477.2 million in fiscal year 2015, and increase by \$34.5 million in fiscal year 2016. Increases in ASF available for financing the FSP yield savings to Fund 193 in like amounts, and decreases in ASF available for financing the FSP yield cost to Fund 193 in like amounts.

Note that estimates of current law instructional materials and technology allotment cost are made without consideration of current legislative deliberations regarding the budget for the 2012-13 biennium. To the extent that less funding is provided relative to costs identified above, the savings or costs attributable to the provisions of this bill would vary.

In addition to savings and costs associated with the FSP, the Texas Education Agency estimates that 1.75 contract FTEs in fiscal year 2012 and 0.5 contract FTEs in each subsequent fiscal year would be required to implement changes to the Educational Materials Online (EMAT) system at an estimated cost of \$282,650 in fiscal year 2012 and \$49,730 in each subsequent fiscal year.

Technology

The Texas Education Agency estimates that 1.75 contract FTEs in fiscal year 2012 and 0.5 contract FTEs in each subsequent fiscal year would be required to implement changes to the Educational Materials Online (EMAT) system at an estimated cost of \$282,650 in fiscal year 2012 and \$49,730 in each subsequent fiscal year.

Local Government Impact

The provisions of this bill would fundamentally change the way school districts order instructional materials. School districts would order instructional materials based on the availability of funds in the district's instructional materials account instead of based on enrollment figures. There would be additional flexibility on how the funds were expended as long as the expenditures were for allowable expenses. School districts would be required to annually certify that the district's IMA had been used only for allowable expenses.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, LXH, JGM, JSc