

By: Buckley, Dutton, Bonnen,
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et al.

H.B. No. 1605

Substitute the following for H.B. No. 1605:

By: Buckley

C.S.H.B. No. 1605

A BILL TO BE ENTITLED

AN ACT

1
2 relating to instructional material and technology, the adoption of
3 essential knowledge and skills for certain public school foundation
4 curriculum subjects, and creating allotments for the procurement of
5 certain instructional materials under the Foundation School
6 Program; authorizing a fee.

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

8 SECTION 1. Section [11.164](#), Education Code, is amended by
9 amending Subsection (a) and adding Subsection (a-1) to read as
10 follows:

11 (a) The board of trustees of each school district shall
12 limit redundant requests for information and the number and length
13 of written reports that a classroom teacher is required to prepare.
14 A classroom teacher may not be required to prepare any written
15 information other than:

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

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

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

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

24 (5) a report on instructional materials;

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

5 (7) an attendance report;

6 (8) any report required for accreditation review;

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

11 (10) any information specifically required by law,
12 rule, or regulation.

13 (a-1) A unit or weekly lesson plan that is included in
14 instructional material, as defined by Section 31.002, and adopted
15 by the board of trustees of the school district at which a teacher
16 is employed is sufficient to satisfy a requirement to prepare
17 written information described by Subsection (a)(6).

18 SECTION 2. Section 21.044(a-1), Education Code, is amended
19 to read as follows:

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

22 (1) basic knowledge of:

23 (A) each disability category under the
24 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
25 et seq.) and how each category can affect student learning and
26 development; and

27 (B) conditions that may be considered a

1 disability under Section 504, Rehabilitation Act of 1973 (29 U.S.C.
2 Section 794), and how a condition covered by that section can affect
3 student learning and development;

4 (2) competence in the use of proactive instructional
5 planning techniques that:

6 (A) provide flexibility in the ways:

7 (i) information is presented;

8 (ii) students respond or demonstrate
9 knowledge and skills; and

10 (iii) students are engaged;

11 (B) reduce barriers in instruction;

12 (C) provide appropriate accommodations,
13 supports, and challenges; and

14 (D) maintain high achievement expectations for
15 all students, including students with disabilities and students of
16 limited English proficiency; ~~and~~

17 (3) competence in the use of evidence-based inclusive
18 instructional practices, including:

19 (A) general and special education collaborative
20 and co-teaching models and approaches;

21 (B) multitiered systems of support, including
22 response to intervention strategies, classroom and school level
23 data-based collaborative structures, and evidence-based strategies
24 for intervention and progress monitoring systems in academic areas;

25 (C) classroom management techniques using
26 evidence-based behavioral intervention strategies and supports;

27 and

1 (D) appropriate adaptation strategies, including
2 accommodations, modifications, and instruction in the use of
3 assistive technology for instruction; and

4 (4) thorough understanding of and competence in the
5 use of open education resource instructional materials included on
6 the list of approved instructional materials maintained by the
7 State Board of Education under Section 31.022 in each subject area
8 and grade level covered by the person's certificate.

9 SECTION 3. Subchapter I, Chapter 21, Education Code, is
10 amended by adding Section 21.4045 to read as follows:

11 Sec. 21.4045. PLANNING AND NONINSTRUCTIONAL DUTIES OF
12 TEACHERS. (a) A school district may permit, but may not require, a
13 classroom teacher for a foundation curriculum course to spend
14 planning and preparation time to which the teacher is entitled
15 under Section 21.404 creating or selecting instructional materials
16 to cover the applicable essential knowledge and skills for the
17 course unless the contract under which the teacher is employed
18 explicitly states that the teacher is responsible for duties
19 relating to lesson plan design or instructional material selection.

20 (b) A contract between a school district and a classroom
21 teacher under which a teacher is assigned responsibility for duties
22 unrelated to providing instruction and that requires the teacher to
23 work a greater number of hours than the number of hours worked by
24 other full-time teachers of the same grade level in the district
25 must explicitly state each of the teacher's duties unrelated to
26 providing instruction.

27 SECTION 4. Subchapter B, Chapter 22, Education Code, is

1 amended by adding Section 22.05125 to read as follows:

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

5 (b) A classroom teacher employed by a school district may
6 not be subject to disciplinary proceedings for an allegation that
7 the teacher violated Section 28.0022, the Establishment Clause of
8 the First Amendment of the United States Constitution, or a related
9 state or federal law if:

10 (1) the teacher used only instructional material
11 included on the list of approved instructional material maintained
12 by the State Board of Education under Section 31.022 and adopted by
13 the district; and

14 (2) the allegation does not dispute that the teacher
15 delivered instruction from instructional material described by
16 Subdivision (1) with fidelity.

17 (c) The immunity provided by Subsection (b) is in addition
18 to any other immunity provided by law. This section may not be
19 construed to interfere with any other immunity provided by law.

20 SECTION 5. Section 26.006, Education Code, is amended by
21 amending Subsection (b) and adding Subsections (b-1) and (f) to
22 read as follows:

23 (b) A school district shall make teaching materials and
24 tests readily available for review by parents both in person and, if
25 applicable and subject to denial under Section 31.154(e), through
26 an instructional materials parent portal established under Section
27 31.154. In providing access to instructional materials to a

1 student's parent under this section, the district shall:

2 (1) allow access beginning not later than 30 days
3 before the school year begins and concluding not earlier than 30
4 days after the school year ends; and

5 (2) include, for the entire period specified in
6 Subdivision (1), access to all instructional materials that pertain
7 to each subject area in the grade level in which the student is
8 enrolled, except for:

9 (A) tests or exams that have not yet been
10 administered to the student; and

11 (B) the student's graded assignments.

12 (b-1) The district may specify reasonable hours for
13 in-person review.

14 (f) A school district that denies a parent access to an
15 instructional materials parent portal under Section 31.154(e) must
16 permit the parent to appeal the denial to the board of trustees of
17 the school district.

18 SECTION 6. Chapter 26, Education Code, is amended by adding
19 Section 26.0061 to read as follows:

20 Sec. 26.0061. RIGHT TO REQUEST INSTRUCTIONAL MATERIAL
21 REVIEW. (a) The board of trustees of each school district shall
22 establish a process by which a parent of a student, as indicated on
23 the student registration form at the student's campus, may request
24 an instructional material review under Section 31.0252 for a
25 subject area in the grade level in which the student is enrolled.

26 (b) A process established under Subsection (a):

27 (1) may not require more than one parent of a student

1 to make the request;

2 (2) must provide for the board of trustees of the
3 school district to determine if the request will be granted, either
4 originally or through an appeal process; and

5 (3) may permit the requesting parent to review the
6 instructional material directly before the district conducts an
7 instructional material review under Section 31.0252.

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

17 (d) The board of trustees of a school district is required
18 to conduct a review under this section of a specific subject area or
19 grade level at a specific district campus only once per school year.

20 (e) The commissioner may adopt rules to implement this
21 section.

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

24 (c-4) In adopting essential knowledge and skills for
25 English language arts under Subsection (a)(1)(A), the State Board
26 of Education shall specify a list of required vocabulary and at
27 least one literary work to be taught in each grade level. The

1 vocabulary specified by the board must support the essential
2 knowledge and skills adopted for other courses offered under the
3 foundation curriculum under Subsection (a)(1).

4 (c-5) The State Board of Education shall initiate the
5 process of specifying an initial list of vocabulary and literary
6 works as required by Subsection (c-4) not later than February 1,
7 2024. The State Board of Education shall request from the agency
8 recommendations regarding the list, and that request for
9 recommendations may be considered an initiation of the process.
10 This subsection expires September 1, 2025.

11 SECTION 8. The heading to Section 28.0027, Education Code,
12 is amended to read as follows:

13 Sec. 28.0027. DISTRICT CURRICULUM SCOPE, ~~[AND]~~ SEQUENCE,
14 AND INSTRUCTIONAL MATERIAL.

15 SECTION 9. Sections 28.0027(a) and (b), Education Code, are
16 amended to read as follows:

17 (a) In adopting a recommended or designated scope and
18 sequence or instructional materials for a subject in the required
19 curriculum under Section 28.002(a) in a particular grade level, a
20 school district shall ensure sufficient time is provided for
21 teachers to teach and students to learn the essential knowledge and
22 skills for that subject and grade level.

23 (b) Except as provided by Subsection (c), a school district
24 may not penalize a teacher who does not follow the pacing of ~~[a]~~
25 recommended or designated instructional materials or the pacing of
26 the recommended or designated scope and sequence for a subject in
27 the required curriculum under Section 28.002(a) in a particular

1 grade level based on the teacher's determination that the teacher's
2 students need more or less time in a specific area to demonstrate
3 proficiency in the essential knowledge and skills for that subject
4 and grade level.

5 SECTION 10. The heading to Chapter 31, Education Code, is
6 amended to read as follows:

7 CHAPTER 31. INSTRUCTIONAL MATERIALS AND TECHNOLOGY

8 SECTION 11. Section 31.002, Education Code, is amended by
9 amending Subdivisions (1) and (1-a) and adding Subdivisions (1-b),
10 (1-c), and (3) to read as follows:

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

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

21 (A) material used by a teacher, including a
22 lesson plan, answer key, grading rubric, or unit plan;

23 (B) material used by a principal or campus
24 instructional leader to support instruction; and

25 (C) material used by a student, including a book,
26 supplementary materials, a combination of a book, workbook, and
27 supplementary materials, computer software, magnetic media, DVD,

1 CD-ROM, computer courseware, on-line services, or an electronic
2 medium, or other means of conveying information to the student or
3 otherwise contributing to the learning process through electronic
4 means, including open education resource instructional material.

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

15 (1-c) "Partial subject tier one instructional
16 material" means instructional material designed to, if implemented
17 as designed, provide a student with mastery in a portion of the
18 essential knowledge and skills adopted by the State Board of
19 Education for a certain subject and grade level in the required
20 curriculum under Section 28.002 or for prekindergarten without the
21 need for supplementation in the essential knowledge and skills
22 covered.

23 (3) "Supplemental instructional material" means
24 instructional material designed to assist in the instruction of one
25 or more of the essential knowledge and skills adopted by the State
26 Board of Education for a subject in the required curriculum under
27 Section 28.002 or for prekindergarten.

1 SECTION 12. Section 31.003, Education Code, is amended to
2 read as follows:

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

7 (b) The commissioner may adopt rules, consistent with this
8 chapter, as necessary to implement any provision of this chapter.

9 SECTION 13. Subchapter A, Chapter 31, Education Code, is
10 amended by adding Section 31.006 to read as follows:

11 Sec. 31.006. ADVISORY COMMITTEE. The agency may form an
12 advisory committee to comply with the provisions of this chapter.

13 Chapter 2110, Government Code, does not apply to an advisory
14 committee formed under this section.

15 SECTION 14. Chapter 31, Education Code, is amended by
16 adding Subchapter A-1, and a heading is added to that subchapter to
17 read as follows:

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

20 SECTION 15. Section 31.005, Education Code, is transferred
21 to Subchapter A-1, Chapter 31, Education Code, as added by this Act,
22 and redesignated as Section 31.0205 to read as follows:

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

1 SECTION 16. Sections 31.021, 31.0212, 31.0214, and 31.0215,
2 Education Code, are transferred to Subchapter A-1, Chapter 31,
3 Education Code, as added by this Act, and amended to read as
4 follows:

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

8 (1) an amount set aside by the State Board of Education
9 from the available school fund, in accordance with Section
10 43.001(d); and

11 (2) all amounts lawfully paid into the fund from any
12 other source.

13 (c) Money in the state instructional materials and
14 technology fund shall be used to:

15 (1) fund the instructional materials and technology
16 allotment, as provided by Section 31.0211;

17 (2) purchase special instructional materials for the
18 education of blind and visually impaired students in public
19 schools;

20 (3) pay the expenses associated with the instructional
21 materials adoption and review process and Internet website
22 maintained under this chapter;

23 (4) pay the expenses associated with the purchase,
24 [or] licensing, printing, or other reproduction of open education
25 resource instructional material;

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

1 insurance expenses associated with freight and shipping;

2 (6) fund the technology lending grant program
3 established under Section [32.301](#); and

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

7 [~~(8) pay the expenses associated with the~~
8 ~~instructional materials web portal developed under Section~~
9 ~~[31.081](#)].~~

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

13 Sec. 31.0212. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
14 ACCOUNT. (a) The commissioner shall maintain an instructional
15 materials and technology account for each school district. In the
16 first year of each biennium, the commissioner shall deposit in the
17 account for each district the amount of the district's
18 instructional materials and technology allotment under Section
19 [31.0211](#).

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

24 (c) [~~A school district may also use funds in the district's~~
25 ~~account to purchase electronic instructional materials or~~
26 ~~technological equipment. The district shall submit to the~~
27 ~~commissioner a request for funds for this purpose from the~~

1 ~~district's account. The commissioner shall adopt rules regarding~~
2 ~~the documentation a school district must submit to receive funds~~
3 ~~under this subsection.~~

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

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

16 (e) The agency shall provide for the development and
17 maintenance of an online requisition and disbursement system for
18 each school district's instructional materials and technology
19 account.

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

1 ~~[(b) The commissioner may adopt rules as necessary to~~
2 ~~implement this section.]~~

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

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

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

25 (d) The commissioner shall ensure that publishers of
26 instructional materials are informed of any potential delay in
27 payment and that payment is subject to the availability of

1 appropriated funds. A publisher may decline to accept an order
2 placed under this section.

3 (e) Chapter 2251, Government Code, does not apply to
4 purchases of instructional materials under this section.

5 ~~[(f) The commissioner may adopt rules to implement this
6 section.]~~

7 SECTION 17. Section 31.0211, Education Code, as amended by
8 Chapters 806 (H.B. 1525) and 1003 (H.B. 3261), Acts of the 87th
9 Legislature, Regular Session, 2021, is transferred to Subchapter
10 A-1, Chapter 31, Education Code, as added by this Act, reenacted,
11 and amended to read as follows:

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

24 (b) A juvenile justice alternative education program under
25 Section 37.011 is entitled to an allotment from the state
26 instructional materials and technology fund in an amount determined
27 by the commissioner. The program shall use the allotment to

1 purchase items listed in Subsection (c) for students enrolled in
2 the program. The commissioner's determination under this
3 subsection is final and may not be appealed.

4 (c) Funds allotted under this section may be used to:

5 (1) purchase:

6 (A) ~~[materials on the list adopted by the~~
7 ~~commissioner, as provided by Section 31.0231,~~

8 ~~[(B)]~~ instructional materials, regardless of
9 whether the instructional materials are on the list of approved
10 instructional materials maintained by the State Board of Education
11 under Section 31.022 ~~[adopted under Section 31.024];~~

12 (B) ~~[(C)]~~ consumable instructional materials,
13 including workbooks;

14 (C) ~~[(D)]~~ instructional materials for use in
15 bilingual education classes, as provided by Section 31.029;

16 (D) ~~[(E)]~~ instructional materials for use in
17 college preparatory courses under Section 28.014, as provided by
18 Section 31.031;

19 (E) ~~[(F)]~~ supplemental instructional materials
20 ~~[, as provided by Section 31.035];~~

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

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

26 (H) ~~[(I)]~~ technological equipment necessary to
27 support the use of ~~[materials included on the list adopted by the~~

1 ~~commissioner under Section 31.0231 or~~ any instructional materials
2 purchased with an allotment under this section;

3 (I) [~~(J)~~] inventory software or systems for
4 storing, managing, and accessing instructional materials and
5 analyzing the usage and effectiveness of the instructional
6 materials; and

7 (J) [~~(K)~~] services, equipment, and technology
8 infrastructure necessary to ensure Internet connectivity and
9 adequate bandwidth; and

10 (2) pay:

11 (A) for training educational personnel directly
12 involved in student learning in the appropriate use of
13 instructional materials and for providing for access to
14 technological equipment for instructional use;

15 (B) for training personnel in the electronic
16 administration of assessment instruments; ~~and~~

17 (C) the salary and other expenses of an employee
18 who provides technical support for the use of technological
19 equipment directly involved in student learning; and

20 (D) [~~(C)~~] for costs associated with distance
21 learning, including Wi-Fi, Internet access hotspots, wireless
22 network service, broadband service, and other services and
23 technological equipment necessary to facilitate Internet access.

24 (d) ~~[Each biennium the commissioner shall assess the~~
25 ~~technology needs for all school districts and provide an estimate~~
26 ~~of the cost for these resources to the State Board of Education.~~

27 [~~(d-1)~~] In purchasing technological equipment, a school

1 district shall:

2 (1) secure technological solutions that meet the
3 varying and unique needs of students and teachers in the district;
4 and

5 (2) consider:

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

7 (B) flexibility for innovation.

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

20 ~~[(f) The commissioner may adopt rules as necessary to
21 implement this section.]~~

22 SECTION 18. Subchapter [A-1](#), Chapter [31](#), Education Code, as
23 added by this Act, is amended by adding Section 31.0216 to read as
24 follows:

25 Sec. 31.0216. AGENCY PURCHASE OF INSTRUCTIONAL MATERIALS
26 AND TECHNOLOGY. (a) From funds appropriated for the purpose, the
27 agency may contract directly, including by extending a contract,

1 for the purchase of instructional materials and technology for use
2 by school districts.

3 (b) The provisions of Chapter 2157, Government Code,
4 requiring a state agency to use a contract or contract terms
5 developed or preapproved by the Department of Information Resources
6 do not apply to a contract entered into under this section, but the
7 agency may participate in a program authorized by that chapter.

8 SECTION 19. The heading to Subchapter B, Chapter 31,
9 Education Code, is amended to read as follows:

10 SUBCHAPTER B. STATE REVIEW AND [~~FUNDING,~~] ADOPTION [~~, AND~~
11 ~~PURCHASE~~]

12 SECTION 20. The heading to Section 31.022, Education Code,
13 is amended to read as follows:

14 Sec. 31.022. STATE BOARD OF EDUCATION INSTRUCTIONAL
15 MATERIALS REVIEW AND APPROVAL [~~ADOPTION~~].

16 SECTION 21. Section 31.022, Education Code, is amended by
17 amending Subsections (a), (b), (c), and (d) and adding Subsection
18 (c-1) to read as follows:

19 (a) The State Board of Education shall [~~adopt a~~] review [~~and~~
20 ~~adoption cycle for~~] instructional materials provided to the board
21 by the agency under Section 31.023. Before approving instructional
22 material, the board must determine that the material is free from
23 factual error and suitable for the subject and grade level for which
24 the material is designed. The board shall add each material
25 approved under this section to a list of approved instructional
26 materials and may add a material not approved under this section to
27 a list of rejected instructional materials [~~for elementary grade~~

1 ~~levels, including prekindergarten, and secondary grade levels, for~~
2 ~~each subject in the required curriculum under Section 28.002. In~~
3 ~~adopting the cycle, the board:~~

4 ~~[(1) is not required to review and adopt instructional~~
5 ~~materials for all grade levels in a single year; and~~

6 ~~[(2) shall give priority to instructional materials in~~
7 ~~the following subjects:~~

8 ~~[(A) foundation curriculum subjects for which~~
9 ~~the essential knowledge and skills have been substantially revised~~
10 ~~and for which assessment instruments are required under Subchapter~~
11 ~~B, Chapter 39, including career and technology courses that satisfy~~
12 ~~foundation curriculum requirements as provided by Section~~
13 ~~28.002(n);~~

14 ~~[(B) foundation curriculum subjects for which~~
15 ~~the essential knowledge and skills have been substantially revised,~~
16 ~~including career and technology courses that satisfy foundation~~
17 ~~curriculum requirements as provided by Section 28.002(n);~~

18 ~~[(C) foundation curriculum subjects not~~
19 ~~described by Paragraph (A) or (B), including career and technology~~
20 ~~courses that satisfy foundation curriculum requirements as~~
21 ~~provided by Section 28.002(n); and~~

22 ~~[(D) enrichment curriculum subjects].~~

23 (b) ~~[The board shall organize the cycle for subjects in the~~
24 ~~foundation curriculum so that not more than one-fourth of the~~
25 ~~instructional materials for subjects in the foundation curriculum~~
26 ~~are reviewed each biennium.]~~ The State Board of Education may adopt
27 criteria necessary for approval of instructional material under

1 Subsection (a) and may require:

2 (1) all instructional material submitted as full
3 subject tier one instructional material to cover a minimum
4 percentage, as determined by the board, of the essential knowledge
5 and skills adopted for the subject and grade level for which the
6 material is designed;

7 (2) electronic samples of the material; and

8 (3) certain physical specifications [~~board shall~~
9 ~~adopt rules to provide for a full and complete investigation of~~
10 ~~instructional materials for each subject in the foundation~~
11 ~~curriculum every eight years. The adoption of instructional~~
12 ~~materials for a subject in the foundation curriculum may be~~
13 ~~extended beyond the eight-year period only if the content of~~
14 ~~instructional materials for a subject is sufficiently current)].~~

15 (c) The State Board of Education may remove instructional
16 material from the list of approved instructional materials under
17 this section if the essential knowledge and skills intended to be
18 covered by the material are revised or the material is revised
19 without the approval of the board [~~board shall adopt rules to~~
20 ~~provide for a full and complete investigation of instructional~~
21 ~~materials for each subject in the enrichment curriculum on a cycle~~
22 ~~the board considers appropriate)].~~

23 (c-1) If the State Board of Education intends to remove an
24 instructional material from the list of approved instructional
25 materials under Subsection (c), not later than December 1 of the
26 year preceding the school year for which the revision will take
27 effect, the board shall provide to each school district the updated

1 list of approved instructional materials for the relevant subject
2 or grade level.

3 (d) The State Board of Education shall indicate whether each
4 instructional material reviewed under Subsection (a) is capable of
5 being made available through an instructional materials parent
6 portal established under Section 31.154 [~~At least 12 months before~~
7 ~~the beginning of the school year for which instructional materials~~
8 ~~for a particular subject and grade level will be adopted under the~~
9 ~~review and adoption cycle, the board shall publish notice of the~~
10 ~~review and adoption cycle for those instructional materials. A~~
11 ~~request for production must allow submission of open education~~
12 ~~resource instructional materials that are available for use by the~~
13 ~~state without charge on the same basis as instructional materials~~
14 ~~offered for sale].~~

15 SECTION 22. Section 31.023, Education Code, is amended to
16 read as follows:

17 Sec. 31.023. INSTRUCTIONAL MATERIAL REVIEW [~~LIST~~]. (a)
18 The commissioner shall establish, with the approval of the State
19 Board of Education, a process for the annual review of
20 instructional materials by the agency. The process established
21 under this subsection must:

22 (1) establish a process for the agency to select
23 instructional materials for review that includes:

24 (A) evaluating requests for review of
25 instructional materials submitted to the agency by:

26 (i) a school district;

27 (ii) a majority of the members of the State

1 Board of Education; or
2 (iii) a publisher of instructional
3 material;
4 (B) reviewing instructional materials
5 requisitioned or purchased under Section 31.0212; and
6 (C) reviewing instructional materials using a
7 time frame appropriate for updating the list of approved
8 instructional materials under Section 31.022 to address revisions
9 made by the State Board of Education to the essential knowledge and
10 skills for a particular subject or grade level;
11 (2) describe the types of instructional materials the
12 agency may review, including:
13 (A) partial subject tier one instructional
14 material, including those designed for use in the phonics
15 curriculum required under Section 28.0062(a)(1);
16 (B) open education resource instructional
17 material;
18 (C) instructional materials developed by a
19 school district and submitted to the agency by the district for
20 review; and
21 (D) commercially available full subject tier one
22 instructional material;
23 (3) establish procedures for the agency to conduct
24 reviews of instructional materials, including:
25 (A) the use of a rubric approved under Subsection
26 (b); and
27 (B) consultation with classroom teachers and

1 other curriculum experts for the appropriate subject and grade
2 level; and

3 (4) ensure the procedures for review allow the agency
4 to review at least 200 individual instructional materials each year
5 ~~[For each subject and grade level, the State Board of Education~~
6 ~~shall adopt a list of instructional materials. The list includes~~
7 ~~each instructional material submitted for the subject and grade~~
8 ~~level that meets applicable physical specifications adopted by the~~
9 ~~State Board of Education and contains material covering at least~~
10 ~~half of the elements of the essential knowledge and skills of the~~
11 ~~subject and grade level in the student version of the instructional~~
12 ~~material, as well as in the teacher version of the instructional~~
13 ~~material, as determined by the State Board of Education under~~
14 ~~Section 28.002 and adopted under Section 31.024].~~

15 ~~[(a-1) The State Board of Education shall determine the~~
16 ~~percentage of the elements of the essential knowledge and skills of~~
17 ~~the subject and grade level covered by each instructional material~~
18 ~~submitted. The board's determination under this subsection is~~
19 ~~final.]~~

20 (b) In conducting a review under this section, the agency
21 must use a rubric developed by the agency and approved by the State
22 Board of Education that includes, with respect to the instructional
23 material being reviewed, a determination of:

24 (1) whether the material is free from factual error
25 and satisfies the criteria adopted by the board under Section
26 31.022;

27 (2) the quality of the material; and

1 (3) the essential knowledge and skills for the subject
2 and grade level for which the material was developed that are
3 covered by the material, including identification of:

4 (A) each essential knowledge and skill covered by
5 the material;

6 (B) for a full subject tier one instructional
7 material, the percentage of the essential knowledge and skills
8 adopted for the subject and grade level covered by the material; and

9 (C) for a partial subject tier one instructional
10 material, the percentage of the essential knowledge and skills for
11 the relevant portion of the subject and grade level covered by the
12 material [~~Each instructional material on the list must be:~~

13 ~~[(1) free from factual errors,~~

14 ~~[(2) suitable for the subject and grade level for~~
15 ~~which the instructional material was submitted; and~~

16 ~~[(3) reviewed by academic experts in the subject and~~
17 ~~grade level for which the instructional material was submitted].~~

18 (c) After completing a review under this section, the agency
19 shall provide the results of the review and any related
20 recommendations to the State Board of Education for approval or
21 rejection of the instructional material and the inclusion of the
22 instructional material on a list maintained by the State Board of
23 Education under Section [31.022](#).

24 (d) The agency shall use funds appropriated to the agency
25 for the purposes of reviewing instructional material or available
26 in the state instructional materials and technology fund for
27 purposes of implementing this section.

1 (e) A process established under Subsection (a) or a rubric
2 developed under Subsection (b) is automatically approved by the
3 State Board of Education if not rejected by the board before the
4 91st day after the date the agency submits the item to the board.

5 SECTION 23. Subchapter B, Chapter 31, Education Code, is
6 amended by adding Sections 31.025, 31.0251, and 31.0252 to read as
7 follows:

8 Sec. 31.025. INSTRUCTIONAL MATERIAL INTERNET WEBSITE. (a)
9 The agency shall develop and maintain an instructional material
10 Internet website to assist school districts in locating and
11 selecting instructional material.

12 (b) For each instructional material included, the Internet
13 website developed and maintained under this section shall provide:

14 (1) the price of the material;

15 (2) the technological requirements needed to use the
16 material;

17 (3) the results of an agency review of the material
18 conducted under Section 31.023;

19 (4) a statement of whether the material is included on
20 the list of approved instructional materials maintained by the
21 State Board of Education under Section 31.022 or has been rejected
22 by the board; and

23 (5) any other information the agency determines
24 relevant to a school district's selection of instructional
25 material.

26 (c) The Internet website developed and maintained under
27 this section must include the repository of open education resource

1 instructional material required by Section 31.0722.

2 (d) The agency shall use funds appropriated to the agency
3 for the purposes of reviewing instructional material or available
4 in the state instructional materials and technology fund for
5 purposes of implementing this section.

6 Sec. 31.0251. INSTRUCTIONAL MATERIAL SUPPORT. (a) On
7 request of a school district, the agency shall provide the district
8 assistance in evaluating, adopting, or using instructional
9 materials.

10 (b) Except as otherwise provided, the agency may not require
11 a school district to adopt or otherwise use instructional material
12 reviewed by the agency under Section 31.023 or included on the list
13 of approved instructional materials maintained by the State Board
14 of Education under Section 31.022.

15 Sec. 31.0252. LOCAL REVIEW OF CLASSROOM INSTRUCTIONAL
16 MATERIAL. (a) The agency shall develop standards in consultation
17 with stakeholders, including educators, by which a school district
18 may conduct a review of instructional materials used by a classroom
19 teacher in a foundation curriculum course under Section
20 28.002(a)(1) to determine the degree to which the material:

21 (1) corresponds with the instructional materials
22 adopted by the school district or district campus; and

23 (2) meets the level of rigor of the essential
24 knowledge and skills adopted under Section 28.002 for the grade
25 level in which it is being used.

26 (b) The agency shall develop a rubric, approved by the State
27 Board of Education, to determine if reviewed instructional material

1 complies with the rigor requirements described by Subsection
2 (a)(2).

3 (c) The agency, in developing standards under Subsection
4 (a):

5 (1) shall minimize, to the extent possible, the time a
6 classroom teacher is required to spend complying with a review
7 conducted under this section;

8 (2) may not, unless unavoidable, require a teacher to
9 spend more than 30 minutes on a single review conducted under this
10 section; and

11 (3) may not authorize the review of instructional
12 materials used by a classroom teacher for a specific subject or
13 grade level at a specific school district campus more than once per
14 school year.

15 (d) The agency shall permit a regional education service
16 center or a curriculum review service provider approved by the
17 agency to conduct the review for a school district under this
18 section and provide to approved centers and providers training
19 relating to appropriately conducting the review.

20 (e) The agency shall award grants to assist school districts
21 in conducting reviews under this section.

22 SECTION 24. Sections 31.026(a) and (b), Education Code, are
23 amended to read as follows:

24 (a) The State Board of Education may [~~shall~~] execute a
25 contract for the purchase or licensing of each adopted
26 instructional material.

27 (b) A contract must require the publisher to provide the

1 number of instructional materials required by school districts in
2 this state for the term of the contract[, ~~which must coincide with~~
3 ~~the board's adoption cycle~~].

4 SECTION 25. The heading to Subchapter B-1, Chapter 31,
5 Education Code, is amended to read as follows:

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

8 SECTION 26. Subchapter B-1, Chapter 31, Education Code, is
9 amended by adding Section 31.0701 to read as follows:

10 Sec. 31.0701. REFERENCES TO STATE-DEVELOPED OPEN EDUCATION
11 RESOURCE INSTRUCTIONAL MATERIAL. In this chapter, a reference to a
12 state-developed open education resource instructional material
13 means an open education resource instructional material, as defined
14 by Section 31.002.

15 SECTION 27. Section 31.071, Education Code, is amended to
16 read as follows:

17 Sec. 31.071. AVAILABILITY OF OPEN EDUCATION RESOURCE
18 INSTRUCTIONAL MATERIAL [~~PURCHASE AUTHORITY~~]. (a) The commissioner
19 shall ensure that [~~may purchase state-developed~~] open education
20 resource instructional materials are available for use by school
21 districts in accordance with this subchapter.

22 (b) To ensure the availability of open education resource
23 instructional materials under Subsection (a), the [~~The~~]
24 commissioner may:

25 (1) purchase a license authorizing the use of [~~shall~~
26 ~~purchase any state-developed~~] open education resource
27 instructional materials [~~through a competitive process~~];

1 (2) purchase or otherwise acquire ownership of open
2 education resource instructional materials;

3 (3) develop open education resource instructional
4 materials;

5 (4) adopt open education resource instructional
6 materials; or

7 (5) use any combination of the methods described by
8 Subdivisions (1), (2), (3), and (4) to acquire open education
9 resource instructional materials.

10 (b-1) The commissioner ~~and~~
11 ~~[(2)]~~ may make available ~~[purchase]~~ more than one
12 ~~[state-developed]~~ open education resource instructional material
13 for a subject or grade level.

14 (b-2) The commissioner shall:

15 (1) to the extent practicable, ensure full subject
16 tier one instructional materials are available as open education
17 resource instructional material for:

18 (A) English language arts and mathematics
19 courses in kindergarten through grade eight;

20 (B) prekindergarten, in subject areas related to
21 English language arts and mathematics; and

22 (C) all foundation curriculum courses in
23 kindergarten through grade five in a manner that permits the
24 instruction of the content to be provided:

25 (i) in an integrated manner; and

26 (ii) for approximately 240 minutes of
27 instructional time per day, including time needed each day for

1 accelerated instruction under Section 28.0211; and

2 (2) ensure open education resource instructional
3 materials are available to all students, parents, classroom
4 teachers, and school districts in this state free of charge, except
5 for a fee for the printing or shipping of the material.

6 (c) Except as provided by Section 31.0711, an [~~a~~
7 ~~state-developed~~] open education resource instructional material
8 must be licensed to this state under an intellectual property
9 license that allows for free use, reuse, modification, or sharing
10 with others as described by Section 31.07101 [~~irrevocably owned by~~
11 ~~the state. The state must have unlimited authority to modify,~~
12 ~~delete, combine, or add content to the instructional material after~~
13 ~~purchase~~].

14 (d) [~~The commissioner may issue a request for proposals for~~
15 ~~state-developed open education resource instructional material:~~

16 [~~(1) in accordance with the instructional material~~
17 ~~review and adoption cycle under Section 31.022, or~~

18 [~~(2) at any other time the commissioner determines~~
19 ~~that a need exists for additional instructional material options.~~

20 [~~(e)~~] The costs of administering this subchapter and
21 ensuring the availability of [~~purchasing state-developed~~] open
22 education resource instructional materials shall be paid from funds
23 appropriated for the purpose and the state instructional materials
24 and technology fund, as determined by the commissioner.

25 SECTION 28. Subchapter B-1, Chapter 31, Education Code, is
26 amended by adding Section 31.07101 to read as follows:

27 Sec. 31.07101. FREE USE, REUSE, MODIFICATION, OR SHARING

1 LICENSE. (a) Instructional material is licensed to this state
2 under an intellectual property license that allows for free use,
3 reuse, modification, or sharing with others if the license:

4 (1) is irrevocable and perpetual;

5 (2) permits the state to sublicense the material;

6 (3) authorizes the use of the material by any person in
7 any location permitted by the terms of the original license, if
8 applicable;

9 (4) authorizes access, use, transmission, adaptation,
10 public display, public performance, public distribution, and
11 copying of the material; and

12 (5) authorizes the creation of derivative works as
13 permitted by the terms of the original license, if applicable.

14 (b) Instructional material licensed to this state under an
15 intellectual property license that is restricted to noncommercial
16 or educational use qualifies under this subchapter as instructional
17 material licensed to this state under a license that allows for free
18 use, reuse, modification, or sharing with others.

19 SECTION 29. Section 31.0711, Education Code, is amended to
20 read as follows:

21 Sec. 31.0711. CONTENT NOT OWNED BY STATE. Open education
22 resource instructional [~~Instructional~~] material made available
23 [~~purchased~~] under this subchapter may include content not owned by
24 the state and for which preexisting rights may exist if the content:

25 (1) is in the public domain;

26 (2) may be used under a limitation or exception to
27 copyright law, including a limitation under Section 107, Copyright

1 Act of 1976 (17 U.S.C. Section 107); ~~[or]~~

2 (3) has been made available by the copyright owner
3 under a Creative Commons license or another intellectual property
4 license that allows for free use, reuse, modification, or sharing
5 as described by Section 31.07101; or

6 (4) is licensed to the state under another ~~[a]~~ license
7 that:

8 (A) grants access to and allows for use of the
9 material by students, teachers, educators, and other education
10 professionals ~~[the state unlimited authority to modify, delete,~~
11 ~~combine, or add content];~~

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

16 (C) is for a term of use acceptable to the
17 commissioner to ensure a useful life of the material.

18 SECTION 30. Subchapter B-1, Chapter 31, Education Code, is
19 amended by adding Section 31.0712 to read as follows:

20 Sec. 31.0712. OPEN EDUCATION RESOURCE ADVISORY BOARD. The
21 agency shall establish an open education resource advisory board to
22 ensure that open education resource instructional materials made
23 available under this subchapter are:

24 (1) of the highest quality;

25 (2) aligned with the essential knowledge and skills
26 adopted by the State Board of Education under Section 28.002 for the
27 applicable subject and grade level;

1 (3) suitable for the age of students at the grade level
2 for which the materials are developed;

3 (4) free from bias and factual error; and

4 (5) in compliance with Section 28.0022.

5 SECTION 31. Section 31.072, Education Code, is amended to
6 read as follows:

7 Sec. 31.072. CONTENT REQUIREMENTS. (a) Before being made
8 available under this subchapter, [State-developed] open education
9 resource instructional material must[+]

10 ~~[(1)]~~ be evaluated by:

11 (1) teachers or other experts, as determined by the
12 commissioner[~~, before purchase~~]; and

13 (2) parents of students in this state [meet the
14 requirements for inclusion on the instructional material list
15 adopted under Section 31.023].

16 (b) Based on feedback received by the agency from teachers,
17 parents, and other experts regarding open education resource
18 instructional materials made available under this subchapter, the

19 ~~[Following a curriculum revision by the State Board of Education,~~
20 ~~the commissioner shall require the revision of state-developed open~~
21 ~~education resource instructional material relating to that~~
22 ~~curriculum. The]~~ commissioner may, at any time, require an

23 additional revision of the [state-developed open education
24 resource instructional] material [or contract for ongoing
25 revisions of state-developed open education resource instructional
26 material for a period not to exceed the period under Section 31.022

27 ~~for which instructional material for that subject and grade level~~

1 ~~may be adopted. The commissioner shall use a competitive process to~~
2 ~~request proposals to revise state-developed open education~~
3 ~~resource instructional material under this subsection].~~

4 SECTION 32. Subchapter B-1, Chapter 31, Education Code, is
5 amended by adding Section 31.0721 to read as follows:

6 Sec. 31.0721. REVIEW AND RELEASE OF OPEN EDUCATION RESOURCE
7 INSTRUCTIONAL MATERIAL. (a) Except as provided by Subsection (b),
8 open education resource instructional material may not be made
9 available under this subchapter to students, teachers, educators,
10 or other education professionals before being reviewed by the
11 agency under Section 31.023 and included on the list of approved
12 instructional materials maintained by the State Board of Education
13 under Section 31.022.

14 (b) The agency may make open education resource
15 instructional material available to a limited number of classroom
16 teachers for a limited time before the material is reviewed by the
17 agency under Section 31.023 and included on the list of approved
18 instructional materials maintained by the State Board of Education
19 under Section 31.022 to assist in developing or testing the quality
20 of the material. A school district may only use unreviewed material
21 made available under this subsection in a grade level in which the
22 material has not been used previously if:

23 (1) the board of trustees of the district approves the
24 use of the unreviewed material; and

25 (2) the district provides evidence to the agency
26 showing that classroom teachers support the use of the material.

27 SECTION 33. Section 31.083, Education Code, is transferred

1 to Subchapter B-1, Chapter 31, Education Code, redesignated as
2 Section 31.0722, Education Code, and amended to read as follows:

3 Sec. 31.0722 [~~31.083~~]. OPEN EDUCATION RESOURCE
4 INSTRUCTIONAL MATERIALS REPOSITORY. (a) The commissioner shall
5 include in the Internet website [~~web portal~~] developed under
6 Section 31.025 [~~31.081~~] a repository of open education resource
7 instructional materials, including open education resource
8 instructional materials made available under Section 31.0721(b),
9 and other electronic instructional materials that school districts
10 and open-enrollment charter schools may access at no cost.

11 (b) The repository under Subsection (a) must:

12 (1) comply with the requirements of Section 31.154;
13 and

14 (2) allow a person to provide comments on open
15 education resource instructional material contained in the
16 repository to assist the agency in improving and updating the
17 material.

18 (c) The agency shall ensure that a person may order a print
19 copy of any open education resource instructional material included
20 in the repository that is reducible to print [~~A publisher may submit~~
21 ~~instructional materials for inclusion in the repository~~].

22 SECTION 34. Sections 31.073 and 31.074, Education Code, are
23 amended to read as follows:

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

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

6 (d) A school district or open-enrollment charter school may
7 not be charged for a cost associated with the selection of an
8 [~~state-developed~~] open education resource instructional material,
9 except for the cost of printing copies of the material [~~in addition~~
10 ~~to instructional material adopted under Subchapter B~~].

11 Sec. 31.074. DISTRIBUTION. (a) The commissioner shall
12 provide for the distribution of [~~state-developed~~] open education
13 resource instructional materials in a manner consistent with
14 distribution of instructional materials approved [~~adopted~~] under
15 Subchapter B.

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

24 (c) The agency is not required to comply with Subchapters C
25 and D, Chapter 2052, Government Code, with regard to the printing or
26 reproduction of an open education resource instructional material
27 made available under this subchapter.

1 SECTION 35. The heading to Section 31.075, Education Code,
2 is amended to read as follows:

3 Sec. 31.075. STATE OWNERSHIP; LICENSING.

4 SECTION 36. Sections 31.075(a), (b), (c), (d), and (e),
5 Education Code, are amended to read as follows:

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

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

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

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

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

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

24 (C) must indicate if the user has modified the
25 material;

26 (D) may not assert or imply any connection with
27 or sponsorship or endorsement by the agency or this state, unless

1 authorized by the commissioner; and

2 (E) to the extent reasonably practicable, must
3 provide in any product or derivative material a uniform resource
4 identifier or hyperlink through which a person may obtain the
5 material free of charge;

6 (2) provides [~~must provide~~] that:

7 (A) the commissioner may request that a user
8 remove a copyright notice or attribution from the material and that
9 a user must comply with the request to the extent reasonably
10 practicable; and

11 (B) the rights granted under the license to a
12 user are automatically terminated if the user fails to comply with
13 the terms of the license; and

14 (3) includes [~~may include~~] any additional terms
15 determined by the commissioner.

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

19 (e) The commissioner shall determine what is considered
20 reasonably practicable for purposes of Subsections (b)(1)(E)
21 [~~(c)(1)(E)~~] and (b)(2)(A) [~~(c)(2)(A)~~].

22 SECTION 37. Subchapter B-1, Chapter 31, Education Code, is
23 amended by adding Sections 31.0751, 31.0752, and 31.0753 to read as
24 follows:

25 Sec. 31.0751. OPEN EDUCATION RESOURCE INSTRUCTIONAL
26 MATERIAL TRANSITION PLAN. (a) Except as provided by Subsection
27 (c), to qualify for an allotment under Section 48.158 the board of

1 trustees of a school district must adopt an open education resource
2 instructional material transition plan to assist classroom
3 teachers in the district who will be using an open education
4 resource instructional material in a specific subject or grade
5 level for which the teacher has not previously used an open
6 education resource instructional material.

7 (b) A plan adopted under this section must ensure that open
8 education resource instructional materials are used in a manner
9 that maintains the instructional flexibility of a classroom teacher
10 to address the needs of each student.

11 (c) A school district that participates in the program
12 developed and maintained by the agency under Section 31.0752 is not
13 required to adopt a transition plan under this section.

14 Sec. 31.0752. OPEN EDUCATION RESOURCE INSTRUCTIONAL
15 MATERIAL SUPPORT PROGRAM. The agency shall develop and maintain a
16 program to assist school districts and open-enrollment charter
17 schools in adopting and using open education resource instructional
18 material made available under this subchapter, including by
19 assisting districts and schools to:

20 (1) maintain the instructional flexibility of
21 classroom teachers to address the needs of each student; and

22 (2) schedule instructional periods in a manner that
23 allows classroom teachers sufficient time to effectively prepare
24 and present instructional material within the teacher's normal work
25 day.

26 Sec. 31.0753. TEACHER CANDIDATE ACCESS AND SUPPORT PROGRAM.
27 The agency shall develop and maintain a program to assist educator

1 preparation programs in implementing Section 21.044(a-1)(4).

2 SECTION 38. Section 31.076(b), Education Code, is amended
3 to read as follows:

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

8 SECTION 39. Section 31.004, Education Code, is transferred
9 to Subchapter C, Chapter 31, Education Code, redesignated as
10 Section 31.1011, Education Code, and amended to read as follows:

11 Sec. 31.1011 [~~31.004~~]. CERTIFICATION OF PROVISION OF
12 INSTRUCTIONAL MATERIALS. (a) Each school district and
13 open-enrollment charter school shall annually certify to the State
14 Board of Education and the commissioner that:

15 (1) [~~7~~] for each subject in the required curriculum
16 under Section 28.002, other than physical education, and each grade
17 level, the district or school:

18 (A) provides each student with instructional
19 materials that cover all elements of the essential knowledge and
20 skills adopted by the State Board of Education for that subject and
21 grade level; and

22 (B) in the provision of instructional materials,
23 protects students from obscene or harmful content as necessary for
24 compliance with the Children's Internet Protection Act (Pub. L. No.
25 106-554); and

26 (2) the district or school used money allocated to the
27 district or school under the instructional materials and technology

1 allotment only for purposes allowed under Section 31.0211.

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

6 (1) instructional materials adopted by the State Board
7 of Education;

8 ~~(2) [materials adopted or purchased by the
9 commissioner under Section 31.0231 or Subchapter B-1;~~

10 ~~[(3) open education resource instructional materials
11 submitted by eligible institutions and adopted by the State Board
12 of Education under Section 31.0241;~~

13 ~~[(4) open education resource instructional materials
14 made available by other public schools;~~

15 ~~[(5)]~~ instructional materials developed, ~~[or]~~
16 purchased, or otherwise acquired by the school district or
17 open-enrollment charter school; and

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

21 SECTION 40. Subchapter C, Chapter 31, Education Code, is
22 amended by adding Section 31.1012 to read as follows:

23 Sec. 31.1012. REPORT TO AGENCY. Each school district shall
24 annually report to the agency information regarding the
25 instructional materials used by the district during the previous
26 school year, including the cost of each material, to assist the
27 agency in ensuring compliance with Section 31.151(a).

1 SECTION 41. The heading to Section 31.102, Education Code,
2 is amended to read as follows:

3 Sec. 31.102. TITLE AND CUSTODY; SCHOOL DISTRICT PURCHASES.

4 SECTION 42. Section 31.102, Education Code, is amended by
5 adding Subsection (d) to read as follows:

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

11 SECTION 43. Section 31.103(c), Education Code, is amended
12 to read as follows:

13 (c) In making a requisition under this section, a school
14 district or open-enrollment charter school may requisition
15 instructional materials on the list of approved instructional
16 materials adopted under Section 31.022 [~~31.023~~] for grades above
17 the grade level in which a student is enrolled.

18 SECTION 44. Section 31.151, Education Code, is amended by
19 amending Subsection (a) and adding Subsection (a-1) to read as
20 follows:

21 (a) A publisher or manufacturer of instructional materials:

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

27 (2) shall automatically reduce the price of

1 instructional material sold for use in a school district or
2 open-enrollment charter school to the extent that the price is
3 reduced elsewhere in the United States;

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

9 (4) shall guarantee that each copy of instructional
10 material sold in this state is at least equal in quality to copies
11 of that instructional material sold elsewhere in the United States
12 and is free from factual error;

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

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

20 (7) shall, at the time an order for instructional
21 materials is acknowledged, provide to school districts or
22 open-enrollment charter schools an accurate shipping date for
23 instructional materials that are back-ordered;

24 (8) shall guarantee delivery of instructional
25 materials at least 10 business days before the opening day of school
26 of the year for which the instructional materials are ordered if the
27 instructional materials are ordered by a date specified in the

1 sales contract; ~~and~~

2 (9) shall submit to the State Board of Education an
3 affidavit certifying any instructional material the publisher or
4 manufacturer offers in this state to be free of factual errors at
5 the time the publisher executes the contract required by Section
6 [31.026](#); and

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

11 (a-1) The State Board of Education shall adopt standard
12 terms and conditions for use in contracts for the procurement of
13 instructional materials from publishers and manufacturers under
14 this section.

15 SECTION 45. Subchapter [D](#), Chapter [31](#), Education Code, is
16 amended by adding Section 31.154 to read as follows:

17 Sec. 31.154. INSTRUCTIONAL MATERIALS PARENT PORTAL. (a)
18 The agency shall adopt standards for entities that supply
19 instructional materials reviewed by the agency under Section [31.023](#)
20 to make instructional materials supplied by the entity available on
21 a parent portal hosted by the entity.

22 (b) An instructional materials parent portal must:

23 (1) provide to each parent of a student enrolled in a
24 school district or open-enrollment charter school access to
25 instructional material that is included in the portal and used by
26 the district or school;

27 (2) organize instructional material by unit and in the

1 order in which the material is designed to be used;
2 (3) be capable of being searched by key word; and
3 (4) for instructional material not available in a
4 digital format, contain sufficient information to allow a parent to
5 locate a physical copy of the material.

6 (c) Standards adopted under Subsection (a) may not require a
7 classroom teacher to submit instructional materials developed by
8 the teacher for inclusion in an instructional materials parent
9 portal.

10 (d) To comply with an intellectual property license or other
11 restrictions placed on an instructional material and to maintain
12 security of the information contained in an instructional materials
13 parent portal under this section, a parent may be required, before
14 accessing the portal, to:

15 (1) enter a password;
16 (2) comply with other user access verification
17 procedures; and

18 (3) accept user terms and conditions, including a
19 condition that the instructional material cannot be shared.

20 (e) A parent's access to an instructional materials parent
21 portal under this section may be temporarily denied if the parent
22 fails or refuses to comply with a restriction under Subsection (d).

23 (f) An entity that hosts an instructional materials parent
24 portal must comply with requests regarding parental access to the
25 portal made by a school district in compliance with this section or
26 Section 26.006.

27 SECTION 46. Section 33.004(b), Education Code, is amended

1 to read as follows:

2 (b) Each school, before implementing a comprehensive school
3 counseling program under Section 33.005, shall annually conduct a
4 preview of the program for parents and guardians. All materials,
5 including curriculum to be used during the year that is not
6 available digitally through an instructional materials parent
7 portal under Section 31.154, must be available for a parent or
8 guardian to preview during school hours. Materials or curriculum
9 not included in the materials on an instructional materials parent
10 portal or available on the campus for preview may not be used.

11 SECTION 47. Subchapter D, Chapter 48, Education Code, is
12 amended by adding Sections 48.157 and 48.158 to read as follows:

13 Sec. 48.157. ALLOTMENT FOR STATE-APPROVED INSTRUCTIONAL
14 MATERIALS. (a) A school district is entitled to an allotment equal
15 to \$40, or a greater amount provided by appropriation, for each
16 student enrolled in the district to reimburse the district for the
17 costs incurred to procure instructional material that has been:

18 (1) reviewed by the agency under Section 31.023;
19 (2) placed on the list of approved instructional
20 materials maintained by the State Board of Education under Section
21 31.022;

22 (3) designated by the State Board of Education under
23 Section 31.022 as being included or capable of being included in an
24 instructional materials parent portal under Section 31.154; and

25 (4) acquired from a publisher, manufacturer, or other
26 entity that has never been found to violate Section 31.151.

27 (b) Except as provided by Subsection (c), funds allotted

1 under this section shall be deposited to the credit of the
2 district's instructional materials and technology account
3 maintained by the commissioner under Section 31.0212.

4 (c) This subsection applies to a school district that is
5 required to reduce the district's local revenue level under Section
6 48.257 or that does not receive state aid under this chapter in an
7 amount sufficient for the full amount of funds allotted to the
8 district under this section to be deposited to the credit of the
9 district's instructional materials and technology account under
10 Subsection (b). The commissioner shall adopt a process to permit a
11 school district to which this subsection applies to deposit funds
12 described by Section 48.251(c)(2) retained by the district due to
13 the district's entitlement under this section to the credit of the
14 state instructional materials and technology fund under Section
15 31.021 for use by the district. Funds deposited under this
16 subsection are subject to all restrictions on spending applicable
17 to funds allocated to the district under the instructional
18 materials and technology allotment under Chapter 31.

19 (d) If the commissioner determines that a school district
20 that deposits funds in accordance with the process adopted under
21 Subsection (c) should have received additional state aid that
22 should have been deposited to the credit of the district's
23 instructional materials and technology account under Subsection
24 (b), the district is entitled to additional state aid in the amount
25 necessary to compensate the district for the amount of funds
26 described by Section 48.251(c)(2) deposited by the district for
27 which the district was entitled to state aid.

1 Sec. 48.158. ALLOTMENT FOR OPEN EDUCATION RESOURCE
2 INSTRUCTIONAL MATERIAL. (a) Subject to Section 31.0751, a school
3 district is entitled to an annual allotment in an amount not to
4 exceed \$20 for each student to reimburse the district for the costs
5 incurred by the district during the school year in which the
6 allotment is provided for the printing and shipping of open
7 education resource instructional material made available under
8 Subchapter B-1, Chapter 31.

9 (b) Except as provided by Subsection (c), funds allotted
10 under this section shall be deposited to the credit of the
11 district's instructional materials and technology account
12 maintained by the commissioner under Section 31.0212.

13 (c) This subsection applies to a school district that is
14 required to reduce the district's local revenue level under Section
15 48.257 or that does not receive state aid under this chapter in an
16 amount sufficient for the full amount of funds allotted to the
17 district under this section to be deposited to the credit of the
18 district's instructional materials and technology account under
19 Subsection (b). The commissioner shall adopt a process to permit a
20 school district to which this subsection applies to deposit funds
21 described by Section 48.251(c)(2) retained by the district due to
22 the district's entitlement under this section to the credit of the
23 state instructional materials and technology fund under Section
24 31.021 for use by the district. Funds deposited under this
25 subsection are subject to all restrictions on spending applicable
26 to funds allocated to the district under the instructional
27 materials and technology allotment under Chapter 31.

1 (d) If the commissioner determines that a school district
2 that deposits funds in accordance with the process adopted under
3 Subsection (c) should have received additional state aid that
4 should have been deposited to the credit of the district's
5 instructional materials and technology account under Subsection
6 (b), the district is entitled to additional state aid in the amount
7 necessary to compensate the district for the amount of funds
8 described by Section 48.251(c)(2) deposited by the district for
9 which the district was entitled to state aid.

10 SECTION 48. The following provisions of the Education Code
11 are repealed:

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

27 SECTION 49. To the extent of any conflict, this Act prevails

1 over another Act of the 88th Legislature, Regular Session, 2023,
2 relating to nonsubstantive additions to and corrections in enacted
3 codes.

4 SECTION 50. (a) A contract entered into under Section
5 31.026 or 31.151, Education Code, as amended by this Act, before the
6 effective date of this Act is governed by the law in effect on the
7 date the contract was entered into, and the former law is continued
8 in effect for that purpose.

9 (b) A contract entered into under Section 31.026 or 31.151,
10 Education Code, as amended by this Act, after the effective date of
11 this Act for a program called for by the State Board of Education
12 under Proclamation 2024 is governed by the law in effect on the date
13 the proclamation was issued, and the former law is continued in
14 effect for that purpose.

15 SECTION 51. This Act applies beginning with the 2023-2024
16 school year.

17 SECTION 52. (a) Except as provided by Subsection (b) of
18 this section, this Act takes effect immediately if it receives a
19 vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2023.

23 (b) Sections 48.157 and 48.158, Education Code, as added by
24 this Act, take effect September 1, 2023.