

1-1 By: Taylor of Galveston S.B. No. 1481
 1-2 (In the Senate - Filed March 8, 2017; March 20, 2017, read
 1-3 first time and referred to Committee on Education; April 24, 2017,
 1-4 reported adversely, with favorable Committee Substitute by the
 1-5 following vote: Yeas 11, Nays 0; April 24, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Taylor of Galveston	X			
1-8 Lucio	X			
1-9 Bettencourt	X			
1-10 Campbell	X			
1-11 Hall	X			
1-12 Huffines	X			
1-13 Hughes	X			
1-14 Seliger	X			
1-15 Taylor of Collin	X			
1-16 Uresti	X			
1-17 West	X			

1-19 COMMITTEE SUBSTITUTE FOR S.B. No. 1481 By: Taylor of Galveston

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to the instructional materials and technology allotment,
 1-23 open education resource instructional materials, and the State
 1-24 Board of Education long-range technology plan.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 31.001, Education Code, is amended to
 1-27 read as follows:

1-28 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS. Instructional
 1-29 materials selected for use in the public schools shall be furnished
 1-30 without cost to the students attending those schools. Except as
 1-31 provided by Section 31.104(d), a school district may not charge a
 1-32 student for instructional material or technological equipment
 1-33 purchased by the district with the district's instructional
 1-34 materials and technology allotment.

1-35 SECTION 2. Sections 31.002(1) and (1-a), Education Code,
 1-36 are amended to read as follows:

1-37 (1) "Instructional material" means content that
 1-38 conveys the essential knowledge and skills of a subject in the
 1-39 public school curriculum through a medium or a combination of media
 1-40 for conveying information to a student. The term includes a book,
 1-41 supplementary materials, a combination of a book, workbook, and
 1-42 supplementary materials, computer software, magnetic media, DVD,
 1-43 CD-ROM, computer courseware, on-line services, or an electronic
 1-44 medium, or other means of conveying information to the student or
 1-45 otherwise contributing to the learning process through electronic
 1-46 means, including open education resource [~~open-source~~]
 1-47 instructional material.

1-48 (1-a) "Open education resource [~~Open-source~~]
 1-49 instructional material" means teaching, learning, and research
 1-50 resources that reside in the public domain or have been released
 1-51 under an intellectual property license that allows for free use,
 1-52 reuse, modification, and sharing with others, including full
 1-53 courses, course materials, modules, textbooks, streaming videos,
 1-54 tests, software, and any other tools, materials, or techniques used
 1-55 to support access to knowledge [~~electronic instructional material~~
 1-56 ~~that is available for downloading from the Internet at no charge to~~
 1-57 ~~a student and without requiring the purchase of an unlock code,~~
 1-58 ~~membership, or other access or use charge, except for a charge to~~
 1-59 ~~order an optional printed copy of all or part of the instructional~~
 1-60 ~~material~~]. The term includes state-developed open education

2-1 resource [~~open-source~~] instructional material purchased under
2-2 Subchapter B-1.

2-3 SECTION 3. Section 31.004(b), Education Code, is amended to
2-4 read as follows:

2-5 (b) To determine whether each student has instructional
2-6 materials that cover all elements of the essential knowledge and
2-7 skills as required by Subsection (a), a school district or
2-8 open-enrollment charter school may consider:

2-9 (1) instructional materials adopted by the State Board
2-10 of Education;

2-11 (2) materials adopted or purchased by the commissioner
2-12 under Section 31.0231 or Subchapter B-1;

2-13 (3) open education resource [~~open-source~~]
2-14 instructional materials submitted by eligible institutions and
2-15 adopted by the State Board of Education under Section 31.0241;

2-16 (4) open education resource [~~open-source~~]
2-17 instructional materials made available by other public schools; and

2-18 (5) instructional materials developed or purchased by
2-19 the school district or open-enrollment charter school.

2-20 SECTION 4. Sections 31.005 and 31.021, Education Code, are
2-21 amended to read as follows:

2-22 Sec. 31.005. FUNDING FOR OPEN-ENROLLMENT CHARTER SCHOOLS.
2-23 An open-enrollment charter school is entitled to the instructional
2-24 materials and technology allotment under this chapter and is
2-25 subject to this chapter as if the school were a school district.

2-26 Sec. 31.021. STATE INSTRUCTIONAL MATERIALS AND TECHNOLOGY
2-27 FUND. (a) The state instructional materials and technology fund
2-28 consists of:

2-29 (1) an amount set aside by the State Board of Education
2-30 from the available school fund, in accordance with Section
2-31 43.001(d); and

2-32 (2) all amounts lawfully paid into the fund from any
2-33 other source.

2-34 (c) Money in the state instructional materials and
2-35 technology fund shall be used to:

2-36 (1) fund the instructional materials and technology
2-37 allotment, as provided by Section 31.0211;

2-38 (2) purchase special instructional materials for the
2-39 education of blind and visually impaired students in public
2-40 schools;

2-41 (3) pay the expenses associated with the instructional
2-42 materials adoption and review process under this chapter;

2-43 (4) pay the expenses associated with the purchase or
2-44 licensing of open education resource [~~open-source~~] instructional
2-45 material;

2-46 (5) pay the expenses associated with the purchase of
2-47 instructional material, including intrastate freight and shipping
2-48 and the insurance expenses associated with intrastate freight and
2-49 shipping; and

2-50 (6) [~~fund the technology lending grant program~~
2-51 ~~established under Section 32.201, and~~

2-52 [~~(7)~~] provide funding to the Texas School for the
2-53 Blind and Visually Impaired, the Texas School for the Deaf, and the
2-54 Texas Juvenile Justice Department.

2-55 (d) Money transferred to the state instructional materials
2-56 and technology fund remains in the fund until spent and does not
2-57 lapse to the state at the end of the fiscal year.

2-58 SECTION 5. The heading to Section 31.0211, Education Code,
2-59 is amended to read as follows:

2-60 Sec. 31.0211. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
2-61 ALLOTMENT.

2-62 SECTION 6. Sections 31.0211(a), (b), and (c), Education
2-63 Code, are amended to read as follows:

2-64 (a) A school district is entitled to an allotment each
2-65 biennium from the state instructional materials and technology fund
2-66 for each student enrolled in the district on a date during the last
2-67 year of the preceding biennium specified by the commissioner. The
2-68 commissioner shall determine the amount of the allotment per
2-69 student each biennium on the basis of the amount of money available

3-1 in the state instructional materials and technology fund to fund
3-2 the allotment. An allotment under this section shall be
3-3 transferred from the state instructional materials and technology
3-4 fund to the credit of the district's instructional materials and
3-5 technology account as provided by Section 31.0212.

3-6 (b) A juvenile justice alternative education program under
3-7 Section 37.011 is entitled to an allotment from the state
3-8 instructional materials and technology fund in an amount determined
3-9 by the commissioner. The program shall use the allotment to
3-10 purchase items listed in Subsection (c) for students enrolled in
3-11 the program. The commissioner's determination under this
3-12 subsection is final and may not be appealed.

3-13 (c) Subject to Subsection (d), funds allotted under this
3-14 section may be used to:

3-15 (1) purchase:

3-16 (A) materials on the list adopted by the
3-17 commissioner, as provided by Section 31.0231;

3-18 (B) instructional materials, regardless of
3-19 whether the instructional materials are on the list adopted under
3-20 Section 31.024;

3-21 (C) consumable instructional materials,
3-22 including workbooks;

3-23 (D) instructional materials for use in bilingual
3-24 education classes, as provided by Section 31.029;

3-25 (E) instructional materials for use in college
3-26 preparatory courses under Section 28.014, as provided by Section
3-27 31.031;

3-28 (F) supplemental instructional materials, as
3-29 provided by Section 31.035;

3-30 (G) state-developed open education resource
3-31 [~~open-source~~] instructional materials, as provided by Subchapter
3-32 B-1;

3-33 (H) instructional materials and technological
3-34 equipment under any continuing contracts of the district in effect
3-35 on September 1, 2011; and

3-36 (I) technological equipment necessary to support
3-37 the use of materials included on the list adopted by the
3-38 commissioner under Section 31.0231 or any instructional materials
3-39 purchased with an allotment under this section; and

3-40 (2) pay:

3-41 (A) for training educational personnel directly
3-42 involved in student learning in the appropriate use of
3-43 instructional materials and for providing for access to
3-44 technological equipment for instructional use; and

3-45 (B) the salary and other expenses of an employee
3-46 who provides technical support for the use of technological
3-47 equipment directly involved in student learning.

3-48 SECTION 7. The heading to Section 31.0212, Education Code,
3-49 is amended to read as follows:

3-50 Sec. 31.0212. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
3-51 ACCOUNT.

3-52 SECTION 8. Sections 31.0212(a), (b), (d), and (e),
3-53 Education Code, are amended to read as follows:

3-54 (a) The commissioner shall maintain an instructional
3-55 materials and technology account for each school district. In the
3-56 first year of each biennium, the commissioner shall deposit in the
3-57 account for each district the amount of the district's
3-58 instructional materials and technology allotment under Section
3-59 31.0211.

3-60 (b) The commissioner shall pay the cost of instructional
3-61 materials requisitioned by a school district under Section 31.103
3-62 using funds from the district's instructional materials and
3-63 technology account.

3-64 (d) Money deposited in a school district's instructional
3-65 materials and technology account during each state fiscal biennium
3-66 remains in the account and available for use by the district for the
3-67 entire biennium. At the end of each biennium, a district with
3-68 unused money in the district's account may carry forward any
3-69 remaining balance to the next biennium.

4-1 (e) The commissioner shall adopt rules as necessary to
4-2 implement this section. The rules must include a requirement that a
4-3 school district:

4-4 (1) provide the title and publication information for
4-5 any instructional materials requisitioned or purchased by the
4-6 district with the district's instructional materials and
4-7 technology allotment; and

4-8 (2) certify that the use of open education resource
4-9 instructional material was considered as required by Section
4-10 31.101(b).

4-11 SECTION 9. Section 31.0213, Education Code, is amended to
4-12 read as follows:

4-13 Sec. 31.0213. CERTIFICATION OF USE OF INSTRUCTIONAL
4-14 MATERIALS AND TECHNOLOGY ALLOTMENT. Each school district shall
4-15 annually certify to the commissioner that the district's
4-16 instructional materials and technology allotment has been used only
4-17 for expenses allowed by Section 31.0211.

4-18 SECTION 10. Section 31.0214(a), Education Code, is amended
4-19 to read as follows:

4-20 (a) Each year the commissioner shall adjust the
4-21 instructional materials and technology allotment of school
4-22 districts experiencing high enrollment growth. The commissioner
4-23 shall establish a procedure for determining high enrollment growth
4-24 districts eligible to receive an adjustment under this section and
4-25 the amount of the instructional materials and technology allotment
4-26 those districts will receive.

4-27 SECTION 11. The heading to Section 31.0215, Education Code,
4-28 is amended to read as follows:

4-29 Sec. 31.0215. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
4-30 [MATERIAL] ALLOTMENT PURCHASES.

4-31 SECTION 12. Sections 31.0215(b) and (c), Education Code,
4-32 are amended to read as follows:

4-33 (b) The commissioner may allow a school district or
4-34 open-enrollment charter school to place an order for instructional
4-35 materials before the beginning of a fiscal biennium and to receive
4-36 instructional materials before payment. The commissioner shall
4-37 limit the cost of an order placed under this section to 80 percent
4-38 of the estimated amount to which a school district or
4-39 open-enrollment charter school is estimated to be entitled as
4-40 provided by Subsection (a) and shall first credit any balance in a
4-41 district or charter school instructional materials and technology
4-42 account to pay for an order placed under this section.

4-43 (c) The commissioner shall make payments for orders placed
4-44 under this section as funds become available to the instructional
4-45 materials and technology fund and shall prioritize payment of
4-46 orders placed under this section over reimbursement of purchases
4-47 made directly by a school district or open-enrollment charter
4-48 school.

4-49 SECTION 13. Section 31.022, Education Code, is amended by
4-50 amending Subsection (d) and adding Subsections (g) and (h) to read
4-51 as follows:

4-52 (d) At least 12 months before the beginning of the school
4-53 year for which instructional materials for a particular subject and
4-54 grade level will be adopted under the review and adoption cycle, the
4-55 board shall publish notice of the review and adoption cycle for
4-56 those instructional materials. A request for production must allow
4-57 submission of open education resource [~~open-source~~] instructional
4-58 materials that are available for use by the state without charge on
4-59 the same basis as instructional materials offered for sale.

4-60 (g) In reviewing and adopting instructional materials, the
4-61 board shall consider a school district's need for technology as
4-62 well as instructional materials and in any biennium may limit the
4-63 adoption of instructional materials to provide sufficient
4-64 resources to purchase technology resources, including digital
4-65 curriculum.

4-66 (h) The board shall include information regarding open
4-67 education resource instructional materials during the adoption
4-68 cycle, including any cost savings associated with the adoption of
4-69 open education resource instructional materials.

5-1 SECTION 14. Section 31.0231(b), Education Code, is amended
5-2 to read as follows:

5-3 (b) A school district may select material on the list
5-4 adopted under Subsection (a) to be funded by the district's
5-5 instructional materials and technology allotment under Section
5-6 31.0211.

5-7 SECTION 15. The heading to Section 31.0241, Education Code,
5-8 is amended to read as follows:

5-9 Sec. 31.0241. ADOPTION OF OPEN EDUCATION RESOURCE
5-10 [OPEN-SOURCE] INSTRUCTIONAL MATERIALS.

5-11 SECTION 16. Section 31.0241(b), Education Code, is amended
5-12 to read as follows:

5-13 (b) The State Board of Education shall place open education
5-14 resource ~~[open-source]~~ instructional material for a
5-15 secondary-level course submitted for adoption by an eligible
5-16 institution on the list adopted under Section 31.023 if:

5-17 (1) the instructional material is written, compiled,
5-18 or edited primarily by faculty of the eligible institution who
5-19 specialize in the subject area of the instructional material;

5-20 (2) the eligible institution identifies each
5-21 contributing author;

5-22 (3) the appropriate department of the eligible
5-23 institution certifies the instructional material for accuracy; and

5-24 (4) the eligible institution determines that the
5-25 instructional material qualifies for placement on the list based on
5-26 the extent to which the instructional material covers the essential
5-27 knowledge and skills identified under Section 28.002 for the
5-28 subject for which the instructional material is written and
5-29 certifies that:

5-30 (A) for instructional material for a
5-31 senior-level course, a student who successfully completes a course
5-32 based on the instructional material will be prepared, without
5-33 remediation, for entry into the eligible institution's
5-34 freshman-level course in that subject; or

5-35 (B) for instructional material for a
5-36 junior-level and senior-level course, a student who successfully
5-37 completes the junior-level course based on the instructional
5-38 material will be prepared for entry into the senior-level course.

5-39 SECTION 17. Section 31.0242, Education Code, is amended to
5-40 read as follows:

5-41 Sec. 31.0242. REVIEW OF OPEN EDUCATION RESOURCE
5-42 [OPEN-SOURCE] INSTRUCTIONAL MATERIAL. Not later than the 90th day
5-43 after the date open education resource ~~[open-source]~~ instructional
5-44 material is submitted as provided by Section 31.0241, the State
5-45 Board of Education may review the instructional material. The
5-46 board shall:

5-47 (1) post with the list adopted under Section 31.023
5-48 comments made by the board regarding the open education resource
5-49 ~~[open-source]~~ instructional material placed on the list; and

5-50 (2) distribute board comments to school districts.

5-51 SECTION 18. Section 31.026(d), Education Code, is amended
5-52 to read as follows:

5-53 (d) This section does not apply to open education resource
5-54 ~~[open-source]~~ instructional material.

5-55 SECTION 19. Section 31.0261, Education Code, is amended to
5-56 read as follows:

5-57 Sec. 31.0261. CONTRACTS FOR PRINTING OF OPEN EDUCATION
5-58 RESOURCE ~~[OPEN-SOURCE]~~ INSTRUCTIONAL MATERIALS. The State Board of
5-59 Education may execute a contract for the printing of open education
5-60 resource ~~[open-source]~~ instructional materials placed on the list
5-61 adopted under Section 31.023. The contract must allow a school
5-62 district to requisition printed copies of open education resource
5-63 ~~[open-source]~~ instructional materials as provided by Section
5-64 31.103.

5-65 SECTION 20. Section 31.027(c), Education Code, is amended
5-66 to read as follows:

5-67 (c) This section does not apply to open education resource
5-68 ~~[open-source]~~ instructional material.

5-69 SECTION 21. Section 31.029(a), Education Code, is amended

6-1 to read as follows:

6-2 (a) A school district shall purchase with the district's
6-3 instructional materials and technology allotment or otherwise
6-4 acquire instructional materials for use in bilingual education
6-5 classes.

6-6 SECTION 22. Section 31.031(a), Education Code, is amended
6-7 to read as follows:

6-8 (a) A school district may purchase with the district's
6-9 instructional materials and technology allotment or otherwise
6-10 acquire instructional materials for use in college preparatory
6-11 courses under Section 28.014.

6-12 SECTION 23. The heading to Subchapter B-1, Chapter 31,
6-13 Education Code, is amended to read as follows:

6-14 SUBCHAPTER B-1. STATE-DEVELOPED OPEN EDUCATION RESOURCE
6-15 ~~[OPEN-SOURCE]~~ INSTRUCTIONAL MATERIALS

6-16 SECTION 24. Sections 31.071 and 31.072, Education Code, are
6-17 amended to read as follows:

6-18 Sec. 31.071. PURCHASE AUTHORITY. (a) The commissioner may
6-19 purchase state-developed open education resource ~~[open-source]~~
6-20 instructional materials in accordance with this subchapter.

6-21 (b) The commissioner:

6-22 (1) shall purchase any state-developed open education
6-23 resource ~~[open-source]~~ instructional materials through a
6-24 competitive process; and

6-25 (2) may purchase more than one state-developed open
6-26 education resource ~~[open-source]~~ instructional material for a
6-27 subject or grade level.

6-28 (c) State-developed open education resource ~~[open-source]~~
6-29 instructional material must be irrevocably owned by or licensed to
6-30 the state for use in the applicable subject or grade level. The
6-31 state must have unlimited authority to modify, delete, combine, or
6-32 add content to the instructional material after purchase.

6-33 (d) The commissioner may issue a request for proposals for
6-34 state-developed open education resource ~~[open-source]~~
6-35 instructional material:

6-36 (1) in accordance with the instructional material
6-37 review and adoption cycle under Section 31.022; or

6-38 (2) at any other time the commissioner determines that
6-39 a need exists for additional instructional material options.

6-40 (e) The costs of administering this subchapter and
6-41 purchasing state-developed open education resource ~~[open-source]~~
6-42 instructional materials shall be paid from the state instructional
6-43 materials and technology fund, as determined by the commissioner.

6-44 Sec. 31.072. CONTENT REQUIREMENTS. (a) State-developed
6-45 open education resource ~~[open-source]~~ instructional material must:

6-46 (1) be evaluated by teachers or other experts, as
6-47 determined by the commissioner, before purchase; and

6-48 (2) meet the requirements for inclusion on the
6-49 instructional material list adopted under Section 31.023.

6-50 (b) Following a curriculum revision by the State Board of
6-51 Education, the commissioner shall require the revision of
6-52 state-developed open education resource ~~[open-source]~~
6-53 instructional material relating to that curriculum. The
6-54 commissioner may, at any time, require an additional revision of
6-55 state-developed open education resource ~~[open-source]~~
6-56 instructional material or contract for ongoing revisions of
6-57 state-developed open education resource ~~[open-source]~~
6-58 instructional material for a period not to exceed the period under
6-59 Section 31.022 for which instructional material for that subject
6-60 and grade level may be adopted. The commissioner shall use a
6-61 competitive process to request proposals to revise state-developed
6-62 open education resource ~~[open-source]~~ instructional material under
6-63 this subsection.

6-64 SECTION 25. Sections 31.073, 31.074, and 31.075, Education
6-65 Code, are amended to read as follows:

6-66 Sec. 31.073. SELECTION BY SCHOOL DISTRICT.

6-67 (c) Notwithstanding Section 31.022, a school district or
6-68 open-enrollment charter school may adopt state-developed open
6-69 education resource ~~[open-source]~~ instructional material at any

7-1 time, regardless of the instructional material review and adoption
7-2 cycle under that section.

7-3 (d) A school district or open-enrollment charter school may
7-4 not be charged for selection of state-developed open education
7-5 resource [~~open-source~~] instructional material in addition to
7-6 instructional material adopted under Subchapter B.

7-7 Sec. 31.074. DISTRIBUTION. (a) The commissioner shall
7-8 provide for the distribution of state-developed open education
7-9 resource [~~open-source~~] instructional materials in a manner
7-10 consistent with distribution of instructional materials adopted
7-11 under Subchapter B.

7-12 (b) The commissioner may use a competitive process to
7-13 contract for printing or other reproduction of state-developed open
7-14 education resource [~~open-source~~] instructional material on behalf
7-15 of a school district or open-enrollment charter school. The
7-16 commissioner may not require a school district or open-enrollment
7-17 charter school to contract with a state-approved provider for the
7-18 printing or reproduction of state-developed open education
7-19 resource [~~open-source~~] instructional material.

7-20 Sec. 31.075. OWNERSHIP; LICENSING. (a) State-developed
7-21 open education resource [~~open-source~~] instructional material is
7-22 the property of the state.

7-23 (b) The commissioner shall provide a license to each public
7-24 school in the state, including a school district, an
7-25 open-enrollment charter school, and a state or local agency
7-26 educating students in any grade from prekindergarten through high
7-27 school, to use and reproduce state-developed open education
7-28 resource [~~open-source~~] instructional material.

7-29 (c) The commissioner may provide a license to use
7-30 state-developed open education resource [~~open-source~~]
7-31 instructional material to an entity not listed in Subsection (b).
7-32 In determining the cost of a license under this subsection, the
7-33 commissioner shall seek, to the extent feasible, to recover the
7-34 costs of developing, revising, and distributing state-developed
7-35 open education resource [~~open-source~~] instructional materials.

7-36 SECTION 26. Section 31.076(b), Education Code, is amended
7-37 to read as follows:

7-38 (b) A decision by the commissioner regarding the purchase,
7-39 revision, cost, or distribution of state-developed open education
7-40 resource [~~open-source~~] instructional material is final and may not
7-41 be appealed.

7-42 SECTION 27. Section 31.077, Education Code, is amended to
7-43 read as follows:

7-44 Sec. 31.077. ADOPTION SCHEDULE. The commissioner shall
7-45 develop a schedule for the adoption of state-developed open
7-46 education resource [~~open-source~~] instructional materials under
7-47 this subchapter. In developing the adoption schedule under this
7-48 section, the commissioner shall consider:

7-49 (1) the availability of funds;
7-50 (2) the existing instructional material adoption
7-51 cycles under Subchapter B; and

7-52 (3) the availability of instructional materials for
7-53 development or purchase by the state.

7-54 SECTION 28. Section 31.101, Education Code, is amended by
7-55 adding Subsection (b) and amending Subsection (f) to read as
7-56 follows:

7-57 (b) In selecting instructional material each year, a school
7-58 district or open-enrollment charter school must consider the use of
7-59 open education resource instructional materials and must certify to
7-60 the State Board of Education that the district considered the
7-61 selection of open education resource instructional materials.

7-62 (f) The commissioner shall maintain an online requisition
7-63 system for school districts to requisition instructional materials
7-64 to be purchased with the district's instructional materials and
7-65 technology allotment.

7-66 SECTION 29. Section 31.103(d), Education Code, is amended
7-67 to read as follows:

7-68 (d) A school district or open-enrollment charter school
7-69 that selects open education resource [~~open-source~~] instructional

8-1 material shall requisition a sufficient number of printed copies
 8-2 for use by students unable to access the instructional material
 8-3 electronically unless the district or school provides to each
 8-4 student:

8-5 (1) electronic access to the instructional material at
 8-6 no cost to the student; or

8-7 (2) printed copies of the portion of the instructional
 8-8 material that will be used in the course.

8-9 SECTION 30. Sections 31.104(b), (g), and (h), Education
 8-10 Code, are amended to read as follows:

8-11 (b) A school district or open-enrollment charter school may
 8-12 order replacements for instructional materials that have been lost
 8-13 or damaged directly from the publisher of the instructional
 8-14 materials or any source for a printed copy of open education
 8-15 resource [~~open-source~~] instructional material.

8-16 (g) At the end of the school year for which open education
 8-17 resource [~~open-source~~] instructional material that a school
 8-18 district or open-enrollment charter school does not intend to use
 8-19 for another student is distributed, the printed copy of the open
 8-20 education resource [~~open-source~~] instructional material becomes
 8-21 the property of the student to whom it is distributed.

8-22 (h) This section does not apply to an electronic copy of
 8-23 open education resource [~~open-source~~] instructional material.

8-24 SECTION 31. Sections 31.151(d) and (e), Education Code, are
 8-25 amended to read as follows:

8-26 (d) A penalty collected under this section shall be
 8-27 deposited to the credit of the state instructional materials and
 8-28 technology fund.

8-29 (e) An eligible institution, as defined by Section
 8-30 31.0241(a), that offers open education resource [~~open-source~~]
 8-31 instructional materials under Section 31.0241 is not a publisher or
 8-32 manufacturer for purposes of this section.

8-33 SECTION 32. Section 32.001(b), Education Code, is amended
 8-34 to read as follows:

8-35 (b) The State Board of Education shall update [~~as necessary~~]
 8-36 the plan developed under Subsection (a) at least every five years.

8-37 SECTION 33. Section 41.124(c), Education Code, is amended
 8-38 to read as follows:

8-39 (c) A school district that receives tuition for a student
 8-40 from a school district with a wealth per student that exceeds the
 8-41 equalized wealth level may not claim attendance for that student
 8-42 for purposes of Chapters 42 and 46 and the instructional materials
 8-43 and technology allotment under Section 31.0211.

8-44 SECTION 34. Section 43.001(d), Education Code, is amended
 8-45 to read as follows:

8-46 (d) Each biennium the State Board of Education shall set
 8-47 aside an amount equal to 50 percent of the distribution for that
 8-48 biennium from the permanent school fund to the available school
 8-49 fund as provided by Section 5(a), Article VII, Texas Constitution,
 8-50 to be placed, subject to the General Appropriations Act, in the
 8-51 state instructional materials and technology fund established
 8-52 under Section 31.0211.

8-53 SECTION 35. Section 403.093(d), Government Code, is amended
 8-54 to read as follows:

8-55 (d) The comptroller shall transfer from the general revenue
 8-56 fund to the foundation school fund an amount of money necessary to
 8-57 fund the foundation school program as provided by Chapter 42,
 8-58 Education Code. The comptroller shall make the transfers in
 8-59 installments as necessary to comply with Section 42.259, Education
 8-60 Code, and permit the Texas Education Agency, to the extent
 8-61 authorized by the General Appropriations Act, to make temporary
 8-62 transfers from the foundation school fund for payment of the
 8-63 instructional materials and technology allotment under Section
 8-64 31.0211, Education Code. Unless an earlier date is necessary for
 8-65 purposes of temporary transfers for payment of the instructional
 8-66 materials and technology allotment, an installment must be made not
 8-67 earlier than two days before the date an installment to school
 8-68 districts is required by Section 42.259, Education Code, and must
 8-69 not exceed the amount necessary for that payment and any temporary

9-1 transfers for payment of the instructional materials and technology
9-2 allotment.

9-3 SECTION 36. This Act takes effect immediately if it
9-4 receives a vote of two-thirds of all the members elected to each
9-5 house, as provided by Section 39, Article III, Texas Constitution.
9-6 If this Act does not receive the vote necessary for immediate
9-7 effect, this Act takes effect September 1, 2017.

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