

By: Taylor of Galveston  
(Huberty)

S.B. No. 1784

A BILL TO BE ENTITLED

AN ACT

relating to state-developed open-source instructional material for public schools.

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

SECTION 1. Section 31.002(1-a), Education Code, is amended to read as follows:

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

SECTION 2. Section 31.021(c), Education Code, is amended to read as follows:

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

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

3 (2) purchase special instructional materials for the  
4 education of blind and visually impaired students in public  
5 schools;

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

8 (4) pay the expenses associated with the purchase or  
9 licensing of open-source instructional material;

10 (5) pay the expenses associated with the purchase of  
11 instructional material, including intrastate freight and shipping  
12 and the insurance expenses associated with intrastate freight and  
13 shipping; and

14 (6) ~~[fund the technology lending grant program~~  
15 ~~established under Section 32.201; and~~

16 ~~[(7)]~~ provide funding to the Texas School for the  
17 Blind and Visually Impaired, the Texas School for the Deaf, and the  
18 Texas Juvenile Justice Department.

19 SECTION 3. Section 31.071(c), Education Code, is amended to  
20 read as follows:

21 (c) Except as provided by Section 31.0711, a  
22 state-developed ~~[State-developed]~~ open-source instructional  
23 material must be irrevocably owned by ~~[or licensed to]~~ the state  
24 ~~[for use in the applicable subject or grade level]~~. The state must  
25 have unlimited authority to modify, delete, combine, or add content  
26 to the instructional material after purchase.

27 SECTION 4. Subchapter B-1, Chapter 31, Education Code, is

1 amended by adding Section 31.0711 to read as follows:

2 Sec. 31.0711. CONTENT NOT OWNED BY STATE. (a) A  
3 state-developed open-source instructional material may include  
4 content not owned by the state and for which preexisting rights may  
5 exist if the content:

6 (1) is in the public domain;

7 (2) may be used under a limitation or exception to  
8 copyright law, including a limitation under Section 107, Copyright  
9 Act of 1976 (17 U.S.C. Section 107); or

10 (3) is licensed to the state for use in an open-source  
11 instructional material.

12 (b) A license described by Subsection (a)(3) must:

13 (1) grant the state unlimited authority to modify,  
14 delete, combine, or add content; and

15 (2) permit the free use and repurposing of the  
16 material by any person.

17 SECTION 5. Section 31.075, Education Code, is amended by  
18 amending Subsections (b) and (c) and adding Subsections (d), (e),  
19 and (f) to read as follows:

20 (b) To encourage the use of state-developed open-source  
21 instructional materials by school districts and open-enrollment  
22 charter schools, the [The] commissioner shall provide a license for  
23 a state-developed open-source instructional material that allows  
24 for the free use, reuse, modification, or sharing of the material by  
25 any person ~~[to each public school in the state, including a school~~  
26 ~~district, an open-enrollment charter school, and a state or local~~  
27 ~~agency educating students in any grade from prekindergarten through~~

1 ~~high school, to use and reproduce state-developed open-source~~  
2 ~~instructional material]~~.

3 (c) A license provided by the commissioner under this  
4 section:

5 (1) unless exempted by the commissioner, shall require  
6 that a user who reproduces a state-developed open-source  
7 instructional material in any manner:

8 (A) except as provided by Subdivision (2)(A),  
9 must keep all copyright notices for the material intact;

10 (B) except as provided by Subdivision (2)(A),  
11 must attribute the authorship of the material to the agency or  
12 another person specified by the commissioner;

13 (C) must indicate if the user has modified the  
14 material;

15 (D) may not assert or imply any connection with  
16 or sponsorship or endorsement by the agency or this state, unless  
17 authorized by the commissioner; and

18 (E) must provide clear and conspicuous notice of  
19 how and where a person may obtain the material free of charge; and

20 (2) must provide that:

21 (A) the commissioner may request that a user  
22 remove a copyright notice or attribution from the material and that  
23 a user must comply with the request to the extent reasonably  
24 practicable; and

25 (B) the rights granted under the license to a  
26 user are automatically terminated if the user fails to comply with  
27 the terms of the license [~~The commissioner may provide a license to~~

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

7 (d) The commissioner shall determine what is considered  
8 reasonably practicable for purposes of Subsection (c)(2)(A).

9 (e) The commissioner may:

10 (1) specify requirements to reinstate a user's rights  
11 under a license that has been terminated; and

12 (2) reinstate a user's rights on completion of those  
13 requirements.

14 (f) The commissioner may use a license commonly applied to  
15 an open education resource in implementing this section.

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

18 (b) A decision by the commissioner regarding the purchase,  
19 revision, cost, licensing, or distribution of state-developed  
20 open-source instructional material is final and may not be  
21 appealed.

22 SECTION 7. Section 31.077, Education Code, is repealed.

23 SECTION 8. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2017.