

By: Shapiro

S.B. No. 6

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the foundation curriculum, the establishment of the
3 instructional materials allotment, and the adoption, review, and
4 purchase of instructional materials and technological equipment
5 for public schools.

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

7 SECTION 1. Section 7.055(b)(28), Education Code, is amended
8 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (c) In this section:

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

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

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

27 SECTION 5. The heading to Section 7.112, Education Code, is

1 amended to read as follows:

2 Sec. 7.112. REPRESENTATION OF [~~TEXTBOOK~~] PUBLISHER OF
3 INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

4 SECTION 6. Section 7.112(a), Education Code, is amended to
5 read as follows:

6 (a) A former member of the State Board of Education who is
7 employed by or otherwise receives compensation from a [~~textbook~~]
8 publisher of instructional materials may not, before the second
9 anniversary of the date on which the person last served as a member
10 of the State Board of Education:

11 (1) confer with a member of the board of trustees of a
12 school district concerning instructional materials [~~a textbook~~]
13 published by that [~~textbook~~] publisher; or

14 (2) appear at a meeting of the board of trustees on
15 behalf of the [~~textbook~~] publisher.

16 SECTION 7. Section 7.112(c)(2), Education Code, is amended
17 to read as follows:

18 (2) "Instructional material" and "publisher"
19 [~~"Publisher" and "textbook"~~] have the meanings assigned by Section
20 31.002.

21 SECTION 8. Section 11.158(b), Education Code, is amended to
22 read as follows:

23 (b) The board may not charge fees for:

24 (1) instructional materials [~~textbooks~~], workbooks,
25 laboratory supplies, or other supplies necessary for participation
26 in any instructional course except as authorized under this code;

27 (2) field trips required as a part of a basic education

1 program or course;

2 (3) any specific form of dress necessary for any
3 required educational program or diplomas;

4 (4) the payment of instructional costs for necessary
5 school personnel employed in any course or educational program
6 required for graduation;

7 (5) library materials [~~books~~] required to be used for
8 any educational course or program, other than fines for lost,
9 damaged, or overdue materials [~~books~~];

10 (6) admission to any activity the student is required
11 to attend as a prerequisite to graduation;

12 (7) admission to or examination in any required
13 educational course or program; or

14 (8) lockers.

15 SECTION 9. Section 11.164(a), Education Code, is amended to
16 read as follows:

17 (a) The board of trustees of each school district shall
18 limit redundant requests for information and the number and length
19 of written reports that a classroom teacher is required to prepare.
20 A classroom teacher may not be required to prepare any written
21 information other than:

22 (1) any report concerning the health, safety, or
23 welfare of a student;

24 (2) a report of a student's grade on an assignment or
25 examination;

26 (3) a report of a student's academic progress in a
27 class or course;

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

3 (5) a [~~textbook~~] report on instructional materials;

4 (6) a unit or weekly lesson plan that outlines, in a
5 brief and general manner, the information to be presented during
6 each period at the secondary level or in each subject or topic at
7 the elementary level;

8 (7) an attendance report;

9 (8) any report required for accreditation review;

10 (9) any information required by a school district that
11 relates to a complaint, grievance, or actual or potential
12 litigation and that requires the classroom teacher's involvement;
13 or

14 (10) any information specifically required by law,
15 rule, or regulation.

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

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

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

22 (a) A parent is entitled to:

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

26 (2) review each test administered to the parent's
27 child after the test is administered.

1 (c) A student's parent is entitled to request that the
2 school district or open-enrollment charter school the student
3 attends allow the student to take home any instructional materials
4 [~~textbook~~] used by the student. Subject to the availability of the
5 instructional materials [~~a textbook~~], the district or school shall
6 honor the request. A student who takes home instructional
7 materials [~~a textbook~~] must return the instructional materials
8 [~~textbook~~] to school at the beginning of the next school day if
9 requested to do so by the student's teacher. In this subsection,
10 "instructional material" [~~"textbook"~~] has the meaning assigned by
11 Section 31.002.

12 SECTION 12. Sections 28.002(a), (c), (h), and (n),
13 Education Code, are amended to read as follows:

14 (a) Each school district that offers kindergarten through
15 grade 12 shall offer, as a required curriculum:

16 (1) a foundation curriculum that includes:
17 (A) English language arts;
18 (B) mathematics;
19 (C) science; and
20 (D) social studies, consisting of Texas, United
21 States, and world history, government, economics, with emphasis on
22 the free enterprise system and its benefits, and geography; and

23 (2) an enrichment curriculum that includes:
24 (A) to the extent possible, languages other than
25 English;

26 (B) health, with emphasis on the importance of
27 proper nutrition and exercise;

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

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

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

1 basic democratic values of our state and national heritage.

2 (n) The State Board of Education may by rule develop and
3 implement a plan designed to incorporate foundation curriculum
4 requirements into the career and technology education curriculum
5 under Subsection (a)(2)(E) [~~(a)(2)(F)~~].

6 SECTION 13. Sections 28.0022(a) and (d), Education Code,
7 are amended to read as follows:

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

10 (1) review and recommend revisions to the career and
11 technical education curriculum under Section 28.002(a)(2)(E)
12 [~~28.002(a)(2)(F)~~]; and

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

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

18 (1) complete the review as required by this section
19 of:

20 (A) the career and technical education
21 curriculum; and

22 (B) the program under which high schools and
23 articulated postsecondary institutions allow high school students
24 to take advanced technical credit courses; and

25 (2) make recommendations to the State Board of
26 Education as necessary to:

27 (A) increase the academic rigor of the career and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 purchased under Subchapter B-1.

2 (2) "Publisher" includes an on-line service or a
3 developer or distributor of [~~an~~] electronic instructional
4 materials [~~textbook~~].

5 (4) "Technological equipment" means hardware, a
6 device, or equipment necessary for:

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

10 (B) professional use by a classroom teacher.

11 SECTION 19. Subchapter A, Chapter 31, Education Code, is
12 amended by amending Sections 31.003 and 31.004 and adding Section
13 31.005 to read as follows:

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

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

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

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

5 SECTION 20. The heading to Section 31.021, Education Code,
6 is amended to read as follows:

7 Sec. 31.021. STATE INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~]
8 FUND.

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

12 (a) The state instructional materials [~~textbook~~] fund
13 consists of:

14 (1) an amount set aside by the State Board of Education
15 from the available school fund, in accordance with Section
16 43.001(d); and

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

19 [~~3~~] all amounts lawfully paid into the fund from any
20 other source.

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

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

25 (2) purchase special instructional materials for the
26 education of blind and visually impaired students in public
27 schools;

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

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

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

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

12 SECTION 22. Subchapter B, Chapter 31, Education Code, is
13 amended by adding Sections 31.0211, 31.0212, 31.0213, and 31.0214
14 to read as follows:

15 Sec. 31.0211. INSTRUCTIONAL MATERIALS ALLOTMENT. (a) A
16 school district is entitled to an annual allotment from the state
17 instructional materials fund for each student enrolled in the
18 district on a date during the preceding school year specified by the
19 commissioner. The commissioner shall determine the amount of the
20 allotment per student each year on the basis of the amount of money
21 available in the state instructional materials fund to fund the
22 allotment. An allotment under this section shall be transferred
23 from the state instructional materials fund to the credit of the
24 district's instructional materials account as provided by Section
25 31.0212.

26 (b) A juvenile justice alternative education program under
27 Section 37.011 is entitled to an allotment from the state

1 instructional materials fund in an amount determined by the
2 commissioner. The program shall use the allotment to purchase
3 items listed in Subsection (c) for students enrolled in the
4 program. The commissioner's determination under this subsection is
5 final and may not be appealed.

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

8 (1) purchase:

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

11 (B) instructional materials, regardless of
12 whether the instructional materials are on the conforming or
13 nonconforming list, as provided by Section 31.024;

14 (C) consumable instructional materials,
15 including workbooks;

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

18 (E) supplemental instructional materials, as
19 provided by Section 31.035;

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

22 (G) instructional materials and technological
23 equipment under any continuing contracts of the district in effect
24 on September 1, 2011; and

25 (H) technological equipment necessary to support
26 the use of materials included on the list adopted by the
27 commissioner under Section 31.0231 or any instructional materials

1 purchased with an allotment under this section; and

2 (2) pay for training educational personnel directly
3 involved in student learning in the appropriate use of
4 instructional materials and for providing for access to
5 technological equipment for instructional use.

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

8 (1) a sufficient quantity of instructional materials
9 or technological equipment that corresponds to the adoption cycle
10 under Section 31.022;

11 (2) instructional materials necessary to permit the
12 district to certify that the district has instructional materials
13 that cover all elements of the essential knowledge and skills of the
14 foundation curriculum for each grade level as required by Section
15 31.004; and

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

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

22 (1) instructional materials available for selection
23 under the 2011 proclamation issued by the State Board of Education;
24 or

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

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

3 (e) Not later than May 31 of each school year, a school
4 district may request that the commissioner adjust the number of
5 students for which the district is entitled to receive an allotment
6 under Subsection (a) on the grounds that the number of students
7 attending school in the district will increase or decrease during
8 the school year for which the allotment is provided. The
9 commissioner may also adjust the number of students for which a
10 district is entitled to receive an allotment, without a request by
11 the district, if the commissioner determines a different number of
12 students is a more accurate reflection of students who will be
13 attending school in the district. The commissioner's determination
14 under this subsection is final.

15 (f) The commissioner may adopt rules as necessary to
16 implement this section.

17 Sec. 31.0212. INSTRUCTIONAL MATERIALS ACCOUNT. (a) The
18 commissioner shall maintain an instructional materials account for
19 each school district. Each school year, the commissioner shall
20 deposit in the account for each district the amount of the
21 district's instructional materials allotment under Section
22 31.0211.

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

26 (c) A school district may also use funds in the district's
27 account to purchase electronic instructional materials or

1 technological equipment. The district shall submit to the
2 commissioner a request for funds for this purpose from the
3 district's account. The commissioner shall adopt rules regarding
4 the documentation a school district must submit to receive funds
5 under this subsection.

6 (d) Money deposited in a school district's instructional
7 materials account during each state fiscal biennium remains in the
8 account and available for use by the district for the entire
9 biennium. At the end of each biennium, a district with unused money
10 in the district's account may carry forward any remaining balance
11 to the next biennium.

12 (e) The commissioner may adopt rules as necessary to
13 implement this section.

14 Sec. 31.0213. CERTIFICATION OF USE OF INSTRUCTIONAL
15 MATERIALS ALLOTMENT. Each school district shall annually certify
16 to the commissioner that the district's instructional materials
17 allotment has been used only for expenses allowed by Section
18 31.0211.

19 Sec. 31.0214. ADJUSTMENT FOR HIGH ENROLLMENT GROWTH
20 DISTRICTS. (a) Each year the commissioner shall adjust the
21 instructional materials allotment of school districts experiencing
22 high enrollment growth. The commissioner shall establish a
23 procedure for determining high enrollment growth districts
24 eligible to receive an adjustment under this section and the amount
25 of the instructional materials allotment those districts will
26 receive.

27 (b) The commissioner may adopt rules as necessary to

1 implement this section.

2 SECTION 23. The heading to Section 31.022, Education Code,
3 is amended to read as follows:

4 Sec. 31.022. INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~] REVIEW AND
5 ADOPTION.

6 SECTION 24. Section 31.022, Education Code, is amended by
7 amending Subsections (a), (b), (c), (e), and (f) and adding
8 Subsection (b-1) to read as follows:

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

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

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

18 (A) foundation curriculum subjects for which the
19 essential knowledge and skills have been substantially revised and
20 for which assessment instruments are required under Subchapter B,
21 Chapter 39, including career and technology courses that satisfy
22 foundation curriculum requirements as provided by Section
23 28.002(n);

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

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

5 (D) enrichment curriculum subjects.

6 (b) The board shall organize the cycle for subjects in the
7 foundation curriculum so that not more than one-fourth [~~one-sixth~~]
8 of the instructional materials [~~textbooks~~] for subjects in the
9 foundation curriculum are reviewed each biennium [~~year~~]. The board
10 shall adopt rules to provide for a full and complete investigation
11 of instructional materials [~~textbooks~~] for each subject in the
12 foundation curriculum [~~at least~~] every eight [~~six~~] years. The
13 adoption of instructional materials [~~textbooks~~] for a subject in
14 the foundation curriculum may be extended beyond the eight-year
15 [~~six-year~~] period only if the content of instructional materials
16 [~~textbooks~~] for a subject is sufficiently current.

17 (b-1) For the biennium beginning September 1, 2011, the
18 board shall review and adopt instructional materials for English
19 language arts. This subsection expires September 1, 2013.

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

24 (e) The board shall designate a request for production of
25 instructional materials [~~textbooks~~] in a subject area and grade
26 level by the school year in which the instructional materials
27 [~~textbooks~~] are intended to be made available in classrooms and not

1 by the school year in which the board makes the request for
2 production.

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

7 SECTION 25. Section 31.0221, Education Code, is amended to
8 read as follows:

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

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

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

25 (3) a commitment from the publisher to provide the
26 instructional material [~~textbook~~] to school districts in the manner
27 specified by the publisher, which may include:

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

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

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

10 SECTION 26. Section 31.023, Education Code, is amended to
11 read as follows:

12 Sec. 31.023. INSTRUCTIONAL MATERIAL [~~TEXTBOOK~~] LISTS. (a)
13 For each subject and grade level, the State Board of Education shall
14 adopt two lists of instructional materials [~~textbooks~~]. The
15 conforming list includes each instructional material [~~textbook~~]
16 submitted for the subject and grade level that meets applicable
17 physical specifications adopted by the State Board of Education and
18 contains material covering each element of the essential knowledge
19 and skills of the subject and grade level in the student version of
20 the instructional material [~~textbook~~], as well as in the teacher
21 version of the instructional material [~~textbook~~], as determined by
22 the State Board of Education under Section 28.002 and adopted under
23 Section 31.024. The nonconforming list includes each instructional
24 material [~~textbook~~] submitted for the subject and grade level that:

25 (1) meets applicable physical specifications adopted
26 by the State Board of Education;

27 (2) contains material covering at least half, but not

1 all, of the elements of the essential knowledge and skills of the
2 subject and grade level in the student version of the instructional
3 material [~~textbook~~], as well as in the teacher version of the
4 instructional material [~~textbook~~]; and

5 (3) is adopted under Section 31.024.

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

8 SECTION 27. Section 31.0231, Education Code, is amended to
9 read as follows:

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

13 (1) electronic instructional material [~~textbooks~~];
14 and

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

20 (b) A school district may select [~~an electronic textbook or~~
21 ~~instructional~~] material on the list adopted under Subsection (a) to
22 be funded by the district's instructional materials allotment
23 [~~state textbook fund~~] under Section 31.0211 [~~31.021~~].

24 (c) Before the commissioner places [~~an electronic textbook~~
25 ~~or instructional~~] material on the list adopted under Subsection
26 (a), the State Board of Education must be given an opportunity to
27 comment on the [~~electronic textbook or instructional~~] material.

1 Material [~~An electronic textbook or instructional material~~] placed
2 on the list adopted under Subsection (a):

3 (1) must be reviewed and recommended to the
4 commissioner by a panel of recognized experts in the subject area of
5 the [~~electronic textbook or instructional~~] material and experts in
6 education technology;

7 (2) must satisfy criteria adopted for the purpose by
8 commissioner rule; and

9 (3) must meet the National Instructional Materials
10 Accessibility Standard, to the extent practicable as determined by
11 the commissioner.

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

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

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

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

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

26 (3) include appropriate training for teachers.

27 (e) The commissioner shall update, as necessary, the list

1 adopted under Subsection (a). Before the commissioner places [~~an~~
2 ~~electronic textbook or instructional~~] material on the updated list,
3 the requirements of Subsection (c) must be met. [~~Before the~~
4 ~~commissioner removes an electronic textbook or instructional~~
5 ~~material from the updated list, the removal must be recommended by a~~
6 ~~panel of recognized experts in the subject area of the electronic~~
7 ~~textbook or instructional material and experts in education~~
8 ~~technology.~~]

9 (f) After notice to the commissioner explaining in detail
10 the changes, the provider of [~~an electronic textbook or~~
11 ~~instructional~~] material on the list adopted under Subsection (a)
12 may update the navigational features or management system related
13 to the [~~electronic textbook or instructional~~] material.

14 (g) After notice to the commissioner and a review by the
15 commissioner, the provider of [~~an electronic textbook or~~
16 ~~instructional~~] material on the list adopted under Subsection (a)
17 may update the content of the [~~electronic textbook or~~
18 ~~instructional~~] material if needed to accurately reflect current
19 knowledge or information.

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

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

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

27 SECTION 28. Section 31.024, Education Code, is amended to

1 read as follows:

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

4 (1) place each submitted instructional material
5 [~~textbook~~] on a conforming or nonconforming list; or

6 (2) reject instructional material [~~a textbook~~]
7 submitted for placement on a conforming or nonconforming list.

8 (b) Not later than December 1 of the year preceding the
9 school year for which the instructional materials [~~textbooks~~] for a
10 particular subject and grade level will be purchased under the
11 cycle adopted by the board under Section 31.022, the board shall
12 provide the lists of adopted instructional materials [~~textbooks~~] to
13 each school district. Each nonconforming list must include the
14 reasons [~~an~~] adopted instructional material [~~textbook~~] is not
15 eligible for the conforming list.

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

18 Sec. 31.0241. ADOPTION OF OPEN-SOURCE INSTRUCTIONAL
19 MATERIALS [~~TEXTBOOKS~~].

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

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

26 (1) the instructional material [~~textbook~~] is written,
27 compiled, or edited primarily by faculty of the eligible

1 institution who specialize in the subject area of the instructional
2 material [~~textbook~~];

3 (2) the eligible institution identifies each
4 contributing author;

5 (3) the appropriate department of the eligible
6 institution certifies the instructional material [~~textbook~~] for
7 accuracy; and

8 (4) the eligible institution determines that the
9 instructional material [~~textbook~~] qualifies for placement on the
10 conforming or nonconforming list based on the extent to which the
11 instructional material [~~textbook~~] covers the essential knowledge
12 and skills identified under Section 28.002 for the subject for
13 which the instructional material [~~textbook~~] is written and
14 certifies that:

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

20 (B) for instructional material [~~a textbook~~] for a
21 junior-level and senior-level course, a student who successfully
22 completes the junior-level course based on the instructional
23 material [~~textbook~~] will be prepared for entry into the
24 senior-level course.

25 (c) This section does not prohibit an eligible institution
26 from submitting instructional material [~~a textbook~~] for placement
27 on a conforming or nonconforming list through any other adoption

1 process provided by this chapter.

2 SECTION 31. Section 31.026, Education Code, is amended to
3 read as follows:

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

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

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

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

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

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

21 SECTION 32. Section 31.0261, Education Code, is amended to
22 read as follows:

23 Sec. 31.0261. CONTRACTS FOR PRINTING OF OPEN-SOURCE
24 INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The State Board of Education
25 may execute a contract for the printing of [~~an~~] open-source
26 instructional materials [~~textbook~~] listed on the conforming or
27 nonconforming list. The contract must allow a school district to

1 requisition printed copies of [~~an~~] open-source instructional
2 materials [~~textbook~~] as provided by Section 31.103.

3 SECTION 33. Section 31.027, Education Code, is amended to
4 read as follows:

5 Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; SAMPLE
6 COPIES. (a) A publisher shall provide each school district and
7 open-enrollment charter school with information that fully
8 describes each of the publisher's submitted instructional
9 materials [~~adopted textbooks~~]. On request of a school district, a
10 publisher shall provide a sample copy in digital format of
11 submitted instructional material [~~an adopted textbook~~].

12 (b) A publisher shall provide at least two sample copies in
13 digital format of each submitted instructional material [~~adopted~~
14 ~~textbook~~] to be maintained at each regional education service
15 center.

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

18 SECTION 34. Section 31.028, Education Code, is amended to
19 read as follows:

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

21 (a) The commissioner [~~State Board of Education~~] may purchase
22 special instructional materials [~~textbooks~~] for the education of
23 blind and visually impaired students in public schools. In
24 addition, for a teacher who is blind or visually impaired, the
25 commissioner [~~board~~] shall provide a teacher's edition in Braille
26 or large type, as requested by the teacher, for each instructional
27 material [~~textbook~~] the teacher uses in the instruction of

1 students. The teacher edition must be available at the same time
2 the student instructional materials [~~textbooks~~] become available.

3 (b) The publisher of [~~an~~] adopted instructional material
4 [~~textbook~~] shall provide the agency with computerized
5 instructional material [~~textbook~~] files for the production of
6 Braille instructional materials [~~textbooks~~] or other versions of
7 instructional materials [~~textbooks~~] to be used by students with
8 disabilities, on request of the commissioner [~~State Board of~~
9 ~~Education~~]. A publisher shall arrange computerized instructional
10 material [~~textbook~~] files in one of several optional formats
11 specified by the commissioner [~~State Board of Education~~].

12 (c) The commissioner [~~board~~] may also enter into agreements
13 providing for the acceptance, requisition, and distribution of
14 special instructional materials [~~textbooks~~] and instructional aids
15 pursuant to 20 U.S.C. Section 101 et seq. for use by students
16 enrolled in:

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

20 (d) In this section:

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

25 (2) "Special instructional material [~~textbook~~]" means
26 instructional material [~~a textbook~~] in Braille, large type or any
27 other medium or any apparatus that conveys information to a student

1 or otherwise contributes to the learning process.

2 SECTION 35. Section 31.029, Education Code, is amended to
3 read as follows:

4 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS
5 [~~TEXTBOOKS~~]. (a) A school district [~~The board~~] shall purchase with
6 the district's instructional materials allotment or otherwise
7 acquire instructional materials [~~textbooks~~] for use in bilingual
8 education classes.

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

11 SECTION 36. Section 31.030, Education Code, is amended to
12 read as follows:

13 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The
14 State Board of Education shall adopt rules to ensure that used
15 instructional materials [~~textbooks~~] sold to school districts and
16 open-enrollment charter schools are not sample copies that contain
17 factual errors. The rules may provide for the imposition of an
18 administrative penalty in accordance with Section 31.151 against a
19 seller of used instructional materials [~~textbooks~~] who knowingly
20 violates this section.

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

23 Sec. 31.035. SUPPLEMENTAL INSTRUCTIONAL MATERIALS
24 [~~TEXTBOOKS~~].

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

27 (a) Notwithstanding any other provision of this subchapter,

1 the State Board of Education may adopt supplemental instructional
2 materials [~~textbooks~~] that are not on the conforming or
3 nonconforming list under Section 31.023. The State Board of
4 Education may adopt [~~a~~] supplemental instructional material
5 [~~textbook~~] under this section only if the instructional material
6 [~~textbook~~]:

7 (1) contains material covering one or more primary
8 focal points or primary topics of a subject in the required
9 curriculum under Section 28.002, as determined by the State Board
10 of Education;

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

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

15 (4) is free from factual errors.

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

20 (c) Supplemental instructional material [~~A supplemental~~
21 ~~textbook~~] is subject to the review and adoption cycle provisions,
22 including the midcycle review and adoption cycle provisions, of
23 this subchapter.

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

27 [~~(1) uses textbook credits received under Section~~

1 ~~31.1011 to purchase the supplemental textbook, or~~
2 ~~[(2)]~~ instead of requisitioning instructional
3 material [~~a textbook~~] on the conforming list under Section 31.023
4 for a course in the foundation curriculum under Section 28.002,
5 requisitions the supplemental instructional material [~~textbook~~]
6 along with other supplemental instructional materials [~~textbooks~~]
7 or instructional materials [~~textbooks~~] on the nonconforming list
8 under Section 31.023 that in combination cover each element of the
9 essential knowledge and skills for the course for which the
10 district or school is requisitioning the supplemental
11 instructional materials [~~textbooks~~].

12 (f) A school district or open-enrollment charter school
13 that requisitions supplemental instructional materials [~~textbooks~~
14 ~~under Subsection (d)(2)]~~ shall certify to the agency that the
15 supplemental instructional materials [~~textbooks~~], in combination
16 with any other instructional materials [~~textbooks~~] or supplemental
17 instructional materials [~~textbooks~~] used by the district or school,
18 cover the essential knowledge and skills identified under Section
19 28.002 by the State Board of Education for the subject and grade
20 level for which the district or school is requisitioning the
21 supplemental instructional materials [~~textbooks~~].

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

24 SUBCHAPTER B-1. STATE-DEVELOPED OPEN-SOURCE INSTRUCTIONAL
25 MATERIALS [~~TEXTBOOKS~~]

26 SECTION 40. Section 31.071, Education Code, is amended to
27 read as follows:

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

4 (b) The commissioner:

5 (1) shall purchase any state-developed open-source
6 instructional materials [~~textbooks~~] through a competitive process;
7 and

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

11 (c) State-developed [~~A state-developed~~] open-source
12 instructional material [~~textbook~~] must be irrevocably owned by or
13 licensed to the state for use in the applicable subject or grade
14 level. The state must have unlimited authority to modify, delete,
15 combine, or add content to the instructional material [~~textbook~~]
16 after purchase.

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

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

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

24 (e) The costs of administering this subchapter and
25 purchasing state-developed open-source instructional materials
26 [~~textbooks~~] shall be paid from the state instructional materials
27 [~~textbook~~] fund, as determined by the commissioner and subject to

1 Section 31.021.

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

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

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

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

11 (b) Following a curriculum revision by the State Board of
12 Education, the commissioner shall require the revision of [~~a~~]
13 state-developed open-source instructional material [~~textbook~~]
14 relating to that curriculum. The commissioner may, at any time,
15 require an additional revision of [~~a~~] state-developed open-source
16 instructional material [~~textbook~~] or contract for ongoing
17 revisions of state-developed instructional material [~~a textbook~~]
18 for a period not to exceed the period under Section 31.022 for which
19 instructional material [~~a textbook~~] for that subject and grade
20 level may be adopted. The commissioner shall use a competitive
21 process to request proposals to revise [~~a~~] state-developed
22 open-source instructional material [~~textbook~~] under this
23 subsection.

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

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

27 SECTION 43. Sections 31.073(c) and (d), Education Code, are

1 amended to read as follows:

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

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

11 SECTION 44. Section 31.074, Education Code, is amended to
12 read as follows:

13 Sec. 31.074. DISTRIBUTION. (a) The commissioner shall
14 provide for the distribution of state-developed open-source
15 instructional materials [~~textbooks~~] in a manner consistent with
16 distribution of instructional materials [~~textbooks~~] adopted under
17 Subchapter B.

18 (b) The commissioner may use a competitive process to
19 contract for printing or other reproduction of [~~a~~] state-developed
20 open-source instructional material [~~textbook~~] on behalf of a school
21 district or open-enrollment charter school. The commissioner may
22 not require a school district or open-enrollment charter school to
23 contract with a state-approved provider for the printing or
24 reproduction of [~~a~~] state-developed open-source instructional
25 material [~~textbook~~].

26 SECTION 45. Section 31.075, Education Code, is amended to
27 read as follows:

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

4 (b) The commissioner shall provide a license to each public
5 school in the state, including a school district, an
6 open-enrollment charter school, and a state or local agency
7 educating students in any grade from prekindergarten through high
8 school, to use and reproduce [a] state-developed open-source
9 instructional material [~~textbook~~].

10 (c) The commissioner may provide a license to use [a]
11 state-developed open-source instructional material [~~textbook~~] to
12 an entity not listed in Subsection (b). In determining the cost of
13 a license under this subsection, the commissioner shall seek, to
14 the extent feasible, to recover the costs of developing, revising,
15 and distributing state-developed open-source instructional
16 materials [~~textbooks~~].

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

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

22 SECTION 47. Section 31.077, Education Code, is amended to
23 read as follows:

24 Sec. 31.077. ADOPTION SCHEDULE. The commissioner shall
25 develop a schedule for the adoption of state-developed open-source
26 instructional materials [~~textbooks~~] under this subchapter. In
27 developing the adoption schedule under this section, the

1 commissioner shall consider:

2 (1) the availability of funds;

3 (2) the existing instructional material [~~textbook~~]
4 adoption cycles under Subchapter B; and

5 (3) the availability of instructional materials
6 [~~textbooks~~] for development or purchase by the state.

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

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

11 SECTION 49. Section 31.101, Education Code, is amended by
12 amending Subsections (a), (d), and (e) and adding Subsection (f) to
13 read as follows:

14 (a) Each year, during a period established by the State
15 Board of Education, the board of trustees of each school district
16 and the governing body of each open-enrollment charter school
17 shall:

18 (1) for a subject in the foundation curriculum, notify
19 the State Board of Education of the instructional materials
20 [~~textbooks~~] selected by the board of trustees or governing body for
21 the following school year from among the instructional materials
22 [~~textbooks~~] on the appropriate conforming or nonconforming list,
23 including the list adopted under Section 31.0231; or

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

25 (A) notify the State Board of Education of each
26 instructional material [~~textbook~~] selected by the board of trustees
27 or governing body for the following school year from among the

1 instructional materials [~~textbooks~~] on the appropriate conforming
2 or nonconforming list, including the list adopted under Section
3 31.0231; or

4 (B) notify the State Board of Education that the
5 board of trustees or governing body has selected instructional
6 material [~~a textbook~~] that is not on the conforming or
7 nonconforming list.

8 (d) For instructional material [~~a textbook~~] that is not on
9 the conforming or nonconforming list, a school district or
10 open-enrollment charter school must use the instructional material
11 [~~textbook~~] for the period of the review and adoption cycle the State
12 Board of Education has established for the subject and grade level
13 for which the instructional material [~~textbook~~] is used.

14 (e) A school district or open-enrollment charter school
15 that selects [~~a~~] subscription-based [~~electronic textbook or~~]
16 instructional material on the conforming list under Section 31.023
17 or electronic instructional material on the list adopted by the
18 commissioner under Section 31.0231 may cancel the subscription and
19 subscribe to [~~a~~] new [~~electronic textbook or~~] instructional
20 material on the conforming list under Section 31.023 or electronic
21 instructional material on the list adopted by the commissioner
22 under Section 31.0231 before the end of the state contract period
23 under Section 31.026 if:

24 (1) the district or school has used the [~~electronic~~
25 ~~textbook or~~] instructional material for at least one school year;
26 and

27 (2) the agency approves the change based on a written

1 request to the agency by the district or school that specifies the
2 reasons for changing the [~~electronic textbook or~~] instructional
3 material used by the district or school.

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

8 SECTION 50. Section 31.102, Education Code, is amended to
9 read as follows:

10 Sec. 31.102. TITLE AND CUSTODY. (a) Except as provided by
11 Subsection (d), printed instructional material [~~Each textbook~~]
12 purchased as provided by this chapter is the property of this state.
13 Any electronic instructional material or technological equipment
14 purchased with a school district's instructional materials
15 allotment is the property of the school district.

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

19 (c) The board of trustees of a school district or the
20 governing body of an open-enrollment charter school is the legal
21 custodian of printed instructional materials [~~textbooks~~] purchased
22 as provided by this chapter for the district or school. The board
23 of trustees shall distribute printed instructional materials
24 [~~textbooks~~] to students in the manner that the board or governing
25 body determines is most effective and economical.

26 (d) Printed instructional material purchased with a school
27 district's instructional materials allotment becomes the property

1 of the district on the date the printed instructional material is
2 discontinued for use in the public schools by the State Board of
3 Education or the commissioner.

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

6 Sec. 31.103. INSTRUCTIONAL MATERIAL [~~TEXTBOOK~~]
7 REQUISITIONS.

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

10 (b) [~~A requisition for textbooks for the following school~~
11 ~~year shall be based on the maximum attendance reports under~~
12 ~~Subsection (a), plus an additional 10 percent, except as otherwise~~
13 ~~provided.] A school district or open-enrollment charter school~~

14 shall make a requisition for instructional material using the
15 online requisition program maintained by [~~a textbook on the~~
16 ~~conforming or nonconforming list through~~] the commissioner [~~to the~~
17 ~~state depository designated by the publisher or as provided by~~
18 ~~State Board of Education rule, as applicable,~~] not later than June 1
19 of each year. The [~~designated state depository or, if the publisher~~
20 ~~or manufacturer does not have a designated textbook depository in~~
21 ~~this state under Section 31.151(a)(6)(B), the~~] publisher or
22 manufacturer shall fill a requisition approved by the agency [~~at~~
23 ~~any other time in the case of an emergency~~]. [~~As made necessary by~~
24 ~~available funds, the commissioner shall reduce the additional~~
25 ~~percentage of attendance for which a district or school may~~
26 ~~requisition textbooks. The commissioner may, on application of a~~
27 ~~district or school that is experiencing high enrollment growth,~~

1 ~~increase the additional percentage of attendance for which the~~
2 ~~district or school may requisition textbooks.]~~

3 (c) In making a requisition under this section, a school
4 district or open-enrollment charter school may requisition
5 instructional materials [~~textbooks~~] on the conforming or
6 nonconforming list for grades above the grade level in which a
7 student is enrolled[, ~~except that the total quantity of textbooks~~
8 ~~requisitioned under this section may not exceed the limit~~
9 ~~prescribed by Subsection (b)].~~

10 (d) A school district or open-enrollment charter school
11 that selects [~~an~~] open-source instructional material [~~textbook~~]
12 shall requisition a sufficient number of printed copies for use by
13 students unable to access the instructional material [~~textbook~~]
14 electronically unless the district or school provides to each
15 student:

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

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

20 SECTION 53. Section 31.1031, Education Code, is amended to
21 read as follows:

22 Sec. 31.1031. SHORTAGE OF REQUISITIONED PRINTED
23 INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. If a school district or
24 open-enrollment charter school does not have a sufficient number of
25 copies of printed instructional materials [~~a textbook~~] used by the
26 district or school for use during the following school year, and a
27 sufficient number of additional copies will not be available from

1 the [~~depository or the~~] publisher within the time specified by
2 Section 31.151(a)(8), the district or school is entitled to[+]

3 [~~(1) be reimbursed from the state textbook fund, at a~~
4 ~~rate and in the manner provided by State Board of Education rule,~~
5 ~~for the purchase of a sufficient number of used adopted textbooks,~~
6 ~~or~~

7 [~~(2)~~] return currently used printed instructional
8 materials [~~textbooks~~] to the commissioner in exchange for
9 sufficient copies, if available, of other printed instructional
10 materials [~~textbooks~~] on the conforming or nonconforming list to be
11 used during the following school year.

12 SECTION 54. Section 31.104, Education Code, is amended to
13 read as follows:

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

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

23 [~~(1) the textbook depository,~~

24 [~~(2)~~] the [~~textbook~~] publisher of the instructional
25 materials or [~~manufacturer if the textbook publisher or~~
26 ~~manufacturer does not have a designated textbook depository in this~~
27 ~~state under Section 31.151(a)(6)(B), or~~

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

3 (c) Each instructional material ~~[textbook]~~ must state that
4 the instructional material ~~[textbook]~~ is the property of or is
5 licensed to this state or the school district, as appropriate. Each
6 instructional material ~~[textbook]~~, other than ~~[an]~~ electronic
7 instructional material ~~[textbook]~~ or a printed copy of ~~[an]~~
8 open-source instructional material ~~[textbook]~~, must be covered by
9 the student under the direction of the teacher. Except as provided
10 by Subsection (g), a student must return all instructional
11 materials ~~[textbooks]~~ to the teacher at the end of the school year
12 or when the student withdraws from school.

13 (d) Each student, or the student's parent or guardian, is
14 responsible for all instructional materials ~~[each textbook,~~
15 ~~including an electronic textbook,~~] and ~~[all]~~ technological
16 equipment not returned in an acceptable condition by the
17 student. A student who fails to return in an acceptable condition
18 all instructional materials ~~[textbooks, including electronic~~
19 ~~textbooks,~~] and technological equipment forfeits the right to free
20 instructional materials ~~[textbooks, including electronic~~
21 ~~textbooks,~~] and technological equipment until all instructional
22 materials ~~[each textbook, including an electronic textbook,~~] and
23 ~~[all]~~ technological equipment previously issued but not returned in
24 an acceptable condition are ~~[is]~~ paid for by the student, parent, or
25 guardian. As provided by policy of the board of trustees or
26 governing body, a school district or open-enrollment charter school
27 may waive or reduce the payment requirement if the student is from a

1 low-income family. The district or school shall allow the student
2 to use instructional materials [~~textbooks, including electronic~~
3 ~~textbooks,~~] and technological equipment at school during each
4 school day. If instructional materials [~~a textbook, including an~~
5 ~~electronic textbook,~~] or technological equipment is not returned in
6 an acceptable condition or paid for, the district or school may
7 withhold the student's records. A district or school may not,
8 under this subsection, prevent a student from graduating,
9 participating in a graduation ceremony, or receiving a
10 diploma. The commissioner by rule shall adopt criteria for
11 determining whether instructional materials [~~a textbook, including~~
12 ~~an electronic textbook,~~] and technological equipment are returned
13 in an acceptable condition.

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

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

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

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

13 SECTION 55. Section 31.105, Education Code, is amended to
14 read as follows:

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

1 ~~price. The district shall send money from the sale of textbooks to~~
2 ~~the commissioner as required by the commissioner. The commissioner~~
3 ~~shall deposit the money in the state textbook fund].~~

4 (b) The board of trustees of a school district shall
5 determine how the district will dispose of discontinued printed
6 instructional materials, electronic instructional materials, and
7 technological equipment.

8 SECTION 56. Section 31.106, Education Code, is amended to
9 read as follows:

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

14 SECTION 57. Sections 31.151(a) and (d), Education Code, are
15 amended to read as follows:

16 (a) A publisher or manufacturer of instructional materials
17 [~~textbooks~~]:

18 (1) shall furnish any instructional material
19 [~~textbook~~] the publisher or manufacturer offers in this state[7] at
20 a price that does not exceed the lowest price at which the publisher
21 offers that instructional material [~~textbook~~] for adoption or sale
22 to any state, public school, or school district in the United
23 States;

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

1 (3) shall provide any instructional material
2 [~~textbook~~] or ancillary item free of charge in this state to the
3 same extent that the publisher or manufacturer provides the
4 instructional material [~~textbook~~] or ancillary item free of charge
5 to any state, public school, or school district in the United
6 States;

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

11 (5) may not become associated or connected with,
12 directly or indirectly, any combination in restraint of trade in
13 instructional materials [~~textbooks~~] or enter into any
14 understanding or combination to control prices or restrict
15 competition in the sale of instructional materials [~~textbooks~~] for
16 use in this state;

17 (6) shall[+]

18 [~~(A) maintain a depository in this state or~~
19 ~~arrange with a depository in this state to receive and fill orders~~
20 ~~for textbooks, other than open-source textbooks, on-line~~
21 ~~textbooks, or on-line textbook components, consistent with State~~
22 ~~Board of Education rules, or~~

23 [~~(B)~~] deliver instructional materials
24 [~~textbooks~~] to a school district or open-enrollment charter school
25 without a delivery charge to the school district, open-enrollment
26 charter school, or state [~~, if~~]

27 [~~(i) the publisher or manufacturer does not~~

1 ~~maintain or arrange with a depository in this state under Paragraph~~
2 ~~(A) and the publisher's or manufacturer's textbooks and related~~
3 ~~products are warehoused or otherwise stored less than 300 miles~~
4 ~~from a border of this state; or~~

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

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

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

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

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

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

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

1 SECTION 59. Sections 31.152(a), (b), and (d), Education
2 Code, are amended to read as follows:

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

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

10 (1) is given to the person or the person's school;

11 (2) might reasonably tend to influence a trustee,
12 administrator, or teacher in the selection of [~~a textbook,~~
13 ~~electronic textbook,~~] instructional material[~~7~~] or technological
14 equipment; and

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

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

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

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

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

26 SECTION 60. The heading to Section 31.153, Education Code,
27 is amended to read as follows:

1 Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS
2 ~~[TEXTBOOK]~~ LAW.

3 SECTION 61. Section 31.153(a), Education Code, is amended
4 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (e) Subsection (d) applies beginning with the state fiscal
25 biennium beginning September 1, 2013. For the state fiscal
26 biennium beginning September 1, 2011, each year the State Board of
27 Education shall set aside an amount equal to 40 percent of the

1 annual distribution for that year from the permanent school fund to
2 the available school fund as provided by Section 5(a), Article VII,
3 Texas Constitution, to be placed, subject to the General
4 Appropriations Act, in the state instructional materials fund
5 established under Section 31.021.

6 (f) In calculating the amounts to be set aside as provided
7 by Subsection (e) for the state fiscal biennium beginning September
8 1, 2011, the State Board of Education shall consider only the
9 amounts of the annual distribution of the permanent school fund for
10 that biennium. The board shall not consider amounts distributed
11 for the state fiscal biennium beginning September 1, 2009,
12 regardless of the date on which those amounts were approved for
13 distribution.

14 (g) Subsections (e) and (f) and this subsection expire
15 September 1, 2013.

16 SECTION 66. The following provisions of the Education Code
17 are repealed:

- 18 (1) Section 31.002(3);
- 19 (2) Sections 31.021(b), (e), and (f);
- 20 (3) Section 31.022(d);
- 21 (4) Section 31.0222;
- 22 (5) Section 31.025;
- 23 (6) Sections 31.035(e) and (g);
- 24 (7) Section 31.072(c);
- 25 (8) Sections 31.073(a) and (b);
- 26 (9) Sections 31.101(b), (b-1), (c), and (c-1);
- 27 (10) Section 31.1011;

1 (11) Sections 31.103(a) and (e);

2 (12) Subchapter E, Chapter 31;

3 (13) Section 32.005;

4 (14) Sections 32.251 through 32.257; and

5 (15) Sections 32.259 through 32.263.

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