

**House Bill 3526**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

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

No equivalent provision.

SENATE VERSION (IE)

SECTION 1. Same as House version.

CONFERENCE

SECTION \_\_. Section 31.004(b), Education Code, is amended to read as follows:

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

- (1) instructional materials adopted by the State Board of Education;
- (2) materials adopted or purchased by the commissioner under Section 31.0231 or Subchapter B-1;
- (3) open-source instructional materials submitted by eligible institutions and adopted by the State Board of Education under Section 31.0241;
- (4) open-source instructional materials made available by other public schools; ~~and~~
- (5) instructional materials developed or purchased by the school district or open-enrollment charter school; and
- (6) open educational resources and other electronic instructional materials included in the repository under Section 31.083. [FA1(2)]

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SECTION 2. Section 31.005, Education Code, is amended to read as follows:

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

SECTION 3. Section 31.021, Education Code, is amended to read as follows:

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

- (1) an amount set aside by the State Board of Education from the available school fund, in accordance with Section 43.001(d); and
- (2) all amounts lawfully paid into the fund from any other source.
- (c) Money in the state technology and instructional materials fund shall be used to:
  - (1) fund the technology and instructional materials allotment, as provided by Section 31.0211;
  - (2) purchase special instructional materials for the education of blind and visually impaired students in public schools;
  - (3) pay the expenses associated with the instructional materials adoption and review process under this chapter;
  - (4) pay the expenses associated with the purchase or licensing of open-source instructional material;
  - (5) pay the expenses associated with the purchase of instructional material, including intrastate freight and shipping and the insurance expenses associated with intrastate freight

SENATE VERSION (IE)

SECTION 2. Same as House version.

SECTION 3. Section 31.021, Education Code, is amended to read as follows:

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

- (1) an amount set aside by the State Board of Education from the available school fund, in accordance with Section 43.001(d); and
- (2) all amounts lawfully paid into the fund from any other source.
- (c) Money in the state technology and instructional materials fund shall be used to:
  - (1) fund the technology and instructional materials allotment, as provided by Section 31.0211;
  - (2) purchase special instructional materials for the education of blind and visually impaired students in public schools;
  - (3) pay the expenses associated with the instructional materials adoption and review process under this chapter;
  - (4) pay the expenses associated with the purchase or licensing of open-source instructional material;
  - (5) pay the expenses associated with the purchase of instructional material, including intrastate freight and shipping and the insurance expenses associated with intrastate freight

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and shipping;

(6) fund the technology lending grant program established under Section 32.201; and

(7) provide funding to the Texas School for the Blind and Visually Impaired, the Texas School for the Deaf, and the Texas Juvenile Justice Department.

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

SECTION 4. The heading to Section 31.0211, Education Code, is amended to read as follows:

Sec. 31.0211. TECHNOLOGY AND INSTRUCTIONAL MATERIALS ALLOTMENT.

SECTION 5. Sections 31.0211(a) and (b), Education Code, are amended to read as follows:

(a) A school district is entitled to an allotment each biennium from the state technology and instructional materials fund for each student enrolled in the district on a date during the last year of the preceding biennium specified by the commissioner. The commissioner shall determine the amount of the allotment per student each biennium on the basis of the amount of money available in the state technology and instructional materials fund to fund the allotment. An allotment under this section shall be transferred from the state technology and instructional materials fund to the credit of the

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and shipping;

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

~~(7)~~ provide funding to the Texas School for the Blind and Visually Impaired, the Texas School for the Deaf, and the Texas Juvenile Justice Department; and

(7) pay the expenses associated with the instructional materials web portal developed under Section 31.081.

[FA1(1)]

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

SECTION 4. Same as House version.

SECTION 5. Same as House version.

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district's technology and instructional materials account as provided by Section 31.0212.

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

SECTION 6. The heading to Section 31.0212, Education Code, is amended to read as follows:  
Sec. 31.0212. TECHNOLOGY AND INSTRUCTIONAL MATERIALS ACCOUNT.

SECTION 6. Same as House version.

SECTION 7. Sections 31.0212(a), (b), (d), and (e), Education Code, are amended to read as follows:

(a) The commissioner shall maintain a technology and ~~[an]~~ instructional materials account for each school district. In the first year of each biennium, the commissioner shall deposit in the account for each district the amount of the district's technology and instructional materials allotment under Section 31.0211.

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

(d) Money deposited in a school district's technology and instructional materials account during each state fiscal

SECTION 7. Same as House version.

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

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

SECTION 8. Section 31.0213, Education Code, is amended to read as follows:

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

SECTION 9. Section 31.0214(a), Education Code, is amended to read as follows:

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

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SECTION 8. Same as House version.

SECTION 9. Same as House version.

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SECTION 10. The heading to Section 31.0215, Education Code, is amended to read as follows:

Sec. 31.0215. TECHNOLOGY AND INSTRUCTIONAL MATERIALS ~~[MATERIAL]~~ ALLOTMENT PURCHASES.

SECTION 11. Sections 31.0215(b) and (c), Education Code, are amended to read as follows:

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

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

SECTION 12. Section 31.0231(b), Education Code, is amended to read as follows:

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

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SECTION 10. Same as House version.

SECTION 11. Same as House version.

SECTION 12. Same as House version.

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SECTION 13. Section 31.029(a), Education Code, is amended to read as follows:

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

SECTION 14. Section 31.031(a), Education Code, is amended to read as follows:

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

SECTION 15. Section 31.071(e), Education Code, is amended to read as follows:

(e) The costs of administering this subchapter and purchasing state-developed open-source instructional materials shall be paid from the state technology and instructional materials fund, as determined by the commissioner.

No equivalent provision.

SECTION 13. Same as House version.

SECTION 14. Same as House version.

SECTION 15. Same as House version.

SECTION \_\_. Chapter 31, Education Code, is amended by adding Subchapter B-2 to read as follows:

SUBCHAPTER B-2. INSTRUCTIONAL MATERIALS WEB PORTAL

Sec. 31.081. INSTRUCTIONAL MATERIALS WEB PORTAL. (a) The commissioner shall develop and maintain

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a web portal to assist school districts and open-enrollment charter schools in selecting instructional materials under Section 31.101.

(b) The web portal must include general information such as price, computer system requirements, and any other relevant specifications for each instructional material:

(1) on the instructional materials list, including the list adopted under Section 31.0231; or

(2) submitted by a publisher for inclusion in the web portal.

(c) The commissioner by rule shall establish the procedure by which a publisher may submit instructional materials for inclusion in the web portal.

(d) The commissioner shall use a competitive process to contract for the development of the web portal.

(e) The commissioner shall use money in the state technology and instructional materials fund to pay any expenses associated with the web portal.

Sec. 31.082. QUALITY OF INSTRUCTIONAL MATERIALS SUBMITTED BY PUBLISHER. (a) The commissioner shall contract with a private entity to conduct an independent analysis of each instructional material submitted by a publisher for inclusion in the web portal developed under Section 31.081. The analysis must:

(1) evaluate the quality of the material; and

(2) determine the extent to which the material covers the essential knowledge and skills identified under Section 28.002 for the subject and grade level for which the material is intended to be used, including an identification of:

(A) each of the essential knowledge and skills for the subject and grade level or levels covered by the material; and

(B) the percentage of the essential knowledge and skills for the subject and grade level or levels covered by the material.



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(b) The commissioner shall include in the web portal developed under Section 31.081 the results of each analysis conducted under Subsection (a).

Sec. 31.083. INSTRUCTIONAL MATERIALS REPOSITORY. (a) In this section, "open educational resource" means a teaching, learning, or research resource that is in the public domain or has been released under an intellectual property license that permits the free use and repurposing of the resource by any person. The term may include full course curricula, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge.

(b) The commissioner shall include in the web portal developed under Section 31.081 a repository of open educational resources and other electronic instructional materials that school districts and open-enrollment charter schools may access at no cost, including state-developed open-source instructional materials purchased under Subchapter B-1.

(c) A publisher may submit instructional materials for inclusion in the repository.

Sec. 31.084. RULES. The commissioner may adopt rules as necessary to implement this subchapter. [FA1(2)]

No equivalent provision.

SECTION \_\_. Not later than September 1, 2018, the commissioner of education shall develop the web portal required under Subchapter B-2, Chapter 31, Education Code, as added by this Act. [FA1(2)]

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SECTION 16. Section 31.101(f), Education Code, is amended to read as follows:

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

SECTION 17. Section 31.151(d), Education Code, is amended to read as follows:

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

No equivalent provision.

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SECTION 16. Same as House version.

SECTION 17. Same as House version.

SECTION \_\_. Chapter 32, Education Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. TECHNOLOGY LENDING PROGRAM GRANTS

Sec. 32.301. ESTABLISHMENT OF PROGRAM. (a) The commissioner may establish a grant program under which grants are awarded to school districts and open-enrollment charter schools to implement a technology lending program to provide students access to equipment necessary to access and use electronic instructional materials.

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

(1) the availability of existing equipment to students in the district or school;

(2) other funding available to the district or school; and

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(3) the district's or school's technology plan.

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

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

Sec. 32.302. FUNDING. (a) The commissioner may use not more than \$25 million from the state instructional materials fund under Section 31.021 each state fiscal biennium or a different amount determined by appropriation to administer a grant program established under this subchapter.

(b) The cost of administering a grant program under this subchapter must be paid from funds described by Subsection (a).

Sec. 32.303. USE OF GRANT FUNDS. (a) A school district or open-enrollment charter school may use a grant awarded under Section 32.301 or other local funds to purchase, maintain, and insure equipment for a technology lending program.

(b) Equipment purchased by a school district or open-enrollment charter school with a grant awarded under Section 32.301 is the property of the district or school.

Sec. 32.304. REVIEW OF PROGRAM. Not later than January 1, 2019, the commissioner shall review the grant program established under this subchapter and submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees in the senate and house primarily responsible for public education. This section expires September 1, 2019. [FA2]

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SECTION 18. Section 41.124(c), Education Code, is amended to read as follows:

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

No equivalent provision.

No equivalent provision.

SECTION 19. Section 43.001(d), Education Code, is amended to read as follows:

(d) Each biennium the State Board of Education shall set aside an amount equal to 50 percent of the distribution for that biennium from the permanent school fund to the available school fund as provided by Section 5(a), Article VII, Texas

SECTION 18. Same as House version.

SECTION \_\_. Section 42.005, Education Code, is amended by adding Subsection (g-1) to read as follows:  
(g-1) The commissioner shall adopt rules to calculate average daily attendance for students participating in a blended learning program in which classroom instruction is supplemented with applied workforce learning opportunities, including participation of students in internships, externships, and apprenticeships. [FA3]

SECTION \_\_. Section 42.005(g-1), Education Code, as added by this Act, applies beginning with the 2017-2018 school year. [FA3]

SECTION 19. Same as House version.

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Constitution, to be placed, subject to the General Appropriations Act, in the state technology and instructional materials fund established under Section 31.021.

SECTION 20. Section 403.093(d), Government Code, is amended to read as follows:

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

SECTION 21. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate

SENATE VERSION (IE)

SECTION 20. Same as House version.

SECTION 21. Same as House version.

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effect, this Act takes effect September 1, 2017.

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