

1-1 By: Buckley, et al. (Senate Sponsor - Creighton) H.B. No. 1605
 1-2 (In the Senate - Received from the House May 4, 2023;
 1-3 May 4, 2023, read first time and referred to Committee on
 1-4 Education; May 10, 2023, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 11, Nays 0;
 1-6 May 10, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17	X			
1-18	X			
1-19	X			
1-20	X			
1-21			X	

1-22 COMMITTEE SUBSTITUTE FOR H.B. No. 1605 By: King

1-23 A BILL TO BE ENTITLED
 1-24 AN ACT

1-25 relating to instructional material and technology, the adoption of
 1-26 essential knowledge and skills for certain public school foundation
 1-27 curriculum subjects, and the extension of additional state aid to
 1-28 school districts for the provision of certain instructional
 1-29 materials; authorizing a fee.

1-30 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-31 SECTION 1. Section 11.164, Education Code, is amended by
 1-32 amending Subsection (a) and adding Subsection (a-1) to read as
 1-33 follows:

1-34 (a) The board of trustees of each school district shall
 1-35 limit redundant requests for information and the number and length
 1-36 of written reports that a classroom teacher is required to prepare.
 1-37 A classroom teacher may not be required to prepare any written
 1-38 information other than:

1-39 (1) any report concerning the health, safety, or
 1-40 welfare of a student;

1-41 (2) a report of a student's grade on an assignment or
 1-42 examination;

1-43 (3) a report of a student's academic progress in a
 1-44 class or course;

1-45 (4) a report of a student's grades at the end of each
 1-46 grade reporting period;

1-47 (5) a report on instructional materials;

1-48 (6) subject to Subsection (a-1), a unit or weekly
 1-49 lesson plan that outlines, in a brief and general manner, the
 1-50 information to be presented during each period at the secondary
 1-51 level or in each subject or topic at the elementary level;

1-52 (7) an attendance report;

1-53 (8) any report required for accreditation review;

1-54 (9) any information required by a school district that
 1-55 relates to a complaint, grievance, or actual or potential
 1-56 litigation and that requires the classroom teacher's involvement;
 1-57 or

1-58 (10) any information specifically required by law,
 1-59 rule, or regulation.

1-60 (a-1) A unit or weekly lesson plan that is included in

2-1 instructional material, as defined by Section 31.002, and adopted
2-2 by the board of trustees of the school district at which a teacher
2-3 is employed is sufficient to satisfy a requirement to prepare
2-4 written information described by Subsection (a)(6).

2-5 SECTION 2. Section 21.044, Education Code, is amended by
2-6 amending Subsection (a-1) and adding Subsection (h) to read as
2-7 follows:

2-8 (a-1) Any training requirements for a certificate specified
2-9 under Subsection (a) must require that the person demonstrate:

2-10 (1) basic knowledge of:
2-11 (A) each disability category under the
2-12 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
2-13 et seq.) and how each category can affect student learning and
2-14 development; and

2-15 (B) conditions that may be considered a
2-16 disability under Section 504, Rehabilitation Act of 1973 (29 U.S.C.
2-17 Section 794), and how a condition covered by that section can affect
2-18 student learning and development;

2-19 (2) competence in the use of proactive instructional
2-20 planning techniques that:

2-21 (A) provide flexibility in the ways:
2-22 (i) information is presented;
2-23 (ii) students respond or demonstrate
2-24 knowledge and skills; and
2-25 (iii) students are engaged;

2-26 (B) reduce barriers in instruction;
2-27 (C) provide appropriate accommodations,
2-28 supports, and challenges; and

2-29 (D) maintain high achievement expectations for
2-30 all students, including students with disabilities and students of
2-31 limited English proficiency; ~~and~~

2-32 (3) competence in the use of evidence-based inclusive
2-33 instructional practices, including:

2-34 (A) general and special education collaborative
2-35 and co-teaching models and approaches;

2-36 (B) multitiered systems of support, including
2-37 response to intervention strategies, classroom and school level
2-38 data-based collaborative structures, and evidence-based strategies
2-39 for intervention and progress monitoring systems in academic areas;

2-40 (C) classroom management techniques using
2-41 evidence-based behavioral intervention strategies and supports;
2-42 and

2-43 (D) appropriate adaptation strategies, including
2-44 accommodations, modifications, and instruction in the use of
2-45 assistive technology for instruction; and

2-46 (4) thorough understanding of and competence in the
2-47 use of open education resource instructional materials included on
2-48 the list of approved instructional materials maintained by the
2-49 State Board of Education under Section 31.022 in each subject area
2-50 and grade level covered by the person's certificate.

2-51 (h) An educator preparation program may not include
2-52 instruction on the use of instructional materials that incorporate
2-53 the method of three-cueing, as defined by Section 28.0062(a-1),
2-54 into foundational skills reading instruction.

2-55 SECTION 3. Subchapter I, Chapter 21, Education Code, is
2-56 amended by adding Section 21.4045 to read as follows:

2-57 Sec. 21.4045. PLANNING AND NONINSTRUCTIONAL DUTIES OF
2-58 TEACHERS. (a) A school district may enter into a supplemental
2-59 agreement with a classroom teacher under which the teacher agrees
2-60 to perform a duty relating to initial lesson plan design or
2-61 instructional material selection that is not a duty generally:

2-62 (1) anticipated to be performed during the
2-63 instructional day; and

2-64 (2) assigned to all classroom teachers of the same
2-65 subject and grade level under those teachers' employment contracts.

2-66 (b) A school district may not require a classroom teacher
2-67 for a foundation curriculum course to spend planning and
2-68 preparation time to which the teacher is entitled under Section
2-69 21.404 creating or selecting instructional materials to initially

3-1 cover the applicable essential knowledge and skills for the course
 3-2 unless the teacher has entered into a supplemental agreement
 3-3 described by Subsection (a). This subsection may not be construed
 3-4 to prohibit a classroom teacher from choosing to spend the
 3-5 teacher's planning and preparation time creating or selecting
 3-6 instructional materials.

3-7 (c) A supplemental agreement between a school district and a
 3-8 classroom teacher described by Subsection (a) under which a teacher
 3-9 is assigned responsibility for a greater number of duties unrelated
 3-10 to providing instruction than other full-time teachers of the same
 3-11 grade level in the district must explicitly state each of the
 3-12 teacher's duties unrelated to providing instruction.

3-13 SECTION 4. Subchapter B, Chapter 22, Education Code, is
 3-14 amended by adding Section 22.05125 to read as follows:

3-15 Sec. 22.05125. IMMUNITY FROM DISCIPLINARY PROCEEDINGS FOR
 3-16 CLASSROOM TEACHERS. (a) In this section, "disciplinary
 3-17 proceeding" has the meaning assigned by Section 22.0512.

3-18 (b) A classroom teacher employed by a school district may
 3-19 not be subject to disciplinary proceedings for an allegation that
 3-20 the teacher violated Section 28.0022, the Establishment Clause of
 3-21 the First Amendment of the United States Constitution, or a related
 3-22 state or federal law if:

3-23 (1) the teacher used only instructional material
 3-24 included on the list of approved instructional material maintained
 3-25 by the State Board of Education under Section 31.022 and adopted by
 3-26 the district; and

3-27 (2) the allegation does not dispute that the teacher
 3-28 delivered instruction from instructional material described by
 3-29 Subdivision (1) with fidelity.

3-30 (c) The immunity provided by Subsection (b) is in addition
 3-31 to any other immunity provided by law. This section may not be
 3-32 construed to interfere with any other immunity provided by law.

3-33 SECTION 5. Section 26.006, Education Code, is amended by
 3-34 amending Subsection (b) and adding Subsections (b-1) and (f) to
 3-35 read as follows:

3-36 (b) A school district shall make tests readily available for
 3-37 review by parents in person and teaching materials [~~and tests~~]
 3-38 readily available for review by parents both in person and, if
 3-39 applicable, through an instructional materials parent portal
 3-40 established under Section 31.154. In providing access to
 3-41 instructional materials to a student's parent under this section,
 3-42 the district shall:

3-43 (1) allow access beginning not later than 30 days
 3-44 before the school year begins and concluding not earlier than 30
 3-45 days after the school year ends; and

3-46 (2) include, for the entire period specified in
 3-47 Subdivision (1), access to all instructional materials that pertain
 3-48 to each subject area in the grade level in which the student is
 3-49 enrolled, except for:

3-50 (A) tests or exams that have not yet been
 3-51 administered to the student; and

3-52 (B) the student's graded assignments.

3-53 (b-1) The district may specify reasonable hours for
 3-54 in-person review.

3-55 (f) A school district may not deny a parent access to an
 3-56 instructional materials parent portal hosted under Section 31.154.

3-57 SECTION 6. Chapter 26, Education Code, is amended by adding
 3-58 Section 26.0061 to read as follows:

3-59 Sec. 26.0061. RIGHT TO REQUEST INSTRUCTIONAL MATERIAL
 3-60 REVIEW. (a) The board of trustees of each school district shall
 3-61 establish a process by which a parent of a student, as indicated on
 3-62 the student registration form at the student's campus, may request
 3-63 an instructional material review under Section 31.0252 for a
 3-64 subject area in the grade level in which the student is enrolled.

3-65 (b) A process established under Subsection (a):

3-66 (1) may not require more than one parent of a student
 3-67 to make the request;

3-68 (2) must provide for the board of trustees of the
 3-69 school district to determine if the request will be granted, either

4-1 originally or through an appeal process; and
 4-2 (3) may permit the requesting parent to review the
 4-3 instructional material directly before the district conducts an
 4-4 instructional material review under Section 31.0252.

4-5 (c) If the parents of at least 25 percent of the students
 4-6 enrolled at a campus present to the board of trustees of the school
 4-7 district in which the campus is located a petition for the board to
 4-8 conduct an instructional material review under Section 31.0252, the
 4-9 board shall, subject to Subsection (d), conduct the review, unless
 4-10 the petition is presented by the parents of less than 50 percent of
 4-11 the students enrolled at the campus and, by a majority vote, the
 4-12 board denies the request. A review conducted under this subsection
 4-13 shall include a review of instructional materials for each subject
 4-14 area or grade level specified in the petition.

4-15 (d) The board of trustees of a school district is not
 4-16 required to conduct a review under this section for a specific
 4-17 subject area or grade level at a specific district campus more than
 4-18 once per school year.

4-19 (e) Parental access to instructional material provided by
 4-20 an instructional material review conducted under this section is in
 4-21 addition to any other right to access instructional material
 4-22 granted by this title or school district policy.

4-23 (f) The State Board of Education may adopt rules to
 4-24 implement this section.

4-25 SECTION 7. Section 28.002, Education Code, is amended by
 4-26 adding Subsections (c-4) and (c-5) to read as follows:

4-27 (c-4) In adopting essential knowledge and skills for
 4-28 English language arts under Subsection (a)(1)(A), the State Board
 4-29 of Education shall specify a list of required vocabulary and at
 4-30 least one literary work to be taught in each grade level. The
 4-31 vocabulary specified by the board must support the essential
 4-32 knowledge and skills adopted for other courses offered under the
 4-33 foundation curriculum under Subsection (a)(1).

4-34 (c-5) The State Board of Education shall initiate the
 4-35 process of specifying an initial list of vocabulary and literary
 4-36 works as required by Subsection (c-4) not later than February 1,
 4-37 2024. The State Board of Education shall request from the agency
 4-38 recommendations regarding the list, and that request for
 4-39 recommendations may be considered an initiation of the process.
 4-40 This subsection expires September 1, 2025.

4-41 SECTION 8. The heading to Section 28.0027, Education Code,
 4-42 is amended to read as follows:

4-43 Sec. 28.0027. DISTRICT CURRICULUM SCOPE, ~~AND~~ SEQUENCE,
 4-44 AND INSTRUCTIONAL MATERIAL.

4-45 SECTION 9. Sections 28.0027(a) and (b), Education Code, are
 4-46 amended to read as follows:

4-47 (a) In adopting a recommended or designated scope and
 4-48 sequence or instructional materials for a subject in the required
 4-49 curriculum under Section 28.002(a) in a particular grade level, a
 4-50 school district shall ensure sufficient time is provided for
 4-51 teachers to teach and students to learn the essential knowledge and
 4-52 skills for that subject and grade level.

4-53 (b) Except as provided by Subsection (c), a school district
 4-54 may not penalize a teacher who does not follow the pacing of ~~a~~
 4-55 recommended or designated instructional materials or the pacing of
 4-56 the recommended or designated scope and sequence for a subject in
 4-57 the required curriculum under Section 28.002(a) in a particular
 4-58 grade level based on the teacher's determination that the teacher's
 4-59 students need more or less time in a specific area to demonstrate
 4-60 proficiency in the essential knowledge and skills for that subject
 4-61 and grade level.

4-62 SECTION 10. Section 28.0062, Education Code, is amended by
 4-63 adding Subsection (a-1) to read as follows:

4-64 (a-1) In this subsection, "three-cueing" means a method of
 4-65 reading instruction for identification of words by which a student
 4-66 is encouraged to draw on context and sentence structure to read
 4-67 words without sounding the words out or using a phonics-based
 4-68 approach. A school district or open-enrollment charter school may
 4-69 not include any instruction that incorporates three-cueing in the

5-1 phonics curriculum required under Subsection (a)(1).

5-2 SECTION 11. The heading to Chapter 31, Education Code, is
5-3 amended to read as follows:

5-4 CHAPTER 31. INSTRUCTIONAL MATERIALS AND TECHNOLOGY

5-5 SECTION 12. Section 31.002, Education Code, is amended by
5-6 amending Subdivisions (1) and (1-a) and adding Subdivisions (1-b),
5-7 (1-c), and (3) to read as follows:

5-8 (1) "Full subject tier one instructional material"
5-9 means instructional material designed to, if implemented as
5-10 designed, provide a student with mastery of the essential knowledge
5-11 and skills adopted by the board for a certain subject and grade
5-12 level in the required curriculum under Section 28.002 or for
5-13 prekindergarten without the need for supplementation.

5-14 (1-a) "Instructional material" means content that
5-15 conveys the essential knowledge and skills of a subject in the
5-16 public school curriculum through a medium or a combination of media
5-17 for conveying information to a student. The term includes:

5-18 (A) material used by a teacher, including a
5-19 lesson plan, answer key, grading rubric, or unit plan;

5-20 (B) material used by a principal or campus
5-21 instructional leader to support instruction; and

5-22 (C) material used by a student, including a book,
5-23 supplementary materials, a combination of a book, workbook, and
5-24 supplementary materials, computer software, magnetic media, DVD,
5-25 CD-ROM, computer courseware, on-line services, or an electronic
5-26 medium, or other means of conveying information to the student or
5-27 otherwise contributing to the learning process through electronic
5-28 means, including open education resource instructional material.

5-29 (1-b) ~~[(1-a)]~~ "Open education resource instructional
5-30 material" means teaching, learning, and research resources that
5-31 reside in the public domain or have been released under an
5-32 intellectual property license that allows for free use, reuse,
5-33 modification, and sharing with others, including full courses,
5-34 course materials, modules, textbooks, streaming videos, tests,
5-35 software, and any other tools, materials, or techniques used to
5-36 support access to knowledge. ~~[The term includes state-developed~~
5-37 ~~open education resource instructional material purchased under~~
5-38 ~~Subchapter B-1.]~~

5-39 (1-c) "Partial subject tier one instructional
5-40 material" means instructional material designed to, if implemented
5-41 as designed, provide a student with mastery in a portion of the
5-42 essential knowledge and skills adopted by the State Board of
5-43 Education for a certain subject and grade level in the required
5-44 curriculum under Section 28.002 or for prekindergarten without the
5-45 need for supplementation in the essential knowledge and skills
5-46 covered.

5-47 (3) "Supplemental instructional material" means
5-48 instructional material designed to assist in the instruction of one
5-49 or more of the essential knowledge and skills adopted by the State
5-50 Board of Education for a subject in the required curriculum under
5-51 Section 28.002 or for prekindergarten.

5-52 SECTION 13. Section 31.003, Education Code, is amended to
5-53 read as follows:

5-54 Sec. 31.003. RULES. (a) The State Board of Education may
5-55 adopt rules, consistent with this chapter, for the adoption,
5-56 requisition, distribution, care, use, and disposal of
5-57 instructional materials.

5-58 (b) The commissioner may adopt rules, consistent with this
5-59 chapter, as necessary to implement any provision of this chapter.

5-60 SECTION 14. Subchapter A, Chapter 31, Education Code, is
5-61 amended by adding Section 31.006 to read as follows:

5-62 Sec. 31.006. ADVISORY COMMITTEE. The State Board of
5-63 Education or the agency may form an advisory committee to comply
5-64 with the provisions of this chapter. Chapter 2110, Government
5-65 Code, does not apply to an advisory committee formed under this
5-66 section.

5-67 SECTION 15. Chapter 31, Education Code, is amended by
5-68 adding Subchapter A-1, and a heading is added to that subchapter to
5-69 read as follows:

SUBCHAPTER A-1. STATE FUNDING FOR INSTRUCTIONAL MATERIALS AND TECHNOLOGY

SECTION 16. Section 31.005, Education Code, is transferred to Subchapter A-1, Chapter 31, Education Code, as added by this Act, and redesignated as Section 31.0205 to read as follows:

Sec. 31.0205 [~~31.005~~]. FUNDING FOR OPEN-ENROLLMENT CHARTER SCHOOLS. An open-enrollment charter school is entitled to the instructional materials and technology allotment under this chapter and is subject to this chapter as if the school were a school district.

SECTION 17. Sections 31.021, 31.0212, 31.0214, and 31.0215, Education Code, are transferred to Subchapter A-1, Chapter 31, Education Code, as added by this Act, and amended to read as follows:

Sec. 31.021. STATE INSTRUCTIONAL MATERIALS AND TECHNOLOGY FUND. (a) The state instructional materials and technology 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 instructional materials and technology fund shall be used to:

(1) fund the instructional materials and technology 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 and Internet website maintained under this chapter;

(4) pay the expenses associated with the purchase, ~~or~~ licensing, printing, or other reproduction of open education resource instructional material;

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

(6) fund the technology lending grant program established under Section 32.301; 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~~

~~[(8) pay the expenses associated with the instructional materials web portal developed under Section 31.081].~~

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

Sec. 31.0212. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ACCOUNT. (a) The commissioner shall maintain an instructional materials and technology 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 instructional materials and technology allotment under Section 31.0211.

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

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

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

7-1 remains in the account and available for use by the district for the
 7-2 entire biennium. At the end of each biennium, a district with
 7-3 unused money in the district's account may carry forward any
 7-4 remaining balance to the next biennium.

7-5 ~~(d) A [(e) The commissioner shall adopt rules as necessary~~
 7-6 ~~to implement this section. The rules must include a requirement~~
 7-7 ~~that a]~~ school district shall provide to the agency the title and
 7-8 publication information for any instructional materials
 7-9 requisitioned or purchased by the district with the district's
 7-10 instructional materials and technology allotment.

7-11 (e) The agency shall provide for the development and
 7-12 maintenance of an online requisition and disbursement system for
 7-13 each school district's instructional materials and technology
 7-14 account.

7-15 Sec. 31.0214. ADJUSTMENT FOR HIGH ENROLLMENT GROWTH
 7-16 DISTRICTS. ~~[(a)]~~ Each year the commissioner shall adjust the
 7-17 instructional materials and technology allotment of school
 7-18 districts experiencing high enrollment growth. The commissioner
 7-19 shall establish a procedure for determining high enrollment growth
 7-20 districts eligible to receive an adjustment under this section and
 7-21 the amount of the instructional materials and technology allotment
 7-22 those districts will receive.

7-23 ~~[(b) The commissioner may adopt rules as necessary to~~
 7-24 ~~implement this section.]~~

7-25 Sec. 31.0215. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
 7-26 ALLOTMENT PURCHASES. (a) The commissioner shall, as early as
 7-27 practicable during each biennium, notify each school district and
 7-28 open-enrollment charter school of the estimated amount to which the
 7-29 district or charter school will be entitled under Section 31.0211
 7-30 during the next fiscal biennium.

7-31 (b) The commissioner shall shall ~~[may]~~ allow a school district or
 7-32 open-enrollment charter school to place an order for instructional
 7-33 materials before the beginning of a fiscal biennium and to receive
 7-34 instructional materials before payment. The commissioner shall
 7-35 limit the cost of an order placed under this section to 80 percent
 7-36 of the estimated amount to which a school district or
 7-37 open-enrollment charter school is estimated to be entitled as
 7-38 provided by Subsection (a) and shall first credit any balance in a
 7-39 district or charter school instructional materials and technology
 7-40 account to pay for an order placed under this section.

7-41 (c) The commissioner shall make payments for orders placed
 7-42 under this section as funds become available to the instructional
 7-43 materials and technology fund and shall prioritize payment of
 7-44 orders placed under this section over reimbursement of purchases
 7-45 made directly by a school district or open-enrollment charter
 7-46 school.

7-47 (d) The commissioner shall ensure that publishers of
 7-48 instructional materials are informed of any potential delay in
 7-49 payment and that payment is subject to the availability of
 7-50 appropriated funds. A publisher may decline to accept an order
 7-51 placed under this section.

7-52 (e) Chapter 2251, Government Code, does not apply to
 7-53 purchases of instructional materials under this section.

7-54 ~~[(f) The commissioner may adopt rules to implement this~~
 7-55 ~~section.]~~

7-56 SECTION 18. Section 31.0211, Education Code, as amended by
 7-57 Chapters 806 (H.B. 1525) and 1003 (H.B. 3261), Acts of the 87th
 7-58 Legislature, Regular Session, 2021, is transferred to Subchapter
 7-59 A-1, Chapter 31, Education Code, as added by this Act, reenacted,
 7-60 and amended to read as follows:

7-61 Sec. 31.0211. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
 7-62 ALLOTMENT. (a) A school district is entitled to an allotment each
 7-63 biennium from the state instructional materials and technology fund
 7-64 for each student enrolled in the district on a date during the last
 7-65 year of the preceding biennium specified by the commissioner. The
 7-66 commissioner shall determine the amount of the allotment per
 7-67 student each biennium on the basis of the amount of money available
 7-68 in the state instructional materials and technology fund to fund
 7-69 the allotment. An allotment under this section shall be

8-1 transferred from the state instructional materials and technology
8-2 fund to the credit of the district's instructional materials and
8-3 technology account as provided by Section 31.0212.

8-4 (b) A juvenile justice alternative education program under
8-5 Section 37.011 is entitled to an allotment from the state
8-6 instructional materials and technology fund in an amount determined
8-7 by the commissioner. The program shall use the allotment to
8-8 purchase items listed in Subsection (c) for students enrolled in
8-9 the program. The commissioner's determination under this
8-10 subsection is final and may not be appealed.

8-11 (c) Funds allotted under this section may be used to:

8-12 (1) purchase:

8-13 (A) ~~[materials on the list adopted by the~~
8-14 ~~commissioner, as provided by Section 31.0231,~~

8-15 ~~[(B)]~~ instructional materials, regardless of
8-16 whether the instructional materials are on the list of approved
8-17 instructional materials maintained by the State Board of Education
8-18 under Section 31.022 [adopted under Section 31.024];

8-19 (B) ~~[(C)]~~ consumable instructional materials,
8-20 including workbooks;

8-21 (C) ~~[(D)]~~ instructional materials for use in
8-22 bilingual education classes, as provided by Section 31.029;

8-23 (D) ~~[(E)]~~ instructional materials for use in
8-24 college preparatory courses under Section 28.014, as provided by
8-25 Section 31.031;

8-26 (E) ~~[(F)]~~ supplemental instructional materials
8-27 ~~[, as provided by Section 31.035];~~

8-28 (F) ~~[(G) state-developed]~~ open education
8-29 resource instructional materials, as provided by Subchapter B-1;

8-30 (G) ~~[(H)]~~ instructional materials and
8-31 technological equipment under any continuing contracts of the
8-32 district in effect on September 1, 2011;

8-33 (H) ~~[(I)]~~ technological equipment necessary to
8-34 support the use of ~~[materials included on the list adopted by the~~
8-35 ~~commissioner under Section 31.0231 or]~~ any instructional materials
8-36 purchased with an allotment under this section;

8-37 (I) ~~[(J)]~~ inventory software or systems for
8-38 storing, managing, and accessing instructional materials and
8-39 analyzing the usage and effectiveness of the instructional
8-40 materials; and

8-41 (J) ~~[(K)]~~ services, equipment, and technology
8-42 infrastructure necessary to ensure Internet connectivity and
8-43 adequate bandwidth; and

8-44 (2) pay:

8-45 (A) for training educational personnel directly
8-46 involved in student learning in the appropriate use of
8-47 instructional materials and for providing for access to
8-48 technological equipment for instructional use;

8-49 (B) for training personnel in the electronic
8-50 administration of assessment instruments; ~~and]~~

8-51 (C) the salary and other expenses of an employee
8-52 who provides technical support for the use of technological
8-53 equipment directly involved in student learning; and

8-54 (D) ~~[(C)]~~ for costs associated with distance
8-55 learning, including Wi-Fi, Internet access hotspots, wireless
8-56 network service, broadband service, and other services and
8-57 technological equipment necessary to facilitate Internet access.

8-58 (d) ~~[Each biennium the commissioner shall assess the~~
8-59 ~~technology needs for all school districts and provide an estimate~~
8-60 ~~of the cost for these resources to the State Board of Education.~~

8-61 ~~[(d-1)]~~ In purchasing technological equipment, a school
8-62 district shall:

8-63 (1) secure technological solutions that meet the
8-64 varying and unique needs of students and teachers in the district;
8-65 and

8-66 (2) consider:

8-67 (A) the long-term cost of ownership; and

8-68 (B) flexibility for innovation.

8-69 (e) Not later than May 31 of each school year, a school

9-1 district may request that the commissioner adjust the number of
9-2 students for which the district is entitled to receive an allotment
9-3 under Subsection (a) on the grounds that the number of students
9-4 attending school in the district will increase or decrease during
9-5 the school year for which the allotment is provided. The
9-6 commissioner may also adjust the number of students for which a
9-7 district is entitled to receive an allotment, without a request by
9-8 the district, if the commissioner determines a different number of
9-9 students is a more accurate reflection of students who will be
9-10 attending school in the district. The commissioner's determination
9-11 under this subsection is final.

9-12 (f) Funds allotted under this section may not be used to
9-13 purchase instructional material that contains obscene or harmful
9-14 content or would otherwise cause the school district to which the
9-15 funds were allotted to be unable to submit the certification
9-16 required under Section 31.1011(a)(1)(B) [The commissioner may
9-17 adopt rules as necessary to implement this section].

9-18 SECTION 19. Subchapter A-1, Chapter 31, Education Code, as
9-19 added by this Act, is amended by adding Section 31.0216 to read as
9-20 follows:

9-21 Sec. 31.0216. AGENCY PURCHASE OF INSTRUCTIONAL MATERIALS
9-22 AND TECHNOLOGY. (a) From funds appropriated for the purpose, the
9-23 agency may contract directly, including by extending a contract,
9-24 for the purchase of instructional materials and technology for use
9-25 by school districts.

9-26 (b) The provisions of Chapter 2157, Government Code,
9-27 requiring a state agency to use a contract or contract terms
9-28 developed or preapproved by the Department of Information Resources
9-29 do not apply to a contract entered into under this section, but the
9-30 agency may participate in a program authorized by that chapter.

9-31 SECTION 20. The heading to Subchapter B, Chapter 31,
9-32 Education Code, is amended to read as follows:

9-33 SUBCHAPTER B. STATE REVIEW AND [FUNDING,] ADOPTION [AND
9-34 PURCHASE]

9-35 SECTION 21. The heading to Section 31.022, Education Code,
9-36 is amended to read as follows:

9-37 Sec. 31.022. STATE BOARD OF EDUCATION INSTRUCTIONAL
9-38 MATERIALS REVIEW AND APPROVAL [ADOPTION].

9-39 SECTION 22. Section 31.022, Education Code, is amended by
9-40 amending Subsections (a), (b), (c), and (d) and adding Subsection
9-41 (c-1) to read as follows:

9-42 (a) The State Board of Education shall [adopt a] review [and
9-43 adoption cycle for] instructional materials provided to the board
9-44 by the agency under Section 31.023. Before approving instructional
9-45 material, the board must determine that the material is free from
9-46 factual error and suitable for the subject and grade level for which
9-47 the material is designed, and, if the material is intended to cover
9-48 the foundational skills reading curriculum in kindergarten through
9-49 third grade, does not include three-cueing, as defined by Section
9-50 28.0062(a-1). The board shall add each material approved under
9-51 this section to a list of approved instructional materials and may
9-52 add a material not approved under this section to a list of rejected
9-53 instructional materials [for elementary grade levels, including
9-54 prekindergarten, and secondary grade levels, for each subject in
9-55 the required curriculum under Section 28.002. In adopting the
9-56 cycle, the board:

9-57 [(1) is not required to review and adopt instructional
9-58 materials for all grade levels in a single year, and

9-59 [(2) shall give priority to instructional materials in
9-60 the following subjects:

9-61 [(A) foundation curriculum subjects for which
9-62 the essential knowledge and skills have been substantially revised
9-63 and for which assessment instruments are required under Subchapter
9-64 B, Chapter 39, including career and technology courses that satisfy
9-65 foundation curriculum requirements as provided by Section
9-66 28.002(n),

9-67 [(B) foundation curriculum subjects for which
9-68 the essential knowledge and skills have been substantially revised,
9-69 including career and technology courses that satisfy foundation

10-1 curriculum requirements as provided by Section 28.002(n);
 10-2 [~~(C) foundation curriculum subjects not~~
 10-3 ~~described by Paragraph (A) or (B), including career and technology~~
 10-4 ~~courses that satisfy foundation curriculum requirements as~~
 10-5 ~~provided by Section 28.002(n); and~~

10-6 [~~(D) enrichment curriculum subjects~~].

10-7 (b) [~~The board shall organize the cycle for subjects in the~~
 10-8 ~~foundation curriculum so that not more than one-fourth of the~~
 10-9 ~~instructional materials for subjects in the foundation curriculum~~
 10-10 ~~are reviewed each biennium.] The State Board of Education may adopt
 10-11 criteria necessary for approval of instructional material under
 10-12 Subsection (a) and may require:~~

10-13 (1) all instructional material submitted as full
 10-14 subject tier one instructional material to cover a minimum
 10-15 percentage, as determined by the board, of the essential knowledge
 10-16 and skills adopted for the subject and grade level for which the
 10-17 material is designed;

10-18 (2) electronic samples of the material;

10-19 (3) certain physical specifications; and

10-20 (4) the instructional material to not contain obscene
 10-21 or harmful content and otherwise be compatible with certification
 10-22 requirements under Section 31.1011(a)(1)(B) [board shall adopt
 10-23 rules to provide for a full and complete investigation of
 10-24 instructional materials for each subject in the foundation
 10-25 curriculum every eight years. The adoption of instructional
 10-26 materials for a subject in the foundation curriculum may be
 10-27 extended beyond the eight-year period only if the content of
 10-28 instructional materials for a subject is sufficiently current].

10-29 (c) The State Board of Education may remove instructional
 10-30 material from the list of approved instructional materials under
 10-31 this section if the essential knowledge and skills intended to be
 10-32 covered by the material are revised or the material is revised
 10-33 without the approval of the board [board shall adopt rules to
 10-34 provide for a full and complete investigation of instructional
 10-35 materials for each subject in the enrichment curriculum on a cycle
 10-36 the board considers appropriate].

10-37 (c-1) If the State Board of Education intends to remove an
 10-38 instructional material from the list of approved instructional
 10-39 materials under Subsection (c) because the board plans to revise
 10-40 the essential knowledge and skills intended to be covered by the
 10-41 material, the board shall issue a proclamation requesting the
 10-42 revision of the applicable instructional materials and shall, not
 10-43 later than December 1 of the year preceding the school year for
 10-44 which the revision will take effect, provide to each school
 10-45 district the updated list of approved instructional materials for
 10-46 the relevant subject or grade level.

10-47 (d) The State Board of Education shall indicate whether each
 10-48 instructional material reviewed under Subsection (a) is capable of
 10-49 being made available through an instructional materials parent
 10-50 portal established under Section 31.154 [At least 12 months before
 10-51 the beginning of the school year for which instructional materials
 10-52 for a particular subject and grade level will be adopted under the
 10-53 review and adoption cycle, the board shall publish notice of the
 10-54 review and adoption cycle for those instructional materials. A
 10-55 request for production must allow submission of open education
 10-56 resource instructional materials that are available for use by the
 10-57 state without charge on the same basis as instructional materials
 10-58 offered for sale].

10-59 SECTION 23. Section 31.023, Education Code, is amended to
 10-60 read as follows:

10-61 Sec. 31.023. INSTRUCTIONAL MATERIAL REVIEW [LIST]. (a)
 10-62 The commissioner shall establish, in consultation with and with the
 10-63 approval of the State Board of Education, a process for the annual
 10-64 review of instructional materials by the agency. The process
 10-65 established under this subsection must:

10-66 (1) establish a process for the agency to select
 10-67 instructional materials for review that includes:

10-68 (A) evaluating requests for review of
 10-69 instructional materials submitted to the agency by:

11-1 (i) a school district;
 11-2 (ii) a majority of the members of the State
 11-3 Board of Education; or
 11-4 (iii) a publisher of instructional
 11-5 material, which may only be submitted for material published by the
 11-6 requesting publisher;
 11-7 (B) reviewing instructional materials
 11-8 requisitioned or purchased under Section 31.0212; and
 11-9 (C) reviewing instructional materials using a
 11-10 time frame appropriate for the proclamation requesting the revision
 11-11 of the instructional materials under Section 31.022(c-1) to address
 11-12 revisions made by the State Board of Education to the essential
 11-13 knowledge and skills for a particular subject or grade level;
 11-14 (2) describe the types of instructional materials the
 11-15 agency may review, including:
 11-16 (A) partial subject tier one instructional
 11-17 material, including those designed for use in the phonics
 11-18 curriculum required under Section 28.0062(a)(1);
 11-19 (B) open education resource instructional
 11-20 material;
 11-21 (C) instructional materials developed by a
 11-22 school district and submitted to the agency by the district for
 11-23 review; and
 11-24 (D) commercially available full subject tier one
 11-25 instructional material;
 11-26 (3) establish procedures for the agency to conduct
 11-27 reviews of instructional materials, including:
 11-28 (A) the use of a rubric approved under Subsection
 11-29 (b); and
 11-30 (B) consultation with classroom teachers and
 11-31 other curriculum experts for the appropriate subject and grade
 11-32 level; and
 11-33 (4) ensure the procedures for review allow the agency
 11-34 to review at least 200 individual instructional materials each year
 11-35 [For each subject and grade level, the State Board of Education
 11-36 shall adopt a list of instructional materials. The list includes
 11-37 each instructional material submitted for the subject and grade
 11-38 level that meets applicable physical specifications adopted by the
 11-39 State Board of Education and contains material covering at least
 11-40 half of the elements of the essential knowledge and skills of the
 11-41 subject and grade level in the student version of the instructional
 11-42 material, as well as in the teacher version of the instructional
 11-43 material, as determined by the State Board of Education under
 11-44 Section 28.002 and adopted under Section 31.024].
 11-45 [(a-1) The State Board of Education shall determine the
 11-46 percentage of the elements of the essential knowledge and skills of
 11-47 the subject and grade level covered by each instructional material
 11-48 submitted. The board's determination under this subsection is
 11-49 final.]
 11-50 (b) In conducting a review under this section, the agency
 11-51 must use a rubric developed by the agency in consultation with and
 11-52 approved by the State Board of Education that includes, with
 11-53 respect to the instructional material being reviewed, a
 11-54 determination of:
 11-55 (1) whether the material is free from factual error
 11-56 and satisfies the criteria adopted by the board under Section
 11-57 31.022;
 11-58 (2) the quality of the material;
 11-59 (3) the essential knowledge and skills for the subject
 11-60 and grade level for which the material was developed that are
 11-61 covered by the material, including identification of:
 11-62 (A) each essential knowledge and skill covered by
 11-63 the material;
 11-64 (B) for a full subject tier one instructional
 11-65 material, the percentage of the essential knowledge and skills
 11-66 adopted for the subject and grade level covered by the material; and
 11-67 (C) for a partial subject tier one instructional
 11-68 material, the percentage of the essential knowledge and skills for
 11-69 the relevant portion of the subject and grade level covered by the

12-1 material; and
 12-2 (4) whether the material contains obscene or harmful
 12-3 content or is otherwise incompatible with certification
 12-4 requirements under Section 31.1011(a)(1)(B) [Each instructional
 12-5 material on the list must be:
 12-6 [(1) free from factual errors,
 12-7 [(2) suitable for the subject and grade level for
 12-8 which the instructional material was submitted, and
 12-9 [(3) reviewed by academic experts in the subject and
 12-10 grade level for which the instructional material was submitted].
 12-11 (c) After completing a review under this section, the agency
 12-12 shall provide the results of the review and any related
 12-13 recommendations to the State Board of Education for approval or
 12-14 rejection of the instructional material and the inclusion of the
 12-15 instructional material on a list maintained by the State Board of
 12-16 Education under Section 31.022.
 12-17 (d) The agency shall use funds appropriated to the agency
 12-18 for the purposes of reviewing instructional material or available
 12-19 in the state instructional materials and technology fund for
 12-20 purposes of implementing this section.
 12-21 (e) A process established under Subsection (a) or a rubric
 12-22 developed under Subsection (b) is automatically approved by the
 12-23 State Board of Education if not rejected by the board before the
 12-24 91st day after the date the agency submits the item to the board.
 12-25 SECTION 24. Subchapter B, Chapter 31, Education Code, is
 12-26 amended by adding Sections 31.025, 31.0251, and 31.0252 to read as
 12-27 follows:
 12-28 Sec. 31.025. INSTRUCTIONAL MATERIAL INTERNET WEBSITE. (a)
 12-29 The agency shall develop and maintain an instructional material
 12-30 Internet website to assist school districts in locating and
 12-31 selecting instructional material.
 12-32 (b) For each instructional material included, the Internet
 12-33 website developed and maintained under this section shall provide:
 12-34 (1) the price of the material;
 12-35 (2) the technological requirements needed to use the
 12-36 material;
 12-37 (3) the results of an agency review of the material
 12-38 conducted under Section 31.023;
 12-39 (4) a statement of whether the material is included on
 12-40 the list of approved instructional materials maintained by the
 12-41 State Board of Education under Section 31.022 or has been rejected
 12-42 by the board; and
 12-43 (5) any other information the agency determines
 12-44 relevant to a school district's selection of instructional
 12-45 material.
 12-46 (c) The Internet website developed and maintained under
 12-47 this section must include the repository of open education resource
 12-48 instructional material required by Section 31.0722.
 12-49 (d) The agency shall use funds appropriated to the agency
 12-50 for the purposes of reviewing instructional material or available
 12-51 in the state instructional materials and technology fund for
 12-52 purposes of implementing this section.
 12-53 Sec. 31.0251. INSTRUCTIONAL MATERIAL SUPPORT. (a) On
 12-54 request of a school district, the agency shall provide the district
 12-55 assistance in evaluating, adopting, or using instructional
 12-56 materials.
 12-57 (b) Except as otherwise provided, the agency may not require
 12-58 a school district to adopt or otherwise use instructional material
 12-59 reviewed by the agency under Section 31.023 or included on the list
 12-60 of approved instructional materials maintained by the State Board
 12-61 of Education under Section 31.022.
 12-62 Sec. 31.0252. LOCAL REVIEW OF CLASSROOM INSTRUCTIONAL
 12-63 MATERIAL. (a) The agency shall develop standards in consultation
 12-64 with stakeholders, including educators, by which a school district
 12-65 may conduct a review of instructional materials used by a classroom
 12-66 teacher in a foundation curriculum course under Section
 12-67 28.002(a)(1) to determine the degree to which the material:
 12-68 (1) corresponds with the instructional materials
 12-69 adopted by the school district or district campus; and

13-1 (2) meets the level of rigor of the essential
 13-2 knowledge and skills adopted under Section 28.002 for the grade
 13-3 level in which it is being used.
 13-4 (b) The agency shall develop a rubric, approved by the State
 13-5 Board of Education, to determine if reviewed instructional material
 13-6 complies with the rigor requirements described by Subsection
 13-7 (a)(2).
 13-8 (c) The agency, in developing standards under Subsection
 13-9 (a):
 13-10 (1) shall minimize, to the extent possible, the time a
 13-11 classroom teacher is required to spend complying with a review
 13-12 conducted under this section;
 13-13 (2) may not, unless unavoidable, require a teacher to
 13-14 spend more than 30 minutes on a single review conducted under this
 13-15 section; and
 13-16 (3) may not authorize the review of instructional
 13-17 materials used by a classroom teacher for a specific subject or
 13-18 grade level at a specific school district campus more than once per
 13-19 school year.
 13-20 (d) The agency shall permit a regional education service
 13-21 center or a curriculum review service provider approved by the
 13-22 agency to conduct the review for a school district under this
 13-23 section and provide to approved centers and providers training
 13-24 relating to appropriately conducting the review.
 13-25 (e) The agency shall award grants to assist school districts
 13-26 in conducting reviews under this section.
 13-27 SECTION 25. Sections 31.026(a) and (b), Education Code, are
 13-28 amended to read as follows:
 13-29 (a) The State Board of Education may ~~shall~~ execute a
 13-30 contract for the purchase or licensing of each adopted
 13-31 instructional material.
 13-32 (b) A contract must require the publisher to provide the
 13-33 number of instructional materials required by school districts in
 13-34 this state for the term of the contract~~[, which must coincide with~~
 13-35 ~~the board's adoption cycle]~~.
 13-36 SECTION 26. The heading to Subchapter B-1, Chapter 31,
 13-37 Education Code, is amended to read as follows:
 13-38 SUBCHAPTER B-1. ~~[STATE-DEVELOPED]~~ OPEN EDUCATION RESOURCE
 13-39 INSTRUCTIONAL MATERIALS
 13-40 SECTION 27. Subchapter B-1, Chapter 31, Education Code, is
 13-41 amended by adding Section 31.0701 to read as follows:
 13-42 Sec. 31.0701. REFERENCES TO STATE-DEVELOPED OPEN EDUCATION
 13-43 RESOURCE INSTRUCTIONAL MATERIAL. In this chapter, a reference to a
 13-44 state-developed open education resource instructional material
 13-45 means an open education resource instructional material, as defined
 13-46 by Section 31.002.
 13-47 SECTION 28. Section 31.071, Education Code, is amended to
 13-48 read as follows:
 13-49 Sec. 31.071. AVAILABILITY OF OPEN EDUCATION RESOURCE
 13-50 INSTRUCTIONAL MATERIAL ~~[PURCHASE AUTHORITY]~~. (a) The commissioner
 13-51 shall ensure that ~~[may purchase state-developed]~~ open education
 13-52 resource instructional materials are available for use by school
 13-53 districts in accordance with this subchapter.
 13-54 (b) To ensure the availability of open education resource
 13-55 instructional materials under Subsection (a), the ~~[The]~~
 13-56 commissioner may:
 13-57 (1) purchase a license authorizing the use of ~~[shall~~
 13-58 ~~purchase any state-developed]~~ open education resource
 13-59 instructional materials in a manner that complies with all
 13-60 applicable state laws and rules relating to procurement by a state
 13-61 agency ~~[through a competitive process]~~;
 13-62 (2) purchase or otherwise acquire ownership of open
 13-63 education resource instructional materials;
 13-64 (3) develop open education resource instructional
 13-65 materials;
 13-66 (4) adopt open education resource instructional
 13-67 materials; or
 13-68 (5) use any combination of the methods described by
 13-69 Subdivisions (1), (2), (3), and (4) to acquire open education

14-1 resource instructional materials.
 14-2 (b-1) The commissioner ~~and~~
 14-3 ~~[(2)]~~ may make available ~~[purchase]~~ more than one
 14-4 ~~[state-developed]~~ open education resource instructional material
 14-5 for a subject or grade level.
 14-6 (b-2) The commissioner shall:
 14-7 (1) to the extent practicable, ensure full subject
 14-8 tier one instructional materials are available as open education
 14-9 resource instructional material for:
 14-10 (A) English language arts and mathematics
 14-11 courses in kindergarten through grade eight;
 14-12 (B) prekindergarten, in subject areas related to
 14-13 English language arts and mathematics; and
 14-14 (C) all foundation curriculum courses in
 14-15 kindergarten through grade five in a manner that permits the
 14-16 instruction of the content to be provided:
 14-17 (i) in an integrated manner; and
 14-18 (ii) for approximately 240 minutes of
 14-19 instructional time per day, including time needed each day for
 14-20 accelerated instruction under Section 28.0211; and
 14-21 (2) ensure open education resource instructional
 14-22 materials are available to all students, parents, classroom
 14-23 teachers, and school districts in this state free of charge, except
 14-24 for a fee for the printing or shipping of the material.
 14-25 (c) Except as provided by Section 31.0711, an ~~[a~~
 14-26 ~~state-developed]~~ open education resource instructional material
 14-27 must be licensed to this state under an intellectual property
 14-28 license that allows for free use, reuse, modification, or sharing
 14-29 with others as described by Section 31.07101 ~~[irrevocably owned by~~
 14-30 ~~the state. The state must have unlimited authority to modify,~~
 14-31 ~~delete, combine, or add content to the instructional material after~~
 14-32 ~~purchase].~~
 14-33 (d) ~~[The commissioner may issue a request for proposals for~~
 14-34 ~~state-developed open education resource instructional material:~~
 14-35 ~~[(1) in accordance with the instructional material~~
 14-36 ~~review and adoption cycle under Section 31.022; or~~
 14-37 ~~[(2) at any other time the commissioner determines~~
 14-38 ~~that a need exists for additional instructional material options.~~
 14-39 ~~[(e)]~~ The costs of administering this subchapter and
 14-40 ensuring the availability of ~~[purchasing state-developed]~~ open
 14-41 education resource instructional materials shall be paid from funds
 14-42 appropriated for the purpose and the state instructional materials
 14-43 and technology fund, as determined by the commissioner.
 14-44 SECTION 29. Subchapter B-1, Chapter 31, Education Code, is
 14-45 amended by adding Section 31.07101 to read as follows:
 14-46 Sec. 31.07101. FREE USE, REUSE, MODIFICATION, OR SHARING
 14-47 LICENSE. (a) Instructional material is licensed to this state
 14-48 under an intellectual property license that allows for free use,
 14-49 reuse, modification, or sharing with others if the license:
 14-50 (1) is irrevocable and perpetual;
 14-51 (2) permits the state to sublicense the material;
 14-52 (3) authorizes the use of the material by any person in
 14-53 any location permitted by the terms of the original license, if
 14-54 applicable;
 14-55 (4) authorizes access, use, transmission, adaptation,
 14-56 public display, public performance, public distribution, and
 14-57 copying of the material; and
 14-58 (5) authorizes the creation of derivative works as
 14-59 permitted by the terms of the original license, if applicable.
 14-60 (b) Instructional material licensed to this state under an
 14-61 intellectual property license that is restricted to noncommercial
 14-62 or educational use qualifies under this subchapter as instructional
 14-63 material licensed to this state under a license that allows for free
 14-64 use, reuse, modification, or sharing with others.
 14-65 SECTION 30. Section 31.0711, Education Code, is amended to
 14-66 read as follows:
 14-67 Sec. 31.0711. CONTENT NOT OWNED BY STATE. Open education
 14-68 resource instructional ~~[Instructional]~~ material made available
 14-69 ~~[purchased]~~ under this subchapter may include content not owned by

15-1 the state and for which preexisting rights may exist if the content:

15-2 (1) is in the public domain;

15-3 (2) may be used under a limitation or exception to
15-4 copyright law, including a limitation under Section 107, Copyright
15-5 Act of 1976 (17 U.S.C. Section 107); ~~or~~

15-6 (3) has been made available by the copyright owner
15-7 under a Creative Commons license or another intellectual property
15-8 license that allows for free use, reuse, modification, or sharing
15-9 as described by Section 31.07101; or

15-10 (4) is licensed to the state under another ~~a~~ license
15-11 that:

15-12 (A) grants access to and allows for use of the
15-13 material by students, teachers, educators, and other education
15-14 professionals ~~[the state unlimited authority to modify, delete,~~
15-15 ~~combine, or add content];~~

15-16 (B) permits access, use, public display, public
15-17 performance, public distribution, and copying of the material for
15-18 noncommercial or educational purposes ~~[the free use and repurposing~~
15-19 ~~of the material by any person or entity]; and~~

15-20 (C) is for a term of use acceptable to the
15-21 commissioner to ensure a useful life of the material.

15-22 SECTION 31. Subchapter B-1, Chapter 31, Education Code, is
15-23 amended by adding Section 31.0712 to read as follows:

15-24 Sec. 31.0712. OPEN EDUCATION RESOURCE ADVISORY BOARD. The
15-25 agency shall establish an open education resource advisory board to
15-26 ensure that open education resource instructional materials made
15-27 available under this subchapter are:

15-28 (1) of the highest quality;

15-29 (2) aligned with the essential knowledge and skills
15-30 adopted by the State Board of Education under Section 28.002 for the
15-31 applicable subject and grade level;

15-32 (3) suitable for the age of students at the grade level
15-33 for which the materials are developed;

15-34 (4) free from bias and factual error; and

15-35 (5) in compliance with Section 28.0022.

15-36 SECTION 32. Section 31.072, Education Code, is amended to
15-37 read as follows:

15-38 Sec. 31.072. CONTENT REQUIREMENTS. (a) Before being made
15-39 available under this subchapter, ~~[State-developed]~~ open education
15-40 resource instructional material must ~~[+~~

15-41 ~~[(1)]~~ be evaluated by:

15-42 (1) teachers or other experts, as determined by the
15-43 commissioner ~~[, before purchase]; and~~

15-44 (2) parents of students in this state ~~[meet the~~
15-45 requirements for inclusion on the instructional material list
15-46 adopted under Section 31.023].

15-47 (b) Based on feedback received by the agency from teachers,
15-48 parents, and other experts regarding open education resource
15-49 instructional materials made available under this subchapter, the
15-50 ~~[Following a curriculum revision by the State Board of Education,~~
15-51 ~~the commissioner shall require the revision of state-developed open~~
15-52 ~~education resource instructional material relating to that~~
15-53 ~~curriculum. The]~~ commissioner may, at any time, require an
15-54 additional revision of the ~~[state-developed open education~~
15-55 ~~resource instructional]~~ material ~~[or contract for ongoing~~
15-56 ~~revisions of state-developed open education resource instructional~~
15-57 ~~material for a period not to exceed the period under Section 31.022~~
15-58 ~~for which instructional material for that subject and grade level~~
15-59 ~~may be adopted. The commissioner shall use a competitive process to~~
15-60 ~~request proposals to revise state-developed open education~~
15-61 ~~resource instructional material under this subsection].~~

15-62 SECTION 33. Subchapter B-1, Chapter 31, Education Code, is
15-63 amended by adding Section 31.0721 to read as follows:

15-64 Sec. 31.0721. REVIEW AND RELEASE OF OPEN EDUCATION RESOURCE
15-65 INSTRUCTIONAL MATERIAL. (a) Except as provided by Subsection (b),
15-66 open education resource instructional material may not be made
15-67 available under this subchapter to students, teachers, educators,
15-68 or other education professionals before being reviewed by the
15-69 agency under Section 31.023 and included on the list of approved

16-1 instructional materials maintained by the State Board of Education
 16-2 under Section 31.022.

16-3 (b) The agency may make open education resource
 16-4 instructional material available to a limited number of classroom
 16-5 teachers for a limited time before the material is reviewed by the
 16-6 agency under Section 31.023 and included on the list of approved
 16-7 instructional materials maintained by the State Board of Education
 16-8 under Section 31.022 to assist in developing or testing the quality
 16-9 of the material. A school district may only use unreviewed material
 16-10 made available under this subsection in a grade level in which the
 16-11 material has not been used previously if:

16-12 (1) the board of trustees of the district approves the
 16-13 use of the unreviewed material; and

16-14 (2) the district provides evidence to the agency
 16-15 showing that classroom teachers support the use of the material.

16-16 SECTION 34. Section 31.083, Education Code, is transferred
 16-17 to Subchapter B-1, Chapter 31, Education Code, redesignated as
 16-18 Section 31.0722, Education Code, and amended to read as follows:

16-19 Sec. 31.0722 [31.083]. OPEN EDUCATION RESOURCE
 16-20 INSTRUCTIONAL MATERIALS REPOSITORY. (a) The commissioner shall
 16-21 include in the Internet website [web portal] developed under
 16-22 Section 31.025 [31.081] a repository of open education resource
 16-23 instructional materials, including open education resource
 16-24 instructional materials made available under Section 31.0721(b),
 16-25 and other electronic instructional materials that school districts
 16-26 and open-enrollment charter schools may access at no cost.

16-27 (b) The repository under Subsection (a) must:

16-28 (1) comply with the requirements of Section 31.154;
 16-29 and

16-30 (2) allow a person to provide comments on open
 16-31 education resource instructional material contained in the
 16-32 repository to assist the agency in improving and updating the
 16-33 material.

16-34 (c) The agency shall ensure that a person may order a print
 16-35 copy of any open education resource instructional material included
 16-36 in the repository that is reducible to print [A publisher may submit
 16-37 instructional materials for inclusion in the repository].

16-38 SECTION 35. Sections 31.073 and 31.074, Education Code, are
 16-39 amended to read as follows:

16-40 Sec. 31.073. SELECTION BY SCHOOL DISTRICT. (a) Except as
 16-41 otherwise provided by this code, the commissioner may not require a
 16-42 school district or open-enrollment charter school to adopt or use
 16-43 an open education resource instructional material.

16-44 (c) A [Notwithstanding Section 31.022, a] school district
 16-45 or open-enrollment charter school may adopt [state-developed] open
 16-46 education resource instructional material at any time [, regardless
 16-47 of the instructional material review and adoption cycle under that
 16-48 section].

16-49 (d) A school district or open-enrollment charter school may
 16-50 not be charged for a cost associated with the selection of an
 16-51 [state-developed] open education resource instructional material,
 16-52 except for the cost of printing copies of the material [in addition
 16-53 to instructional material adopted under Subchapter B].

16-54 Sec. 31.074. DISTRIBUTION. (a) The commissioner shall
 16-55 provide for the distribution of [state-developed] open education
 16-56 resource instructional materials in a manner consistent with
 16-57 distribution of instructional materials approved [adopted] under
 16-58 Subchapter B.

16-59 (b) The commissioner may use a competitive process to
 16-60 contract for printing, [or] other reproduction, or storage of
 16-61 [state-developed] open education resource instructional material
 16-62 on behalf of a school district or open-enrollment charter school.
 16-63 The commissioner may not require a school district or
 16-64 open-enrollment charter school to contract with a state-approved
 16-65 provider for the printing, [or] reproduction, or storage of
 16-66 [state-developed] open education resource instructional material.

16-67 (c) The agency is not required to comply with Subchapters C
 16-68 and D, Chapter 2052, Government Code, with regard to the printing or
 16-69 reproduction of an open education resource instructional material

17-1 made available under this subchapter.

17-2 SECTION 36. The heading to Section 31.075, Education Code,
17-3 is amended to read as follows:

17-4 Sec. 31.075. STATE OWNERSHIP; LICENSING.

17-5 SECTION 37. Sections 31.075(a), (b), (c), (d), and (e),
17-6 Education Code, are amended to read as follows:

17-7 (a) Except as otherwise provided by this subchapter,
17-8 [State-developed] open education resource instructional material
17-9 is the property of the state.

17-10 (b) To encourage the use of instructional material
17-11 purchased by the state under this subchapter by school districts
17-12 and open-enrollment charter schools, the commissioner may [shall]
17-13 provide a license for the instructional material that [allows for
17-14 the free use, reuse, modification, or sharing of the material by any
17-15 person or entity.

17-16 [~~(c) The terms of a license provided by the commissioner~~
17-17 under this section]:

17-18 (1) requires [shall require] that a user who
17-19 reproduces the instructional material in any manner:

17-20 (A) except as provided by Subdivision (2)(A),
17-21 must keep all copyright notices for the material intact;

17-22 (B) except as provided by Subdivision (2)(A),
17-23 must attribute the authorship of the material to the agency or
17-24 another person specified by the commissioner;

17-25 (C) must indicate if the user has modified the
17-26 material;

17-27 (D) may not assert or imply any connection with
17-28 or sponsorship or endorsement by the agency or this state, unless
17-29 authorized by the commissioner; and

17-30 (E) to the extent reasonably practicable, must
17-31 provide in any product or derivative material a uniform resource
17-32 identifier or hyperlink through which a person may obtain the
17-33 material free of charge;

17-34 (2) provides [must provide] that:

17-35 (A) the commissioner may request that a user
17-36 remove a copyright notice or attribution from the material and that
17-37 a user must comply with the request to the extent reasonably
17-38 practicable; and

17-39 (B) the rights granted under the license to a
17-40 user are automatically terminated if the user fails to comply with
17-41 the terms of the license; and

17-42 (3) includes [may include] any additional terms
17-43 determined by the commissioner.

17-44 (d) The commissioner may exempt a license under this section
17-45 from including one or more of the requirements under Subsection
17-46 (b)(1) [~~(c)(1)~~].

17-47 (e) The commissioner shall determine what is considered
17-48 reasonably practicable for purposes of Subsections (b)(1)(E)
17-49 [~~(c)(1)(E)~~] and (b)(2)(A) [~~(c)(2)(A)~~].

17-50 SECTION 38. Subchapter B-1, Chapter 31, Education Code, is
17-51 amended by adding Sections 31.0751, 31.0752, and 31.0753 to read as
17-52 follows:

17-53 Sec. 31.0751. OPEN EDUCATION RESOURCE INSTRUCTIONAL
17-54 MATERIAL TRANSITION PLAN. (a) Except as provided by Subsection
17-55 (c), to qualify for additional state aid under Section 48.308 the
17-56 board of trustees of a school district must adopt an open education
17-57 resource instructional material transition plan to assist
17-58 classroom teachers in the district who will be using an open
17-59 education resource instructional material in a specific subject or
17-60 grade level for which the teacher has not previously used an open
17-61 education resource instructional material.

17-62 (b) A plan adopted under this section must ensure that open
17-63 education resource instructional materials are used in a manner
17-64 that maintains the instructional flexibility of a classroom teacher
17-65 to address the needs of each student.

17-66 (c) A school district that participates in the program
17-67 developed and maintained by the agency under Section 31.0752 is not
17-68 required to adopt a transition plan under this section.

17-69 Sec. 31.0752. OPEN EDUCATION RESOURCE INSTRUCTIONAL

18-1 MATERIAL SUPPORT PROGRAM. The agency shall develop and maintain a
 18-2 program to assist school districts and open-enrollment charter
 18-3 schools in adopting and using open education resource instructional
 18-4 material made available under this subchapter, including by
 18-5 assisting districts and schools to:

18-6 (1) maintain the instructional flexibility of
 18-7 classroom teachers to address the needs of each student; and

18-8 (2) schedule instructional periods in a manner that
 18-9 allows classroom teachers sufficient time to effectively prepare
 18-10 and present instructional material within the teacher's normal work
 18-11 day.

18-12 Sec. 31.0753. TEACHER CANDIDATE ACCESS AND SUPPORT PROGRAM.
 18-13 The agency shall develop and maintain a program to assist educator
 18-14 preparation programs in implementing Section 21.044(a-1)(4).

18-15 SECTION 39. Section 31.076(b), Education Code, is amended
 18-16 to read as follows:

18-17 (b) A decision made by the commissioner under this
 18-18 subchapter ~~[regarding the purchase, revision, cost, licensing, or~~
 18-19 ~~distribution of state-developed open education resource~~
 18-20 ~~instructional material]~~ is final and may not be appealed.

18-21 SECTION 40. Section 31.004, Education Code, is transferred
 18-22 to Subchapter C, Chapter 31, Education Code, redesignated as
 18-23 Section 31.1011, Education Code, and amended to read as follows:

18-24 Sec. 31.1011 [31.004]. CERTIFICATION OF PROVISION OF
 18-25 INSTRUCTIONAL MATERIALS. (a) Each school district and
 18-26 open-enrollment charter school shall annually certify to the State
 18-27 Board of Education and the commissioner that:

18-28 (1) ~~[7]~~ for each subject in the required curriculum
 18-29 under Section 28.002, other than physical education, and each grade
 18-30 level, the district or school:

18-31 (A) provides each student with instructional
 18-32 materials that cover all elements of the essential knowledge and
 18-33 skills adopted by the State Board of Education for that subject and
 18-34 grade level; and

18-35 (B) in the provision of instructional materials,
 18-36 protects students from obscene or harmful content as necessary for
 18-37 compliance with:

18-38 (i) the Children's Internet Protection Act
 18-39 (Pub. L. No. 106-554);

18-40 (ii) Section 28.0022;

18-41 (iii) Section 43.22, Penal Code; and

18-42 (iv) any other law or regulation that
 18-43 protects students from obscene or harmful content; and

18-44 (2) the district or school used money allocated to the
 18-45 district or school under the instructional materials and technology
 18-46 allotment only for purposes allowed under Section 31.0211.

18-47 (b) To determine whether each student has instructional
 18-48 materials that cover all elements of the essential knowledge and
 18-49 skills as required by Subsection (a), a school district or
 18-50 open-enrollment charter school may consider:

18-51 (1) instructional materials adopted by the State Board
 18-52 of Education;

18-53 (2) ~~[materials adopted or purchased by the~~
 18-54 ~~commissioner under Section 31.0231 or Subchapter B-1,~~

18-55 ~~[(3) open education resource instructional materials~~
 18-56 ~~submitted by eligible institutions and adopted by the State Board~~
 18-57 ~~of Education under Section 31.0241,~~

18-58 ~~[(4) open education resource instructional materials~~
 18-59 ~~made available by other public schools,~~

18-60 ~~[(5)]~~ instructional materials developed, ~~[or]~~
 18-61 purchased, or otherwise acquired by the school district or
 18-62 open-enrollment charter school; and

18-63 (3) ~~[(6)]~~ open education resource instructional
 18-64 materials and other electronic instructional materials included in
 18-65 the repository under Section 31.0722 [31.083].

18-66 SECTION 41. Subchapter C, Chapter 31, Education Code, is
 18-67 amended by adding Section 31.1012 to read as follows:

18-68 Sec. 31.1012. REPORT TO AGENCY. Each school district shall
 18-69 annually report to the agency information regarding the

19-1 instructional materials used by the district during the previous
 19-2 school year, including the cost of each material, to assist the
 19-3 agency in ensuring compliance with Section 31.151(a).

19-4 SECTION 42. The heading to Section 31.102, Education Code,
 19-5 is amended to read as follows:

19-6 Sec. 31.102. TITLE AND CUSTODY; SCHOOL DISTRICT PURCHASES.

19-7 SECTION 43. Section 31.102, Education Code, is amended by
 19-8 adding Subsection (d) to read as follows:

19-9 (d) A school district is not required to use a method
 19-10 provided by Section 44.031(a) to purchase instructional materials
 19-11 that have been reviewed by the agency under Section 31.023 and
 19-12 included on the list of approved instructional materials maintained
 19-13 by the State Board of Education under Section 31.022.

19-14 SECTION 44. Section 31.103(c), Education Code, is amended
 19-15 to read as follows:

19-16 (c) In making a requisition under this section, a school
 19-17 district or open-enrollment charter school may requisition
 19-18 instructional materials [~~on the list adopted under Section 31.023~~]
 19-19 for grades above the grade level in which a student is enrolled.

19-20 SECTION 45. Section 31.151, Education Code, is amended by
 19-21 amending Subsection (a) and adding Subsection (a-1) to read as
 19-22 follows:

19-23 (a) A publisher or manufacturer of instructional materials:

19-24 (1) shall furnish any instructional material the
 19-25 publisher or manufacturer offers in this state at a price that does
 19-26 not exceed the lowest price at which the publisher offers that
 19-27 instructional material for adoption or sale to any state, public
 19-28 school, or school district in the United States;

19-29 (2) shall automatically reduce the price of
 19-30 instructional material sold for use in a school district or
 19-31 open-enrollment charter school to the extent that the price is
 19-32 reduced elsewhere in the United States;

19-33 (3) shall provide any instructional material or
 19-34 ancillary item free of charge in this state to the same extent that
 19-35 the publisher or manufacturer provides the instructional material
 19-36 or ancillary item free of charge to any state, public school, or
 19-37 school district in the United States;

19-38 (4) shall guarantee that each copy of instructional
 19-39 material sold in this state is at least equal in quality to copies
 19-40 of that instructional material sold elsewhere in the United States
 19-41 and is free from factual error;

19-42 (5) may not become associated or connected with,
 19-43 directly or indirectly, any combination in restraint of trade in
 19-44 instructional materials or enter into any understanding or
 19-45 combination to control prices or restrict competition in the sale
 19-46 of instructional materials for use in this state;

19-47 (6) shall deliver instructional materials to a
 19-48 school district or open-enrollment charter school;

19-49 (7) shall, at the time an order for instructional
 19-50 materials is acknowledged, provide to school districts or
 19-51 open-enrollment charter schools an accurate shipping date for
 19-52 instructional materials that are back-ordered;

19-53 (8) shall guarantee delivery of instructional
 19-54 materials at least 10 business days before the opening day of school
 19-55 of the year for which the instructional materials are ordered if the
 19-56 instructional materials are ordered by a date specified in the
 19-57 sales contract; [~~and~~]

19-58 (9) shall submit to the State Board of Education an
 19-59 affidavit certifying any instructional material the publisher or
 19-60 manufacturer offers in this state to be free of factual errors at
 19-61 the time the publisher executes the contract required by Section
 19-62 31.026; and

19-63 (10) shall comply with all other standard terms and
 19-64 conditions adopted by the State Board of Education for use in
 19-65 contracts for the procurement of instructional materials under
 19-66 Subsection (a-1).

19-67 (a-1) The State Board of Education shall adopt standard
 19-68 terms and conditions for use in contracts for the procurement of
 19-69 instructional materials from publishers and manufacturers under

20-1 this section.

20-2 SECTION 46. Subchapter D, Chapter 31, Education Code, is
20-3 amended by adding Section 31.154 to read as follows:

20-4 Sec. 31.154. INSTRUCTIONAL MATERIALS PARENT PORTAL. (a)
20-5 The State Board of Education shall adopt standards for entities
20-6 that supply instructional materials reviewed by the agency under
20-7 Section 31.023 to make instructional materials supplied by the
20-8 entity available on a parent portal hosted by the entity.

20-9 (b) An instructional materials parent portal must:

20-10 (1) provide to each parent of a student enrolled in a
20-11 school district or open-enrollment charter school access to
20-12 instructional materials, other than tests or exams, that are
20-13 included in the portal and used by the district or school;

20-14 (2) organize instructional material by unit and in the
20-15 order in which the material is designed to be used;

20-16 (3) be capable of being searched by key word; and

20-17 (4) for instructional material not available in a
20-18 digital format, contain sufficient information to allow a parent to
20-19 locate a physical copy of the material.

20-20 (c) Standards adopted under Subsection (a) may not require:

20-21 (1) a classroom teacher to submit instructional
20-22 materials developed by the teacher for inclusion in an
20-23 instructional materials parent portal; or

20-24 (2) an entity hosting an instructional materials
20-25 parent portal to include tests or exams in the portal.

20-26 (d) To comply with an intellectual property license or other
20-27 restrictions placed on an instructional material and to maintain
20-28 security of the information contained in an instructional materials
20-29 parent portal under this section, a parent may be required, before
20-30 accessing the portal, to:

20-31 (1) enter a password;

20-32 (2) comply with other user access verification
20-33 procedures; and

20-34 (3) accept user terms and conditions, which may not
20-35 limit or exclude access to instructional material based on the uses
20-36 of the material that would otherwise be permitted under fair use
20-37 provisions of copyright law.

20-38 (e) An entity that hosts an instructional materials parent
20-39 portal must comply with requests regarding parental access to the
20-40 portal made by a school district in compliance with this section or
20-41 Section 26.006.

20-42 SECTION 47. Section 33.004(b), Education Code, is amended
20-43 to read as follows:

20-44 (b) Each school, before implementing a comprehensive school
20-45 counseling program under Section 33.005, shall annually conduct a
20-46 preview of the program for parents and guardians. All materials,
20-47 including curriculum to be used during the year that is not
20-48 available digitally through an instructional materials parent
20-49 portal under Section 31.154, must be available for a parent or
20-50 guardian to preview during school hours. Materials or curriculum
20-51 not included in the materials on an instructional materials parent
20-52 portal or available on the campus for preview may not be used.

20-53 SECTION 48. Section 48.277(b), Education Code, is amended
20-54 to read as follows:

20-55 (b) For purposes of calculating maintenance and operations
20-56 revenue under Subsection (a), the commissioner shall:

20-57 (1) for purposes of Subsections (a)(1) and (2), use
20-58 the following applicable school year:

20-59 (A) in a school year ending in an even-numbered
20-60 year, the 2019-2020 school year; and

20-61 (B) in a school year ending in an odd-numbered
20-62 year, the 2019-2020 or 2020-2021 school year, whichever is greater;

20-63 (2) include all state and local funding, except for
20-64 any funding resulting from:

20-65 (A) reimbursement for disaster remediation costs
20-66 under former Sections 41.0931 and 42.2524;

20-67 (B) an adjustment for rapid decline in taxable
20-68 value of property under former Section 42.2521; ~~and~~

20-69 (C) an adjustment for property value affected by

21-1 a state of disaster under former Section 42.2523; and
 21-2 (D) additional state aid under Section 48.307 or
 21-3 48.308;

21-4 (3) adjust the calculation to reflect a reduction in
 21-5 tax effort by a school district; and

21-6 (4) if a school district or open-enrollment charter
 21-7 school receives a waiver relating to eligibility requirements for
 21-8 the national free or reduced-price lunch program under 42 U.S.C.
 21-9 Section 1751 et seq., use the numbers of educationally
 21-10 disadvantaged students on which the district's or school's
 21-11 entitlement to compensatory education funds was based for the
 21-12 school year before the school year in which the district or school
 21-13 received the waiver, adjusted for estimated enrollment growth.

21-14 SECTION 49. Subchapter G, Chapter 48, Education Code, is
 21-15 amended by adding Sections 48.307 and 48.308 to read as follows:

21-16 Sec. 48.307. ADDITIONAL STATE AID FOR STATE-APPROVED
 21-17 INSTRUCTIONAL MATERIALS. (a) For each student enrolled in the
 21-18 district, a school district is entitled to additional state aid for
 21-19 each school year in an amount equal to \$40, or a greater amount
 21-20 provided by appropriation, to procure instructional material that
 21-21 has been:

21-22 (1) reviewed by the agency under Section 31.023;

21-23 (2) placed on the list of approved instructional
 21-24 materials maintained by the State Board of Education under Section
 21-25 31.022;

21-26 (3) designated by the State Board of Education under
 21-27 Section 31.022 as being included or capable of being included in an
 21-28 instructional materials parent portal under Section 31.154; and

21-29 (4) acquired from a publisher, manufacturer, or other
 21-30 entity that has not been found to violate Section 31.151.

21-31 (b) A school district is entitled to the amount of state aid
 21-32 provided by Subsection (a) each school year, regardless of whether
 21-33 the district uses the amount during the school year for which the
 21-34 amount was provided.

21-35 (c) Additional state aid provided under this section shall
 21-36 be deposited to the credit of the district's instructional
 21-37 materials and technology account maintained by the commissioner
 21-38 under Section 31.0212 and may be accessed only for the procurement
 21-39 of instructional materials in accordance with this section.

21-40 (d) Funds provided to a school district under this section
 21-41 must be spent in compliance with the requirements for the use of
 21-42 funds provided under this section and Section 31.0211.

21-43 Sec. 48.308. ADDITIONAL STATE AID FOR OPEN EDUCATION
 21-44 RESOURCE INSTRUCTIONAL MATERIAL. (a) Subject to Section 31.0751,
 21-45 a school district is entitled to additional state aid for each
 21-46 school year in an amount not to exceed \$20 for each student for the
 21-47 costs incurred or for which the district is obligated to pay during
 21-48 the school year in which the aid is provided for the printing and
 21-49 shipping of open education resource instructional material made
 21-50 available under Subchapter B-1, Chapter 31.

21-51 (b) The amount to which a school district is entitled under
 21-52 this section may not exceed actual costs incurred by the district or
 21-53 for which the district is obligated to pay during the school year
 21-54 for which the funds were provided.

21-55 (c) Additional state aid provided under this section shall
 21-56 be deposited to the credit of the district's instructional
 21-57 materials and technology account maintained by the commissioner
 21-58 under Section 31.0212 and may be accessed only for the procurement
 21-59 of instructional materials in accordance with this section.

21-60 (d) Funds provided to a school district under this section
 21-61 must be spent in compliance with the requirements for the use of
 21-62 funds provided under this section and Section 31.0211.

21-63 SECTION 50. Chapter 322, Government Code, is amended by
 21-64 adding Section 322.0082 to read as follows:

21-65 Sec. 322.0082. INCLUSION OF CERTAIN EDUCATION FUNDS
 21-66 REQUIRED. (a) The director shall include in the budget of
 21-67 estimated appropriations prepared under Section 322.008(c):

21-68 (1) the amount set aside under Section 43.001(d),
 21-69 Education Code, by the State Board of Education from the available

22-1 school fund for the state instructional materials and technology
22-2 fund established under Section 31.021, Education Code; and
22-3 (2) the amount that is remaining in the state
22-4 instructional materials and technology fund from the previous
22-5 fiscal biennium that is available for use by school districts and
22-6 open-enrollment charter schools.

22-7 (b) If the amount estimated to be appropriated for purposes
22-8 of the state instructional materials and technology fund for a
22-9 fiscal biennium is less than the amount set aside by the State Board
22-10 of Education under Section 43.001(d), Education Code, the director
22-11 shall provide with the budget an explanation of the difference,
22-12 including the amount of the difference and to what the additional
22-13 funds have been appropriated.

22-14 (c) An explanation provided under Subsection (b) shall be
22-15 included with the documents provided on the board's Internet
22-16 website under Section 322.0081.

22-17 SECTION 51. The following provisions of the Education Code
22-18 are repealed:

- 22-19 (1) Section 31.0213;
- 22-20 (2) Sections 31.022(d-1), (e), (f), (g), (h), and (i);
- 22-21 (3) Section 31.0221;
- 22-22 (4) Section 31.0231;
- 22-23 (5) Section 31.024;
- 22-24 (6) Section 31.0241;
- 22-25 (7) Section 31.0242;
- 22-26 (8) Section 31.0261;
- 22-27 (9) Section 31.035;
- 22-28 (10) the heading to Subchapter B-2, Chapter 31;
- 22-29 (11) Section 31.081;
- 22-30 (12) Section 31.082;
- 22-31 (13) Section 31.084;
- 22-32 (14) Section 31.101; and
- 22-33 (15) Section 31.151(e).

22-34 SECTION 52. To the extent of any conflict, this Act prevails
22-35 over another Act of the 88th Legislature, Regular Session, 2023,
22-36 relating to nonsubstantive additions to and corrections in enacted
22-37 codes.

22-38 SECTION 53. (a) A contract entered into under Section
22-39 31.026 or 31.151, Education Code, as amended by this Act, before the
22-40 effective date of this Act is governed by the law in effect on the
22-41 date the contract was entered into, and the former law is continued
22-42 in effect for that purpose.

22-43 (b) A contract entered into under Section 31.026 or 31.151,
22-44 Education Code, as amended by this Act, after the effective date of
22-45 this Act for a program called for by the State Board of Education
22-46 under Proclamation 2024 is governed by the law in effect on the date
22-47 the proclamation was issued, and the former law is continued in
22-48 effect for that purpose.

22-49 (c) Section 31.026, Education Code, as amended by this Act,
22-50 does not apply to the review of or a contract for the purchase or
22-51 licensing of instructional materials required by the State Board of
22-52 Education pursuant to Proclamation 2024. The review of and
22-53 contracts for the purchase or licensing of instructional materials
22-54 required by the State Board of Education pursuant to Proclamation
22-55 2024 are governed by the law as it existed immediately before the
22-56 effective date of this Act, and the former law is continued in
22-57 effect for that purpose.

22-58 (d) Section 21.4045(b), Education Code, as added by this
22-59 Act, applies only to a contract entered into on or after the
22-60 effective date of this Act. A contract entered into before the
22-61 effective date of this Act is governed by the law in effect on the
22-62 date the contract was entered into, and the former law is continued
22-63 in effect for that purpose.

22-64 SECTION 54. (a) Except as provided by Subsection (b) of
22-65 this section, this Act applies beginning with the 2023-2024 school
22-66 year.

22-67 (b) Section 21.4045, Education Code, as added by this Act,
22-68 applies beginning with the 2024-2025 school year.

22-69 SECTION 55. (a) Except as provided by Subsections (b) and

23-1 (c) of this section, this Act takes effect immediately if it
23-2 receives a vote of two-thirds of all the members elected to each
23-3 house, as provided by Section 39, Article III, Texas Constitution.
23-4 If this Act does not receive the vote necessary for immediate
23-5 effect, this Act takes effect September 1, 2023.

23-6 (b) Sections 48.307 and 48.308, Education Code, as added by
23-7 this Act, and Section 48.277(b), Education Code, as amended by this
23-8 Act, take effect September 1, 2023.

23-9 (c) Section 322.0082, Government Code, as added by this Act,
23-10 takes effect September 1, 2025.

23-11

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