

By: Eissler

H.B. No. 6

Substitute the following for H.B. No. 6:

By: Eissler

C.S.H.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, the adoption, review, and  
4 purchase of instructional materials and technological equipment  
5 for public schools, and the administration of state assessment  
6 instruments to public school students.

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

8 SECTION 1. Chapter 5, Education Code, is amended by adding  
9 Section 5.002 to read as follows:

10 Sec. 5.002. REFERENCES TO TEXTBOOK. In this title, a  
11 reference to a textbook means instructional material, as defined by  
12 Section 31.002.

13 SECTION 2. Section 7.055(b)(28), Education Code, is amended  
14 to read as follows:

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

18 SECTION 3. Section 7.056(f), Education Code, is amended to  
19 read as follows:

20 (f) A school district or campus that is required to develop  
21 and implement a student achievement improvement plan under Section  
22 39.102 or 39.103 may receive an exemption or waiver under this  
23 section from any law or rule other than:

24 (1) a prohibition on conduct that constitutes a

1 criminal offense;

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

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

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

7 (B) educator rights and benefits under  
8 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter  
9 A, Chapter 22; or

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

12 SECTION 4. Section 7.102(c)(23), Education Code, is amended  
13 to read as follows:

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

17 SECTION 5. Sections 7.108(a) and (c), Education Code, are  
18 amended to read as follows:

19 (a) A person interested in selling bonds of any type or a  
20 person engaged in manufacturing, shipping, selling, or advertising  
21 instructional materials [~~textbooks or otherwise connected with the~~  
22 ~~textbook business~~] commits an offense if the person makes or  
23 authorizes a political contribution to or takes part in, directly  
24 or indirectly, the campaign of any person seeking election to or  
25 serving on the board.

26 (c) In this section:

27 (1) "Instructional material" has the meaning assigned

1 by Section 31.002.

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

4           ~~[(2) "Textbook" has the meaning assigned by Section~~  
5 ~~31.002.]~~

6           SECTION 6. The heading to Section 7.112, Education Code, is  
7 amended to read as follows:

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

10           SECTION 7. Section 7.112(a), Education Code, is amended to  
11 read as follows:

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

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

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

22           SECTION 8. Section 7.112(c)(2), Education Code, is amended  
23 to read as follows:

24           (2) "Instructional material" and "publisher"  
25 [~~"Publisher" and "textbook"~~] have the meanings assigned by Section  
26 31.002.

27           SECTION 9. Section 11.158(b), Education Code, is amended to

1 read as follows:

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

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

6 (2) field trips required as a part of a basic education  
7 program or course;

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

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

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

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

18 (7) admission to or examination in any required  
19 educational course or program; or

20 (8) lockers.

21 SECTION 10. Section 11.164(a), Education Code, is amended  
22 to read as follows:

23 (a) The board of trustees of each school district shall  
24 limit redundant requests for information and the number and length  
25 of written reports that a classroom teacher is required to prepare.  
26 A classroom teacher may not be required to prepare any written  
27 information other than:

- 1 (1) any report concerning the health, safety, or  
2 welfare of a student;
- 3 (2) a report of a student's grade on an assignment or  
4 examination;
- 5 (3) a report of a student's academic progress in a  
6 class or course;
- 7 (4) a report of a student's grades at the end of each  
8 grade reporting period;
- 9 (5) a [~~textbook~~] report on instructional materials;
- 10 (6) a unit or weekly lesson plan that outlines, in a  
11 brief and general manner, the information to be presented during  
12 each period at the secondary level or in each subject or topic at  
13 the elementary level;
- 14 (7) an attendance report;
- 15 (8) any report required for accreditation review;
- 16 (9) any information required by a school district that  
17 relates to a complaint, grievance, or actual or potential  
18 litigation and that requires the classroom teacher's involvement;  
19 or
- 20 (10) any information specifically required by law,  
21 rule, or regulation.

22 SECTION 11. Section 19.007(e), Education Code, is amended  
23 to read as follows:

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

26 SECTION 12. Sections 26.006(a) and (c), Education Code, are  
27 amended to read as follows:

1 (a) A parent is entitled to:

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

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

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

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

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

22 (1) a foundation curriculum that includes:

23 (A) English language arts;

24 (B) mathematics;

25 (C) science; and

26 (D) social studies, consisting of Texas, United  
27 States, and world history, government, economics, with emphasis on

1 the free enterprise system and its benefits, and geography; and

2 (2) an enrichment curriculum that includes:

3 (A) to the extent possible, languages other than  
4 English;

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

7 (C) physical education;

8 (D) fine arts;

9 (E) [~~economics, with emphasis on the free~~  
10 ~~enterprise system and its benefits~~;

11 [~~F~~] career and technology education;

12 F [~~G~~] technology applications; and

13 G [~~H~~] religious literature, including the  
14 Hebrew Scriptures (Old Testament) and New Testament, and its impact  
15 on history and literature.

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

26 (h) The State Board of Education and each school district  
27 shall foster the continuation of the tradition of teaching United

1 States and Texas history and the free enterprise system in regular  
2 subject matter and in reading courses and in the adoption of  
3 instructional materials [~~textbooks~~]. A primary purpose of the  
4 public school curriculum is to prepare thoughtful, active citizens  
5 who understand the importance of patriotism and can function  
6 productively in a free enterprise society with appreciation for the  
7 basic democratic values of our state and national heritage.

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

12 SECTION 14. Sections 28.0022(a) and (d), Education Code,  
13 are amended to read as follows:

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

16 (1) review and recommend revisions to the career and  
17 technical education curriculum under Section 28.002(a)(2)(E)  
18 [~~28.002(a)(2)(F)~~]; and

19 (2) review and recommend revisions for the program in  
20 which high schools and articulated postsecondary institutions  
21 allow high school students to take advanced technical credit  
22 courses.

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

24 (1) complete the review as required by this section  
25 of:

26 (A) the career and technical education  
27 curriculum; and



1 (B) the program under which high schools and  
2 articulated postsecondary institutions allow high school students  
3 to take advanced technical credit courses; and

4 (2) make recommendations to the State Board of  
5 Education as necessary to:

6 (A) increase the academic rigor of the career and  
7 technical education curriculum under Section 28.002(a)(2)(E)  
8 [~~28.002(a)(2)(F)~~]; and

9 (B) improve and increase participation in the  
10 program under which high schools and articulated postsecondary  
11 institutions allow high school students to take advanced technical  
12 credit courses.

13 SECTION 15. Section 28.003(b), Education Code, is amended  
14 to read as follows:

15 (b) In this section, "educational program" means a course or  
16 series of courses in the required curriculum under Section 28.002,  
17 other than a fine arts course under Section 28.002(a)(2)(D) or a  
18 career and technology course under Section 28.002(a)(2)(E)  
19 [~~28.002(a)(2)(F)~~].

20 SECTION 16. Section 28.011(c), Education Code, is amended  
21 to read as follows:

22 (c) A student may not be required to use a specific  
23 translation as the sole text of the Hebrew Scriptures or New  
24 Testament and may use as the basic instructional material  
25 [~~textbook~~] a different translation of the Hebrew Scriptures or New  
26 Testament from that chosen by the board of trustees of the student's  
27 school district or the student's teacher.

1 SECTION 17. The heading to Chapter 31, Education Code, is  
2 amended to read as follows:

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

4 SECTION 18. Section 31.001, Education Code, is amended to  
5 read as follows:

6 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].  
7 Instructional materials [~~Textbooks~~] selected for use in the public  
8 schools shall be furnished without cost to the students attending  
9 those schools. Except as provided by Section 31.104(d), a school  
10 district may not charge a student for instructional material or  
11 technological equipment purchased by the district with the  
12 district's instructional materials allotment.

13 SECTION 19. Sections 31.002(1), (1-a), (2), and (4),  
14 Education Code, are amended to read as follows:

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

26 (1-a) "Open-source instructional material"  
27 [~~textbook~~] means [~~an~~] electronic instructional material

1 ~~[textbook]~~ that is available for downloading from the Internet at  
2 no charge to a student and without requiring the purchase of an  
3 unlock code, membership, or other access or use charge, except for a  
4 charge to order an optional printed copy of all or part of the  
5 instructional material ~~[textbook]~~. The term includes ~~[a]~~  
6 state-developed open-source instructional material ~~[textbook]~~  
7 purchased under Subchapter B-1.

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

11 (4) "Technological equipment" means hardware, a  
12 device, or equipment necessary for:

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

16 (B) professional use by a classroom teacher.

17 SECTION 20. Subchapter A, Chapter 31, Education Code, is  
18 amended by amending Sections 31.003 and 31.004 and adding Section  
19 31.005 to read as follows:

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

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

1 for each subject in the required curriculum under Section 28.002,  
2 other than physical education, and each grade level, the district  
3 provides each student with [~~textbooks, electronic textbooks, or~~]  
4 instructional materials that cover all elements of the essential  
5 knowledge and skills adopted by the State Board of Education for  
6 that subject and grade level.

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

11 (1) instructional materials adopted by the State Board  
12 of Education;

13 (2) materials adopted or purchased by the commissioner  
14 under Section 31.0231 or Subchapter B-1;

15 (3) open-source instructional materials submitted by  
16 eligible institutions and adopted by the State Board of Education  
17 under Section 31.0241;

18 (4) open-source instructional materials made  
19 available by other public schools; and

20 (5) instructional materials developed or purchased by  
21 the school district or open-enrollment charter school.

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

26 SECTION 21. The heading to Section 31.021, Education Code,  
27 is amended to read as follows:

1           Sec. 31.021. STATE INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~]  
2 FUND.

3           SECTION 22. Section 31.021, Education Code, is amended by  
4 amending Subsections (a) and (d) and adding Subsection (c) to read  
5 as follows:

6           (a) The state instructional materials [~~textbook~~] 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 funds accruing from the state's sale of~~  
12 ~~disused textbooks; and~~

13                   [~~(3)~~] all amounts lawfully paid into the fund from any  
14 other source.

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

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

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

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

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

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

1 and the insurance expenses associated with intrastate freight and  
2 shipping; and

3 (6) fund the technology lending grant program  
4 established under Section 32.201.

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

8 SECTION 23. Subchapter B, Chapter 31, Education Code, is  
9 amended by adding Sections 31.0211, 31.0212, 31.0213, and 31.0214  
10 to read as follows:

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

22 (b) A juvenile justice alternative education program under  
23 Section 37.011 is entitled to an allotment from the state  
24 instructional materials fund in an amount determined by the  
25 commissioner. The program shall use the allotment to purchase  
26 items listed in Subsection (c) for students enrolled in the  
27 program. The commissioner's determination under this subsection is

1 final and may not be appealed.

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

4 (1) purchase:

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

7 (B) instructional materials, regardless of  
8 whether the instructional materials are on the list adopted under  
9 Section 31.024;

10 (C) consumable instructional materials,  
11 including workbooks;

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

14 (E) supplemental instructional materials, as  
15 provided by Section 31.035;

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

18 (G) instructional materials and technological  
19 equipment under any continuing contracts of the district in effect  
20 on September 1, 2011; and

21 (H) technological equipment necessary to support  
22 the use of materials included on the list adopted by the  
23 commissioner under Section 31.0231 or any instructional materials  
24 purchased with an allotment under this section; and

25 (2) pay:

26 (A) for training educational personnel directly  
27 involved in student learning in the appropriate use of

1 instructional materials and for providing for access to  
2 technological equipment for instructional use; and

3 (B) the salary and other expenses of an employee  
4 who provides technical support for the use of technological  
5 equipment.

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

8 (1) instructional materials necessary to permit the  
9 district to certify that the district has instructional materials  
10 that cover all elements of the essential knowledge and skills of the  
11 required curriculum, other than physical education, for each grade  
12 level as required by Section 28.002; and

13 (2) any other instructional materials or  
14 technological equipment as determined by the district.

15 (d-1) Notwithstanding Subsection (d), for the state fiscal  
16 biennium beginning September 1, 2011, a school district shall use  
17 an allotment received under this section to purchase instructional  
18 materials that will assist the district in satisfying performance  
19 standards under Section 39.0241, as added by Chapter 895 (H.B. 3),  
20 Acts of the 81st Legislature, Regular Session, 2009, on assessment  
21 instruments adopted under Sections 39.023(a) and (c).

22 (d-2) Subsection (d-1) and this subsection expire August  
23 31, 2013.

24 (e) Not later than May 31 of each school year, a school  
25 district may request that the commissioner adjust the number of  
26 students for which the district is entitled to receive an allotment  
27 under Subsection (a) on the grounds that the number of students



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

9 (f) The commissioner may adopt rules as necessary to  
10 implement this section.

11 Sec. 31.0212. INSTRUCTIONAL MATERIALS ACCOUNT. (a) The  
12 commissioner shall maintain an instructional materials account for  
13 each school district. Each school year, the commissioner shall  
14 deposit in the account for each district the amount of the  
15 district's instructional materials allotment under Section  
16 31.0211.

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

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

27 (d) Money deposited in a school district's instructional

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

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

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

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

24 (b) The commissioner may adopt rules as necessary to  
25 implement this section.

26 SECTION 24. Section 31.022, Education Code, is amended to  
27 read as follows:

1           Sec. 31.022. INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~] REVIEW AND  
2 ADOPTION. (a) The State Board of Education shall adopt a review  
3 and adoption cycle for instructional materials [~~textbooks~~] for  
4 elementary grade levels, including prekindergarten, and secondary  
5 grade levels, for each subject in the required curriculum under  
6 Section 28.002. In adopting the cycle, the board:

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

9           (2) shall give priority to instructional materials in  
10 the following subjects:

11           (A) foundation curriculum subjects for which the  
12 essential knowledge and skills have been substantially revised and  
13 for which assessment instruments are required under Subchapter B,  
14 Chapter 39, including career and technology courses that satisfy  
15 foundation curriculum requirements as provided by Section  
16 28.002(n);

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

21           (C) foundation curriculum subjects not described  
22 by Paragraph (A) or (B), including career and technology courses  
23 that satisfy foundation curriculum requirements as provided by  
24 Section 28.002(n); and

25           (D) enrichment curriculum subjects.

26           (b) The board shall organize the cycle for subjects in the  
27 foundation curriculum so that not more than one-fourth [~~one-sixth~~]

1 of the instructional materials [~~textbooks~~] for subjects in the  
2 foundation curriculum are reviewed each biennium [~~year~~]. The board  
3 shall adopt rules to provide for a full and complete investigation  
4 of instructional materials [~~textbooks~~] for each subject in the  
5 foundation curriculum [~~at least~~] every eight [~~six~~] years. The  
6 adoption of instructional materials [~~textbooks~~] for a subject in  
7 the foundation curriculum may be extended beyond the eight-year  
8 [~~six-year~~] period only if the content of instructional materials  
9 [~~textbooks~~] for a subject is sufficiently current.

10 (b-1) For purposes of the cycle described by Subsection (b),  
11 the State Board of Education is considered to have adopted  
12 instructional materials for English language arts, English as a  
13 second language, and prekindergarten, as included in Proclamation  
14 2011, for the biennium beginning September 1, 2011. This  
15 subsection expires September 1, 2013.

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

20 (d) At least 12 [~~24~~] months before the beginning of the  
21 school year for which instructional materials [~~textbooks~~] for a  
22 particular subject and grade level will be adopted [~~purchased~~]  
23 under the review and adoption cycle [~~adopted by the board~~], the  
24 board shall publish notice of the review and adoption cycle for  
25 those instructional materials [~~textbooks~~]. A request for  
26 production must allow submission of open-source instructional  
27 materials that are available for use by the state without charge on

1 the same basis as instructional materials offered for sale.

2 (d-1) A notice published under Subsection (d) must state  
3 that a publisher of adopted instructional materials for a grade  
4 level other than prekindergarten must submit an electronic sample  
5 of the instructional materials as required by Sections 31.027(a)  
6 and (b) and may not submit a print sample copy.

7 (e) The board shall designate a request for production of  
8 instructional materials [~~textbooks~~] in a subject area and grade  
9 level by the school year in which the instructional materials  
10 [~~textbooks~~] are intended to be made available in classrooms and not  
11 by the school year in which the board makes the request for  
12 production.

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

17 SECTION 25. Section 31.0221, Education Code, is amended to  
18 read as follows:

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

25 (1) the publisher of the instructional material  
26 [~~textbook~~] to pay a fee to the board to cover the cost of the  
27 midcycle review and adoption of the instructional material

1 ~~[textbook]~~;

2 (2) the publisher of the instructional material  
3 ~~[textbook]~~ to enter into a contract with the board concerning the  
4 instructional material ~~[textbook]~~ for a term that ends at the same  
5 time as any contract entered into by the board for other  
6 instructional materials ~~[another textbook]~~ for the same subject and  
7 grade level; and

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

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

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

16 (b) Sections 31.023 and 31.024 apply to instructional  
17 material ~~[a textbook]~~ adopted under this section. Section 31.027  
18 does not apply to instructional material ~~[a textbook]~~ adopted under  
19 this section.

20 SECTION 26. Section 31.023, Education Code, is amended to  
21 read as follows:

22 Sec. 31.023. INSTRUCTIONAL MATERIAL LIST ~~[TEXTBOOK LISTS]~~.

23 (a) For each subject and grade level, the State Board of Education  
24 shall adopt a list ~~[two lists]~~ of instructional materials  
25 ~~[textbooks]~~. The ~~[confirming]~~ list includes each instructional  
26 material ~~[textbook]~~ submitted for the subject and grade level that  
27 meets applicable physical specifications adopted by the State Board

1 of Education and contains material covering at least half of the  
2 elements [~~each element~~] of the essential knowledge and skills of  
3 the subject and grade level in the student version of the  
4 instructional material [~~textbook~~], as well as in the teacher  
5 version of the instructional material [~~textbook~~], as determined by  
6 the State Board of Education under Section 28.002 and adopted under  
7 Section 31.024[~~. The nonconforming list includes each textbook~~  
8 ~~submitted for the subject and grade level that:~~

9            [~~(1) meets applicable physical specifications adopted~~  
10 ~~by the State Board of Education;~~

11            [~~(2) contains material covering at least half, but not~~  
12 ~~all, of the elements of the essential knowledge and skills of the~~  
13 ~~subject and grade level in the student version of the textbook, as~~  
14 ~~well as in the teacher version of the textbook; and~~

15            [~~(3) is adopted under Section 31.024].~~

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

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

23            SECTION 27. (a) If S.B. No. 290, Acts of the 82nd  
24 Legislature, Regular Session, 2011, does not become law, Section  
25 31.0231, Education Code, is amended to read as follows:

26            Sec. 31.0231. COMMISSIONER'S [~~ELECTRONIC TEXTBOOK AND~~  
27 ~~INSTRUCTIONAL MATERIAL~~] LIST. (a) The commissioner shall adopt a

1 list of:

2 (1) electronic instructional material [~~textbooks~~];

3 and

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

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

13 (c) Before the commissioner places [~~an electronic textbook~~  
14 ~~or instructional~~] material on the list adopted under Subsection  
15 (a), the State Board of Education must be given an opportunity to  
16 comment on the [~~electronic textbook or instructional~~] material. If  
17 the commissioner places material on the list adopted under  
18 Subsection (a), the State Board of Education may, not later than the  
19 90th day after the date the material is placed on the list, require  
20 the commissioner to remove the material from the list. Material [~~An~~  
21 ~~electronic textbook or instructional material~~] placed on the list  
22 adopted under Subsection (a):

23 (1) must be reviewed and recommended to the  
24 commissioner by a panel of recognized experts in the subject area of  
25 the [~~electronic textbook or instructional~~] material and experts in  
26 education technology;

27 (2) must satisfy criteria adopted for the purpose by



1 commissioner rule; and

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

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

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

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

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

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

19 (3) include appropriate training for teachers.

20 (e) The commissioner shall update, as necessary, the list  
21 adopted under Subsection (a). Before the commissioner places [~~an~~  
22 ~~electronic textbook or instructional~~] material on the updated list,  
23 the requirements of Subsection (c) must be met. [~~Before the~~  
24 ~~commissioner removes an electronic textbook or instructional~~  
25 ~~material from the updated list, the removal must be recommended by a~~  
26 ~~panel of recognized experts in the subject area of the electronic~~  
27 ~~textbook or instructional material and experts in education~~

1 ~~technology.]~~

2 (f) After notice to the commissioner explaining in detail  
3 the changes, the provider of [~~an electronic textbook or~~  
4 ~~instructional~~] material on the list adopted under Subsection (a)  
5 may update the navigational features or management system related  
6 to the [~~electronic textbook or instructional~~] material.

7 (g) After notice to the commissioner and a review by the  
8 commissioner, the provider of [~~an electronic textbook or~~  
9 ~~instructional~~] material on the list adopted under Subsection (a)  
10 may update the content of the [~~electronic textbook or~~  
11 ~~instructional~~] material if needed to accurately reflect current  
12 knowledge or information.

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

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

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

20 (b) If S.B. No. 290, Acts of the 82nd Legislature, Regular  
21 Session, 2011, becomes law, Section 31.0231, Education Code, as  
22 effective in June 2011, is amended to read as follows:

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

26 (1) electronic instructional material [~~textbooks~~];

27 and

1           (2) [~~instructional~~] material that conveys information  
2 to the student or otherwise contributes to the learning process,  
3 including tools, models, and investigative materials designed for  
4 use as part of the foundation curriculum for:

5           (A) science in kindergarten through grade five;  
6 and

7           (B) personal financial literacy in kindergarten  
8 through grade eight.

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

13           (c) Before the commissioner places [~~an electronic textbook~~  
14 ~~or instructional~~] material on the list adopted under Subsection  
15 (a), the State Board of Education must be given an opportunity to  
16 comment on the [~~electronic textbook or instructional~~] material. If  
17 the commissioner places material on the list adopted under  
18 Subsection (a), the State Board of Education may, not later than the  
19 90th day after the date the material is placed on the list, require  
20 the commissioner to remove the material from the list. Material [~~An~~  
21 ~~electronic textbook or instructional material~~] placed on the list  
22 adopted under Subsection (a):

23           (1) must be reviewed and recommended to the  
24 commissioner by a panel of recognized experts in the subject area of  
25 the [~~electronic textbook or instructional~~] material and experts in  
26 education technology;

27           (2) must satisfy criteria adopted for the purpose by

1 commissioner rule; and

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

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

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

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

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

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

19 (3) include appropriate training for teachers.

20 (e) The commissioner shall update, as necessary, the list  
21 adopted under Subsection (a). Before the commissioner places [~~an~~  
22 ~~electronic textbook or instructional~~] material on the updated list,  
23 the requirements of Subsection (c) must be met. [~~Before the~~  
24 ~~commissioner removes an electronic textbook or instructional~~  
25 ~~material from the updated list, the removal must be recommended by a~~  
26 ~~panel of recognized experts in the subject area of the electronic~~  
27 ~~textbook or instructional material and experts in education~~

1 ~~technology.]~~

2 (f) After notice to the commissioner explaining in detail  
3 the changes, the provider of [~~an electronic textbook or~~  
4 ~~instructional~~] material on the list adopted under Subsection (a)  
5 may update the navigational features or management system related  
6 to the [~~electronic textbook or instructional~~] material.

7 (g) After notice to the commissioner and a review by the  
8 commissioner, the provider of [~~an electronic textbook or~~  
9 ~~instructional~~] material on the list adopted under Subsection (a)  
10 may update the content of the [~~electronic textbook or~~  
11 ~~instructional~~] material if needed to accurately reflect current  
12 knowledge or information.

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

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

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

20 SECTION 28. Section 31.024, Education Code, is amended to  
21 read as follows:

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

24 (1) place each submitted instructional material on the  
25 [~~textbook on a conforming or nonconforming~~] list adopted under  
26 Section 31.023; or

27 (2) reject instructional material [~~a textbook~~]

1 submitted for placement on that [~~a conforming or nonconforming~~]  
2 list.

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

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

13 Sec. 31.0241. ADOPTION OF OPEN-SOURCE INSTRUCTIONAL  
14 MATERIALS [~~TEXTBOOKS~~].

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

17 (b) The State Board of Education shall place [~~an~~]  
18 open-source instructional material [~~textbook~~] for a  
19 secondary-level course submitted for adoption by an eligible  
20 institution on the [~~a conforming or nonconforming~~] list adopted  
21 under Section 31.023 if:

22 (1) the instructional material [~~textbook~~] is written,  
23 compiled, or edited primarily by faculty of the eligible  
24 institution who specialize in the subject area of the instructional  
25 material [~~textbook~~];

26 (2) the eligible institution identifies each  
27 contributing author;

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

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

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

16 (B) for instructional material [~~a textbook~~] for a  
17 junior-level and senior-level course, a student who successfully  
18 completes the junior-level course based on the instructional  
19 material [~~textbook~~] will be prepared for entry into the  
20 senior-level course; and

21 (5) by not later than the 90th day after the date the  
22 instructional material is submitted and before placement of the  
23 instructional material on the list, the board reviews and comments  
24 on the instructional material.

25 (c) This section does not prohibit an eligible institution  
26 from submitting instructional material [~~a textbook~~] for placement  
27 on the [~~a conforming or nonconforming~~] list adopted under Section

1 31.023 through any other adoption 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 placed [~~textbook listed~~] on the  
27 [~~conforming or nonconforming~~] list adopted under Section 31.023.



1 The contract must allow a school district to requisition printed  
2 copies of [~~an~~] open-source instructional materials [~~textbook~~] as  
3 provided by Section 31.103.

4 SECTION 33. (a) If S.B. No. 391, Acts of the 82nd  
5 Legislature, Regular Session, 2011, does not become law, Section  
6 31.027, Education Code, is amended to read as follows:

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

14 (b) A publisher shall provide an electronic [~~at least two~~]  
15 sample [~~copies~~] of each submitted instructional material [~~adopted~~  
16 ~~textbook~~] to be maintained at each regional education service  
17 center.

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

20 (b) If S.B. No. 391, Acts of the 82nd Legislature, Regular  
21 Session, 2011, becomes law, Section 31.027, Education Code, as  
22 effective September 1, 2011, is amended to read as follows:

23 Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; ELECTRONIC  
24 SAMPLE. (a) A publisher shall provide each school district and  
25 open-enrollment charter school with information that fully  
26 describes each of the publisher's submitted instructional  
27 materials [~~adopted textbooks~~]. On request of a school district, a

1 publisher shall provide an electronic sample of submitted  
2 instructional material [~~an adopted textbook~~].

3 (b) A publisher shall provide an electronic sample of each  
4 submitted instructional material [~~adopted textbook~~] to be  
5 maintained at each regional education service center.

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

8 SECTION 34. Section 31.028, Education Code, is amended to  
9 read as follows:

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

11 (a) The commissioner [~~State Board of Education~~] may purchase  
12 special instructional materials [~~textbooks~~] for the education of  
13 blind and visually impaired students in public schools. In  
14 addition, for a teacher who is blind or visually impaired, the  
15 commissioner [~~board~~] shall provide a teacher's edition in Braille  
16 or large type, as requested by the teacher, for each instructional  
17 material [~~textbook~~] the teacher uses in the instruction of  
18 students. The teacher edition must be available at the same time  
19 the student instructional materials [~~textbooks~~] become available.

20 (b) The publisher of [~~an~~] adopted instructional material  
21 [~~textbook~~] shall provide the agency with computerized  
22 instructional material [~~textbook~~] files for the production of  
23 Braille instructional materials [~~textbooks~~] or other versions of  
24 instructional materials [~~textbooks~~] to be used by students with  
25 disabilities, on request of the commissioner [~~State Board of~~  
26 ~~Education~~]. A publisher shall arrange computerized instructional  
27 material [~~textbook~~] files in one of several optional formats

1 specified by the commissioner [~~State Board of Education~~].

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

7 (1) public schools; or

8 (2) private nonprofit schools, if state funds, other  
9 than for administrative costs, are not involved.

10 (d) In this section:

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

15 (2) "Special instructional material [~~textbook~~]" means  
16 instructional material [~~a textbook~~] in Braille, large type or any  
17 other medium or any apparatus that conveys information to a student  
18 or otherwise contributes to the learning process.

19 SECTION 35. Section 31.029, Education Code, is amended to  
20 read as follows:

21 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS  
22 [~~TEXTBOOKS~~]. (a) A school district [~~The board~~] shall purchase with  
23 the district's instructional materials allotment or otherwise  
24 acquire instructional materials [~~textbooks~~] for use in bilingual  
25 education classes.

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

1 SECTION 36. Section 31.030, Education Code, is amended to  
2 read as follows:

3 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The  
4 State Board of Education shall adopt rules to ensure that used  
5 instructional materials [~~textbooks~~] sold to school districts and  
6 open-enrollment charter schools are not sample copies that contain  
7 factual errors. The rules may provide for the imposition of an  
8 administrative penalty in accordance with Section 31.151 against a  
9 seller of used instructional materials [~~textbooks~~] who knowingly  
10 violates this section.

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

13 Sec. 31.035. SUPPLEMENTAL INSTRUCTIONAL MATERIALS  
14 [~~TEXTBOOKS~~].

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

17 (a) Notwithstanding any other provision of this subchapter,  
18 the State Board of Education may adopt supplemental instructional  
19 materials [~~textbooks~~] that are not on the [~~conforming or~~  
20 ~~nonconforming~~] list adopted under Section 31.023. The State Board  
21 of Education may adopt [~~a~~] supplemental instructional material  
22 [~~textbook~~] under this section only if the instructional material  
23 [~~textbook~~]:

24 (1) contains material covering one or more primary  
25 focal points or primary topics of a subject in the required  
26 curriculum under Section 28.002, as determined by the State Board  
27 of Education;

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

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

5 (4) is free from factual errors.

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

10 (c) Supplemental instructional material [~~A supplemental~~  
11 ~~textbook~~] is subject to the review and adoption cycle provisions,  
12 including the midcycle review and adoption cycle provisions, of  
13 this subchapter.

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

17 [~~(1) uses textbook credits received under Section~~  
18 ~~31.1011 to purchase the supplemental textbook, or~~

19 [~~(2) instead of requisitioning a textbook on the~~  
20 ~~conforming list under Section 31.023 for a course in the foundation~~  
21 ~~curriculum under Section 28.002,~~] requisitions the supplemental

22 instructional material [~~textbook~~] along with other supplemental  
23 instructional materials [~~textbooks~~] or instructional materials  
24 [~~textbooks~~] on the [~~nonconforming~~] list adopted under Section

25 31.023 that in combination cover each element of the essential  
26 knowledge and skills for the course for which the district or school  
27 is requisitioning the supplemental instructional materials

1 [~~textbooks~~].

2 (f) A school district or open-enrollment charter school  
3 that requisitions supplemental instructional materials [~~textbooks~~  
4 ~~under Subsection (d)(2)~~] shall certify to the agency that the  
5 supplemental instructional materials [~~textbooks~~], in combination  
6 with any other instructional materials [~~textbooks~~] or supplemental  
7 instructional materials [~~textbooks~~] used by the district or school,  
8 cover the essential knowledge and skills identified under Section  
9 28.002 by the State Board of Education for the subject and grade  
10 level for which the district or school is requisitioning the  
11 supplemental instructional materials [~~textbooks~~].

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

14 SUBCHAPTER B-1. STATE-DEVELOPED OPEN-SOURCE INSTRUCTIONAL  
15 MATERIALS [~~TEXTBOOKS~~]

16 SECTION 40. Section 31.071, Education Code, is amended to  
17 read as follows:

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

21 (b) The commissioner:

22 (1) shall purchase any state-developed open-source  
23 instructional materials [~~textbooks~~] through a competitive process;  
24 and

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

1           (c) State-developed [~~A state-developed~~] open-source  
 2 instructional material [~~textbook~~] must be irrevocably owned by or  
 3 licensed to the state for use in the applicable subject or grade  
 4 level. The state must have unlimited authority to modify, delete,  
 5 combine, or add content to the instructional material [~~textbook~~]  
 6 after purchase.

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

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

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

14           (e) The costs of administering this subchapter and  
 15 purchasing state-developed open-source instructional materials  
 16 [~~textbooks~~] shall be paid from the state instructional materials  
 17 [~~textbook~~] fund, as determined by the commissioner.

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

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

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

24                   (2) meet the requirements for inclusion on the  
 25 instructional material [~~a conforming or nonconforming textbook~~]  
 26 list adopted under Section 31.023.

27           (b) Following a curriculum revision by the State Board of

1 Education, the commissioner shall require the revision of [~~a~~]  
2 state-developed open-source instructional material [~~textbook~~]  
3 relating to that curriculum. The commissioner may, at any time,  
4 require an additional revision of [~~a~~] state-developed open-source  
5 instructional material [~~textbook~~] or contract for ongoing  
6 revisions of state-developed open-source instructional material [~~a~~  
7 ~~textbook~~] for a period not to exceed the period under Section 31.022  
8 for which instructional material [~~a textbook~~] for that subject and  
9 grade level may be adopted. The commissioner shall use a  
10 competitive process to request proposals to revise [~~a~~]  
11 state-developed open-source instructional material [~~textbook~~]  
12 under this subsection.

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

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

16 SECTION 43. Sections 31.073(c) and (d), Education Code, are  
17 amended to read as follows:

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

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

27 SECTION 44. Section 31.074, Education Code, is amended to



1 read as follows:

2           Sec. 31.074. DISTRIBUTION. (a) The commissioner shall  
3 provide for the distribution of state-developed open-source  
4 instructional materials [~~textbooks~~] in a manner consistent with  
5 distribution of instructional materials [~~textbooks~~] adopted under  
6 Subchapter B.

7           (b) The commissioner may use a competitive process to  
8 contract for printing or other reproduction of [~~a~~] state-developed  
9 open-source instructional material [~~textbook~~] on behalf of a school  
10 district or open-enrollment charter school. The commissioner may  
11 not require a school district or open-enrollment charter school to  
12 contract with a state-approved provider for the printing or  
13 reproduction of [~~a~~] state-developed open-source instructional  
14 material [~~textbook~~].

15           SECTION 45. Section 31.075, Education Code, is amended to  
16 read as follows:

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

20           (b) The commissioner shall provide a license to each public  
21 school in the state, including a school district, an  
22 open-enrollment charter school, and a state or local agency  
23 educating students in any grade from prekindergarten through high  
24 school, to use and reproduce [~~a~~] state-developed open-source  
25 instructional material [~~textbook~~].

26           (c) The commissioner may provide a license to use [~~a~~]  
27 state-developed open-source instructional material [~~textbook~~] to

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

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

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

11 SECTION 47. Section 31.077, Education Code, is amended to  
12 read as follows:

13 Sec. 31.077. ADOPTION SCHEDULE. The commissioner shall  
14 develop a schedule for the adoption of state-developed open-source  
15 instructional materials [~~textbooks~~] under this subchapter. In  
16 developing the adoption schedule under this section, the  
17 commissioner shall consider:

- 18 (1) the availability of funds;  
19 (2) the existing instructional material [~~textbook~~]  
20 adoption cycles under Subchapter B; and  
21 (3) the availability of instructional materials  
22 [~~textbooks~~] for development or purchase by the state.

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

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

27 SECTION 49. Section 31.101, Education Code, is amended by

1 amending Subsections (a), (d), and (e) and adding Subsection (f) to  
2 read as follows:

3 (a) Each year, during a period established by the State  
4 Board of Education, the board of trustees of each school district  
5 and the governing body of each open-enrollment charter school  
6 shall:

7 (1) for a subject in the foundation curriculum, notify  
8 the State Board of Education of the instructional materials  
9 [~~textbooks~~] selected by the board of trustees or governing body for  
10 the following school year from [~~among~~] the instructional materials  
11 [~~textbooks on the appropriate conforming or nonconforming~~] list,  
12 including the list adopted under Section 31.0231; or

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

14 (A) notify the State Board of Education of each  
15 instructional material [~~textbook~~] selected by the board of trustees  
16 or governing body for the following school year from [~~among~~] the  
17 instructional materials [~~textbooks on the appropriate conforming~~  
18 ~~or nonconforming~~] list, including the list adopted under Section  
19 31.0231; or

20 (B) notify the State Board of Education that the  
21 board of trustees or governing body has selected instructional  
22 material [~~a textbook~~] that is not on the [~~conforming or~~  
23 ~~nonconforming~~] list.

24 (d) For instructional material [~~a textbook~~] that is not on  
25 the [~~conforming or nonconforming~~] list, a school district or  
26 open-enrollment charter school must use the instructional material  
27 [~~textbook~~] for the period of the review and adoption cycle the State

1 Board of Education has established for the subject and grade level  
2 for which the instructional material [~~textbook~~] is used.

3 (e) A school district or open-enrollment charter school  
4 that selects [~~a~~] subscription-based [~~electronic textbook or~~]  
5 instructional material on the [~~conforming~~] list adopted under  
6 Section 31.023 or electronic instructional material on the list  
7 adopted by the commissioner under Section 31.0231 may cancel the  
8 subscription and subscribe to [~~a~~] new [~~electronic textbook or~~]  
9 instructional material on the [~~conforming~~] list adopted under  
10 Section 31.023 or electronic instructional material on the list  
11 adopted by the commissioner under Section 31.0231 before the end of  
12 the state contract period under Section 31.026 if:

13 (1) the district or school has used the [~~electronic~~  
14 ~~textbook or~~] instructional material for at least one school year;  
15 and

16 (2) the agency approves the change based on a written  
17 request to the agency by the district or school that specifies the  
18 reasons for changing the [~~electronic textbook or~~] instructional  
19 material used by the district or school.

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

24 SECTION 50. Section 31.102, Education Code, is amended to  
25 read as follows:

26 Sec. 31.102. TITLE AND CUSTODY. (a) Each instructional  
27 material [~~textbook~~] purchased as provided by this chapter for a

1 school district or an open-enrollment charter school is the  
2 property of the district or school [~~this state~~].

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

6 (c) The board of trustees of a school district or the  
7 governing body of an open-enrollment charter school [~~is the legal~~  
8 ~~custodian of textbooks purchased as provided by this chapter for~~  
9 ~~the district or school. The board of trustees~~] shall distribute  
10 printed instructional material [~~textbooks~~] to students in the  
11 manner that the board or governing body determines is most  
12 effective and economical.

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

15 Sec. 31.103. INSTRUCTIONAL MATERIAL [~~TEXTBOOK~~]  
16 REQUISITIONS.

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

19 (b) [~~A requisition for textbooks for the following school~~  
20 ~~year shall be based on the maximum attendance reports under~~  
21 ~~Subsection (a), plus an additional 10 percent, except as otherwise~~  
22 ~~provided.~~] A school district or open-enrollment charter school  
23 shall make a requisition for instructional material using the  
24 online requisition program maintained by [~~a textbook on the~~  
25 ~~conforming or nonconforming list through~~] the commissioner [~~to the~~  
26 ~~state depository designated by the publisher or as provided by~~  
27 ~~State Board of Education rule, as applicable,~~] not later than June 1

1 of each year. The [~~designated state depository or, if the publisher~~  
 2 ~~or manufacturer does not have a designated textbook depository in~~  
 3 ~~this state under Section 31.151(a)(6)(B), the]~~ publisher or  
 4 manufacturer shall fill a requisition approved by the agency [~~at~~  
 5 ~~any other time in the case of an emergency]~~. [~~As made necessary by~~  
 6 ~~available funds, the commissioner shall reduce the additional~~  
 7 ~~percentage of attendance for which a district or school may~~  
 8 ~~requisition textbooks. The commissioner may, on application of a~~  
 9 ~~district or school that is experiencing high enrollment growth,~~  
 10 ~~increase the additional percentage of attendance for which the~~  
 11 ~~district or school may requisition textbooks.]~~

12 (c) In making a requisition under this section, a school  
 13 district or open-enrollment charter school may requisition  
 14 instructional materials [~~textbooks~~] on the [~~conforming or~~  
 15 ~~nonconforming]~~ list adopted under Section 31.023 for grades above  
 16 the grade level in which a student is enrolled[, ~~except that the~~  
 17 ~~total quantity of textbooks requisitioned under this section may~~  
 18 ~~not exceed the limit prescribed by Subsection (b)].~~

19 (d) A school district or open-enrollment charter school  
 20 that selects [~~an~~] open-source instructional material [~~textbook~~]  
 21 shall requisition a sufficient number of printed copies for use by  
 22 students unable to access the instructional material [~~textbook~~]  
 23 electronically unless the district or school provides to each  
 24 student:

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

27 (2) printed copies of the portion of the instructional

1 material [~~textbook~~] that will be used in the course.

2 SECTION 53. Section 31.104, Education Code, is amended to  
3 read as follows:

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

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

13 [~~(1) the textbook depository;~~

14 [~~(2)~~] the [~~textbook~~] publisher of the instructional  
15 materials or [~~manufacturer if the textbook publisher or~~  
16 ~~manufacturer does not have a designated textbook depository in this~~  
17 ~~state under Section 31.151(a)(6)(B); or~~

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

20 (c) [~~Each textbook must state that the textbook is the~~  
21 ~~property of or is licensed to this state, as appropriate. Each~~  
22 ~~textbook, other than an electronic textbook or a printed copy of an~~  
23 ~~open-source textbook, must be covered by the student under the~~  
24 ~~direction of the teacher.~~] Except as provided by Subsection (g), a  
25 student must return all instructional materials [~~textbooks~~] to the  
26 teacher at the end of the school year or when the student withdraws  
27 from school.

1 (d) Each student, or the student's parent or guardian, is  
2 responsible for all instructional materials [~~each textbook,~~  
3 ~~including an electronic textbook,~~] and [~~all~~] technological  
4 equipment not returned in an acceptable condition by the student. A  
5 student who fails to return in an acceptable condition all  
6 instructional materials [~~textbooks, including electronic~~  
7 ~~textbooks,~~] and technological equipment forfeits the right to free  
8 instructional materials [~~textbooks, including electronic~~  
9 ~~textbooks,~~] and technological equipment until all instructional  
10 materials [~~each textbook, including an electronic textbook,~~] and  
11 [~~all~~] technological equipment previously issued but not returned in  
12 an acceptable condition are [~~is~~] paid for by the student, parent, or  
13 guardian. As provided by policy of the board of trustees or  
14 governing body, a school district or open-enrollment charter school  
15 may waive or reduce the payment requirement if the student is from a  
16 low-income family. The district or school shall allow the student  
17 to use instructional materials [~~textbooks, including electronic~~  
18 ~~textbooks,~~] and technological equipment at school during each  
19 school day. If instructional materials [~~a textbook, including an~~  
20 ~~electronic textbook,~~] or technological equipment is not returned in  
21 an acceptable condition or paid for, the district or school may  
22 withhold the student's records. A district or school may not,  
23 under this subsection, prevent a student from graduating,  
24 participating in a graduation ceremony, or receiving a diploma.  
25 The commissioner by rule shall adopt criteria for determining  
26 whether instructional materials [~~a textbook, including an~~  
27 ~~electronic textbook,~~] and technological equipment are returned in



1 an acceptable condition.

2 (e) The board of trustees of a school district may not  
3 require an employee of the district who acts in good faith to pay  
4 for instructional materials [~~a textbook, electronic textbook,~~] or  
5 technological equipment that is damaged, stolen, misplaced, or not  
6 returned. A school district employee may not waive this provision  
7 by contract or any other means, except that a district may enter  
8 into a written agreement with a school employee whereby the  
9 employee assumes financial responsibility for electronic  
10 instructional material [~~textbook~~] or technological equipment usage  
11 off school property or outside of a school-sponsored event in  
12 consideration for the ability of the school employee to use the  
13 electronic instructional material [~~textbook~~] or technological  
14 equipment for personal business. Such a written agreement shall be  
15 separate from the employee's contract of employment, if applicable,  
16 and shall clearly inform the employee of the amount of the financial  
17 responsibility and advise the employee to consider obtaining  
18 appropriate insurance. An employee may not be required to agree to  
19 such an agreement as a condition of employment.

20 (g) At the end of the school year for which [~~an~~] open-source  
21 instructional material [~~textbook~~] that a school district or  
22 open-enrollment charter school does not intend to use for another  
23 student is distributed, the printed copy of the open-source  
24 instructional material [~~textbook~~] becomes the property of the  
25 student to whom it is distributed.

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

1 SECTION 54. Section 31.105, Education Code, is amended to  
2 read as follows:

3 Sec. 31.105. SALE OR DISPOSAL OF INSTRUCTIONAL MATERIALS  
4 AND TECHNOLOGICAL EQUIPMENT [~~TEXTBOOKS~~]. (a) The board of  
5 trustees of a school district or governing body of an  
6 open-enrollment charter school may sell printed instructional  
7 materials on the date the instructional material is discontinued  
8 for use in the public schools by the State Board of Education or the  
9 commissioner. The board of trustees or governing body may also sell  
10 electronic instructional materials and technological equipment  
11 owned by the district or school. Any funds received by a district  
12 or school from a sale authorized by this subsection must be used to  
13 purchase instructional materials and technological equipment  
14 allowed under Section 31.0211 [~~textbooks, other than electronic~~  
15 ~~textbooks, to a student or another school at the state contract~~  
16 ~~price. The district shall send money from the sale of textbooks to~~  
17 ~~the commissioner as required by the commissioner. The commissioner~~  
18 ~~shall deposit the money in the state textbook fund~~].

19 (b) The board of trustees of a school district or governing  
20 body of an open-enrollment charter school shall determine how the  
21 district or school will dispose of discontinued printed  
22 instructional materials, electronic instructional materials, and  
23 technological equipment.

24 (c) The board of trustees of a school district or governing  
25 body of an open-enrollment charter school may dispose of printed  
26 instructional material before the date the instructional material  
27 is discontinued for use in the public schools by the State Board of

1 Education if the board of trustees or governing body determines  
2 that the instructional material is not needed by the district or  
3 school and the board of trustees or governing body does not  
4 reasonably expect that the instructional material will be needed.  
5 A district or school must notify the commissioner of any  
6 instructional material the district or school disposes of under  
7 this subsection.

8 SECTION 55. 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 56. Section 31.151, Education Code, is amended by  
15 amending Subsections (a) and (d) and adding Subsection (e) to read  
16 as follows:

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

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

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

1 price is reduced elsewhere in the United States;

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

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

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

18 (6) shall[+]

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

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

1                   ~~[(i) the publisher or manufacturer does not~~  
2 ~~maintain or arrange with a depository in this state under Paragraph~~  
3 ~~(A) and the publisher's or manufacturer's textbooks and related~~  
4 ~~products are warehoused or otherwise stored less than 300 miles~~  
5 ~~from a border of this state; or~~

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

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

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

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

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

25                   (e) An eligible institution, as defined by Section  
26 31.0241(a), that offers open-source instructional materials under  
27 Section 31.0241 is not a publisher or manufacturer for purposes of

1 this section.

2 SECTION 57. The heading to Section 31.152, Education Code,  
3 is amended to read as follows:

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

6 SECTION 58. Sections 31.152(a), (b), and (d), Education  
7 Code, are amended to read as follows:

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

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

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

16 (2) might reasonably tend to influence a trustee,  
17 administrator, or teacher in the selection of [~~a textbook,~~  
18 ~~electronic textbook,~~] instructional material[7] or technological  
19 equipment; and

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

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

24 (1) staff development, in-service, or teacher  
25 training; or

26 (2) ancillary [~~instructional~~] materials, such as maps  
27 or worksheets, that convey information to the student or otherwise

1 contribute to the learning process.

2 SECTION 59. The heading to Section 31.153, Education Code,  
3 is amended to read as follows:

4 Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS  
5 [~~TEXTBOOK~~] LAW.

6 SECTION 60. Section 31.153(a), Education Code, is amended  
7 to read as follows:

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

11 SECTION 61. Chapter 32, Education Code, is amended by  
12 adding Subchapter E to read as follows:

13 SUBCHAPTER E. TECHNOLOGY LENDING PROGRAM GRANTS

14 Sec. 32.201. ESTABLISHMENT OF PROGRAM. (a) The  
15 commissioner may establish a grant program under which grants are  
16 awarded to school districts and open-enrollment charter schools to  
17 implement a technology lending program to provide students access  
18 to equipment necessary to use electronic instructional materials.

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

23 (1) the availability of existing equipment to students  
24 in the district or charter school; and

25 (2) other funding available to the district or charter  
26 school.

27 (c) The commissioner may determine the terms of a grant

1 awarded under this section, including limits on the grant amount  
2 and approved uses of grant funds.

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

6 Sec. 32.202. FUNDING. (a) The commissioner may set aside  
7 not more than five percent of the state instructional materials  
8 fund under Section 31.021 or a different amount determined by  
9 appropriation to administer a grant program established under this  
10 subchapter.

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

13 Sec. 32.203. USE OF GRANT FUNDS. (a) A school district or  
14 open-enrollment charter school may use a grant awarded under  
15 Section 32.201 or other local funds to purchase, maintain, and  
16 insure equipment for a technology lending program.

17 (b) Equipment purchased by a school district or  
18 open-enrollment charter school with a grant awarded under Section  
19 32.201 is the property of the district or charter school.

20 SECTION 62. Section 39.023(c), Education Code, is amended  
21 to read as follows:

22 (c) The agency shall also adopt end-of-course assessment  
23 instruments for secondary-level courses in Algebra I, Algebra II,  
24 geometry, biology, chemistry, physics, English I, English II,  
25 English III, world geography, world history, and United States  
26 history. The Algebra I, Algebra II, and geometry end-of-course  
27 assessment instruments must be administered with the aid of



1 technology. A school district shall comply with State Board of  
2 Education rules regarding administration of the assessment  
3 instruments listed in this subsection. A district ~~[and]~~ shall adopt  
4 a policy addressing whether ~~[that requires]~~ a student's performance  
5 on an end-of-course assessment instrument for a course listed in  
6 this subsection in which the student is enrolled will be used by the  
7 district in determining ~~[to account for 15 percent of]~~ the  
8 student's final grade for the course and, if so, the manner in which  
9 the student's performance on an end-of-course assessment  
10 instrument will be used in determining the student's final grade  
11 for the course. If a student retakes an end-of-course assessment  
12 instrument for a course listed in this subsection, as provided by  
13 Section 39.025, a ~~[school]~~ district shall act in accordance with  
14 district policy concerning whether ~~[is not required]~~ to use and, if  
15 so, the manner in which to use the student's performance on the  
16 subsequent administration or administrations of the assessment  
17 instrument in determining ~~[to determine]~~ the student's final grade  
18 for the course. If a student is in a special education program  
19 under Subchapter A, Chapter 29, the student's admission, review,  
20 and dismissal committee shall determine whether any allowable  
21 modification is necessary in administering to the student an  
22 assessment instrument required under this subsection. The State  
23 Board of Education shall administer the assessment instruments.  
24 The State Board of Education shall adopt a schedule for the  
25 administration of end-of-course assessment instruments that  
26 complies with the requirements of Subsection (c-3).

27 SECTION 63. Subchapter B, Chapter 39, Education Code, is

1 amended by adding Section 39.0236 to read as follows:

2 Sec. 39.0236. REDUCED ASSESSMENT REQUIREMENTS PILOT  
3 PROGRAM. (a) In this section, "pilot program" means the reduced  
4 assessment requirements pilot program established under this  
5 section.

6 (b) The commissioner by rule shall establish a pilot program  
7 in which certain students in grades three through eight at a  
8 participating campus have reduced assessment requirements, as  
9 provided by this section.

10 (c) A campus may apply to the commissioner to participate in  
11 the pilot program.

12 (d) The commissioner shall select at least 20 campuses to  
13 participate in the pilot program. In selecting campuses for  
14 participation in the pilot program, the commissioner shall ensure  
15 that, to the greatest extent practicable, the diverse demographic,  
16 geographic, socioeconomic, and academic characteristics found in  
17 this state are represented and that elementary and middle or junior  
18 high schools are represented.

19 (e) Notwithstanding Section 39.023, a student attending a  
20 campus participating in the pilot program, other than a student  
21 administered assessment instruments under Section 39.023(b) or (l)  
22 or granted an exemption from administration of an assessment  
23 instrument under Section 39.027, shall be assessed using assessment  
24 instruments adopted or developed under Section 39.023(a) in:

25 (1) mathematics:

26 (A) in grades three and five without the aid of  
27 technology; and

1                   (B) in grade eight with the aid of technology on  
2 any assessment instrument that includes algebra;

3                   (2) reading, in grades three, five, and eight;

4                   (3) writing, including spelling and grammar, in grades  
5 four and seven;

6                   (4) social studies, in grade eight; and

7                   (5) science, in grades five and eight.

8                   (f) A student shall be assessed in grade four in mathematics  
9 or reading using an assessment instrument administered under  
10 Subsection (e) in grade three if, on the final assessment  
11 instrument in that subject administered to the student in grade  
12 three during the preceding school year, the student did not achieve  
13 a score determined through the analysis of previous years' testing  
14 data to predict with a high level of statistical confidence that a  
15 student will pass the following year.

16                   (g) A student shall be assessed in grade six in mathematics  
17 or reading using an assessment instrument administered under  
18 Subsection (e) in grade five if, on the final assessment instrument  
19 in that subject administered to the student in grade five during the  
20 preceding school year, the student did not achieve a score  
21 determined through the analysis of previous years' testing data to  
22 predict with a high level of statistical confidence that a student  
23 will pass the following year.

24                   (h) A student shall be assessed in grade seven in  
25 mathematics or reading using an assessment instrument administered  
26 under Subsection (g) in grade six if, on the final assessment  
27 instrument in that subject administered to the student in grade six

1 during the preceding school year, the student did not achieve a  
2 score determined through the analysis of previous years' testing  
3 data to predict with a high level of statistical confidence that a  
4 student will pass the following year.

5 (i) A participating campus may, for its own use in  
6 determining whether students are performing at a satisfactory  
7 level, administer to a student at the appropriate grade level,  
8 other than a student required to be assessed under this section, an  
9 assessment instrument. At the request of a participating campus,  
10 the agency shall provide, allow for the administration of, and  
11 score each assessment instrument administered under this  
12 subsection in the same manner and at the same cost as for assessment  
13 instruments required to be administered under the applicable  
14 subsection. The results of an assessment instrument administered  
15 under this subsection may not be included as an indicator of student  
16 achievement under Section 39.054 or any other provision.

17 (j) If there is a conflict between this section and federal  
18 law as a result of forgoing under this section certain  
19 administration of assessment instruments to students who have  
20 recently performed successfully on assessment instruments  
21 assessing the same subject, the commissioner shall seek a waiver  
22 from the application of conflicting federal law for a campus  
23 participating in the pilot program.

24 (k) The commissioner shall adopt rules as necessary to  
25 administer this section.

26 (l) The commissioner shall conduct a study to determine  
27 whether the pilot program has been successful. The study must

1 compare the achievements in mathematics and reading of students at  
2 participating and nonparticipating campuses in similar geographic  
3 areas that have students of similar demographic, socioeconomic, and  
4 academic characteristics. The study must evaluate the differences  
5 between mathematics and reading performance of students at campuses  
6 participating in the pilot program and those in matched  
7 nonparticipating campuses. Not later than September 1, 2014, the  
8 commissioner shall submit the results of the study to the  
9 legislature.

10 (m) The commissioner by rule shall establish the pilot  
11 program for the 2012-2013 and 2013-2014 school years.

12 (n) This section expires December 31, 2014.

13 SECTION 64. Section 39.025, Education Code, is amended by  
14 amending Subsections (a), (a-1), (a-2), (a-3), (b), (b-2), (e),  
15 (f), and (g) and adding Subsections (a-4) and (a-5) to read as  
16 follows:

17 (a) The commissioner shall adopt rules requiring a student  
18 participating in the recommended or advanced high school program to  
19 be administered each end-of-course assessment instrument listed in  
20 Section 39.023(c) and requiring a student participating in the  
21 minimum high school program to be administered an end-of-course  
22 assessment instrument listed in Section 39.023(c) only for a course  
23 in which the student is enrolled and for which an end-of-course  
24 assessment instrument is administered. ~~[A student is required to~~  
25 ~~achieve, in each subject in the foundation curriculum under Section~~  
26 ~~28.002(a)(1), a cumulative score that is at least equal to the~~  
27 ~~product of the number of end-of-course assessment instruments~~

1 ~~administered to the student in that subject and a scale score that~~  
2 ~~indicates satisfactory performance, as determined by the~~  
3 ~~commissioner under Section 39.0241(a). A student must achieve a~~  
4 ~~minimum score as determined by the commissioner to be within a~~  
5 ~~reasonable range of the scale score under Section 39.0241(a) on an~~  
6 ~~end-of-course assessment instrument for the score to count towards~~  
7 ~~the student's cumulative score. For purposes of this subsection, a~~  
8 ~~student's cumulative score is determined using the student's~~  
9 ~~highest score on each end-of-course assessment instrument~~  
10 ~~administered to the student. A student may not receive a high~~  
11 ~~school diploma until the student has performed satisfactorily on~~  
12 ~~the end-of-course assessment instruments in the manner provided~~  
13 ~~under this subsection. This subsection does not require a student~~  
14 ~~to demonstrate readiness to enroll in an institution of higher~~  
15 ~~education.]~~

16 (a-1) The commissioner by rule shall determine a method by  
17 which a student's satisfactory performance on an advanced placement  
18 test, international baccalaureate examination, an SAT Subject  
19 Test, or another assessment instrument determined by the  
20 commissioner to be at least as rigorous as an end-of-course  
21 assessment instrument adopted under Section 39.023(c) may be used  
22 as a factor in determining whether the student satisfies the  
23 requirements of Subsection (a) and Subsection (a-2), (a-3), or  
24 (a-4), as applicable to the student~~[, including the cumulative~~  
25 ~~score requirement of that subsection]~~. The commissioner by rule  
26 may determine a method by which a student's satisfactory  
27 performance on a Preliminary Scholastic Assessment Test (PSAT)

1 assessment or a preliminary American College Test (ACT) assessment  
 2 may be used as a factor in determining whether the student satisfies  
 3 the requirements of Subsection (a) and Subsection (a-2), (a-3), or  
 4 (a-4), as applicable to the student.

5 (a-2) To graduate under the recommended high school program  
 6 ~~[In addition to the cumulative score requirements under Subsection~~  
 7 ~~(a)],~~ a student must achieve a score that meets or exceeds the score  
 8 determined by the commissioner under Section 39.0241(a) on  
 9 end-of-course assessment instruments for the following:

- 10 (1) English III;  
 11 (2) [~~and~~] Algebra II;  
 12 (3) biology, chemistry, or physics; and  
 13 (4) world geography, world history, or United States  
 14 history ~~[end-of-course assessment instruments to graduate under~~  
 15 ~~the recommended high school program].~~

16 (a-3) To graduate under the advanced high school program ~~[In~~  
 17 ~~addition to the cumulative score requirements under Subsection~~  
 18 ~~(a)],~~ a student must:

19 (1) achieve a score that meets or exceeds the score  
 20 determined by the commissioner under Section 39.0241(a-1) on  
 21 end-of-course assessment instruments for the following:

- 22 (A) English III; and  
 23 (B) Algebra II; and  
 24 (2) achieve a score that meets or exceeds the score  
 25 determined by the commissioner under Section 39.0241(a) on  
 26 end-of-course assessment instruments for the following:

- 27 (A) biology, chemistry, or physics; and

1                   (B) world geography, world history, or United  
2 States history [~~in order to graduate under the advanced high school~~  
3 ~~program~~].

4           (a-4) To graduate under the minimum high school program, a  
5 student must achieve a score that meets or exceeds the score  
6 determined by the commissioner under Section 39.0241(a) on  
7 end-of-course assessment instruments for the following:

8                   (1) English III;

9                   (2) Algebra I;

10                  (3) biology, chemistry, or physics; and

11                  (4) world geography, world history, or United States  
12 history.

13           (a-5) The admission, review, and dismissal committee of a  
14 student in a special education program under Subchapter A, Chapter  
15 29, shall determine whether, to receive a high school diploma, the  
16 student is required to achieve satisfactory performance on  
17 end-of-course assessment instruments.

18           (b) Each time an end-of-course assessment instrument is  
19 administered, a student who failed to achieve the [~~a minimum~~] score  
20 requirement under this section may [~~Subsection (a) shall~~] retake  
21 the assessment instrument. A student who fails to perform  
22 satisfactorily on an Algebra II or English III end-of-course  
23 assessment instrument under the college readiness performance  
24 standard, as provided under Section 39.024(b), may retake the  
25 assessment instrument. [~~Any other student may retake an~~  
26 ~~end-of-course assessment instrument for any reason.~~] A student is  
27 not required to retake a course as a condition of retaking an



1 end-of-course assessment instrument.

2 (b-2) If a school district determines that a student, on  
3 completion of grade 11, is unlikely to achieve the [~~cumulative~~  
4 score requirement under this section [~~requirements~~] for one or more  
5 end-of-course assessment instruments as necessary [~~subjects~~  
6 ~~prescribed by Subsection (a)~~] for receiving a high school diploma,  
7 the district shall require the student to enroll in a corresponding  
8 content-area college preparatory course for which an end-of-course  
9 assessment instrument has been adopted, if available. A student  
10 who enrolls in a college preparatory course described by this  
11 subsection shall be administered an end-of-course assessment  
12 instrument for the course, with the end-of-course assessment  
13 instrument scored on a scale as determined by the commissioner [~~not~~  
14 ~~to exceed 20 percent of the cumulative score requirements required~~  
15 ~~to graduate as determined under Subsection (a)~~]. A student may use  
16 the student's score on the end-of-course assessment instrument for  
17 the college preparatory course towards satisfying the [~~cumulative~~  
18 score requirement under this section [~~requirements prescribed by~~  
19 ~~Subsection (a)~~].

20 (e) The commissioner shall establish a required performance  
21 level for an assessment instrument adopted under Subsection (d)  
22 that is at least as rigorous as the performance level required to be  
23 met under Subsection (a-2), (a-3), or (a-4), as applicable to the  
24 student [~~(a)~~].

25 (f) The commissioner shall by rule adopt a transition plan  
26 to implement the amendments made by Chapter 1312 (S.B. No. 1031),  
27 Acts of the 80th Legislature, Regular Session, 2007, replacing

1 general subject assessment instruments administered at the high  
2 school level with end-of-course assessment instruments. The rules  
3 must provide for the end-of-course assessment instruments adopted  
4 under Section 39.023(c) to be administered beginning with students  
5 entering the ninth grade during the 2011-2012 school year. During  
6 the period under which the transition to end-of-course assessment  
7 instruments is made:

8 (1) for students entering a grade above the ninth  
9 grade during the 2011-2012 school year and to the extent necessary  
10 for purposes of Subdivisions (5) and (6), the commissioner shall  
11 retain, administer, and use for purposes of accreditation and other  
12 campus and district accountability measures under this chapter the  
13 assessment instruments required by Section 39.023(a) or (c), as  
14 that section existed before amendment by Chapter 1312 (S.B. No.  
15 1031), Acts of the 80th Legislature, Regular Session, 2007;

16 (2) a student subject to Subdivision (1) may not  
17 receive a high school diploma unless the student has performed  
18 satisfactorily on each required assessment instrument administered  
19 under Section 39.023(c) as that section existed before amendment by  
20 Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular  
21 Session, 2007; ~~and~~

22 (3) the agency may defer releasing assessment  
23 instrument questions and answer keys as required by Section  
24 39.023(e) to the extent necessary to develop additional assessment  
25 instruments;

26 (4) a student entering ninth grade during the  
27 2011-2012 or 2012-2013 school year shall be administered each

1 end-of-course assessment instrument listed in Section 39.023(c)  
2 for a course in which the student is enrolled and for which an  
3 end-of-course assessment instrument is administered;

4 (5) a student subject to Subdivision (4) may not  
5 receive a high school diploma under the recommended high school  
6 program unless the student:

7 (A) achieves a score that meets or exceeds the  
8 score determined by the commissioner under Section 39.0241(a) on  
9 end-of-course assessment instruments for the following:

- 10 (i) English III;  
11 (ii) Algebra II;  
12 (iii) biology, chemistry, or physics; and  
13 (iv) world geography, world history, or  
14 United States history; or

15 (B) has performed satisfactorily on each  
16 required assessment instrument administered under Section  
17 39.023(c), as that section existed before amendment by Chapter 1312  
18 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session,  
19 2007;

20 (6) a student subject to Subdivision (4) may not  
21 receive a high school diploma under the minimum high school program  
22 unless the student:

23 (A) achieves a score that meets or exceeds the  
24 score determined by the commissioner under Section 39.0241(a) on  
25 end-of-course assessment instruments for the following:

- 26 (i) English III;  
27 (ii) Algebra I;

1                   (iii) biology, chemistry, or physics; and  
2                   (iv) world geography, world history, or  
3 United States history; or

4                   (B) has performed satisfactorily on each  
5 required assessment instrument administered under Section  
6 39.023(c), as that section existed before amendment by Chapter 1312  
7 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session,  
8 2007; and

9                   (7) a student entering ninth grade during the  
10 2013-2014 school year or a later school year may not receive a high  
11 school diploma unless the student has satisfied the requirements of  
12 Subsection (a) and Subsection (a-2), (a-3), or (a-4), as applicable  
13 to the student.

14               (g) Rules adopted under Subsection (f) must require that  
15 each student who will be subject to the requirements of Subsection  
16 (a), (a-2), (a-3), (a-4), or (f)(4) is entitled to notice of the  
17 specific requirements applicable to the student. Notice under this  
18 subsection must be provided not later than the date the student  
19 enters the eighth grade. For a student who entered eighth grade in  
20 the 2010-2011 school year, notice under this subsection must also  
21 be provided not later than the date the student enters the ninth  
22 grade to inform the student of modifications in the requirements  
23 applicable to the student. Subsection (f) and this subsection  
24 expire September 1, 2017 [~~2015~~].

25               SECTION 65. Section 39.303(b), Education Code, is amended  
26 to read as follows:

27               (b) For a student who failed to perform satisfactorily as

1 determined under either performance standard under Section 39.0241  
2 on an assessment instrument administered under Section 39.023(a),  
3 (c), or (l), the school district shall include in the notice  
4 specific information relating to access to ~~[online]~~ educational  
5 resources at the appropriate assessment instrument content level,  
6 including ~~[educational resources described by Section 32.252(b)(2)~~  
7 ~~and]~~ assessment instrument questions and answers released under  
8 Section 39.023(e).

9 SECTION 66. Section 41.124(c), Education Code, as effective  
10 September 1, 2011, is amended to read as follows:

11 (c) A school district that receives tuition for a student  
12 from a school district with a wealth per student that exceeds the  
13 equalized wealth level may not claim attendance for that student  
14 for purposes of Chapters 42 and 46 and the instructional materials  
15 ~~[technology]~~ allotment under Section 31.0211 ~~[32.005]~~.

16 SECTION 67. Section 43.001(b), Education Code, as amended  
17 by Chapters 201 (H.B. 3459) and 328 (S.B. 206), Acts of the 78th  
18 Legislature, Regular Session, 2003, is reenacted to read as  
19 follows:

20 (b) The available school fund, which shall be apportioned  
21 annually to each county according to its scholastic population,  
22 consists of:

23 (1) the distributions to the fund from the permanent  
24 school fund as provided by Section 5(a), Article VII, Texas  
25 Constitution;

26 (2) one-fourth of all revenue derived from all state  
27 occupation taxes, exclusive of delinquencies and cost of

1 collection;

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

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

6 SECTION 68. Section 43.001, Education Code, is amended by  
7 adding Subsections (d) through (g) to read as follows:

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

14 (e) Subsection (d) applies beginning with the state fiscal  
15 biennium beginning September 1, 2013. For the state fiscal  
16 biennium beginning September 1, 2011, each year the State Board of  
17 Education shall set aside an amount equal to 40 percent of the  
18 annual distribution for that year from the permanent school fund to  
19 the available school fund as provided by Section 5(a), Article VII,  
20 Texas Constitution, to be placed, subject to the General  
21 Appropriations Act, in the state instructional materials fund  
22 established under Section 31.021.

23 (f) In calculating the amounts to be set aside as provided  
24 by Subsection (e) for the state fiscal biennium beginning September  
25 1, 2011, the State Board of Education shall consider only the  
26 amounts of the annual distribution of the permanent school fund for  
27 that biennium. The board shall not consider amounts distributed

1 for the state fiscal biennium beginning September 1, 2009,  
2 regardless of the date on which those amounts were approved for  
3 distribution.

4 (g) Subsections (e) and (f) and this subsection expire  
5 September 1, 2013.

6 SECTION 69. The following provisions of the Education Code  
7 are repealed:

- 8 (1) Section 31.002(3);
- 9 (2) Sections 31.021(b), (e), and (f);
- 10 (3) Section 31.0222;
- 11 (4) Section 31.025;
- 12 (5) Sections 31.035(e) and (g);
- 13 (6) Section 31.072(c);
- 14 (7) Sections 31.073(a) and (b);
- 15 (8) Sections 31.101(b), (b-1), (c), and (c-1);
- 16 (9) Section 31.1011;
- 17 (10) Sections 31.103(a) and (e);
- 18 (11) Section 31.1031;
- 19 (12) Subchapter E, Chapter 31;
- 20 (13) Section 32.005;
- 21 (14) Sections 32.251 through 32.257;
- 22 (15) Sections 32.259 through 32.263; and
- 23 (16) Subchapter H, Chapter 32.

24 SECTION 70. Sections 2175.128(a-1) and (b-1), Government  
25 Code, are repealed.

26 SECTION 71. The change in law made by this Act to Section  
27 7.108, Education Code, applies only to an offense committed on or

1 after the effective date of this Act. An offense committed before  
2 the effective date of this Act is governed by the law in effect when  
3 the offense was committed, and the former law is continued in effect  
4 for that purpose. For purposes of this section, an offense was  
5 committed before the effective date of this Act if any element of  
6 the offense occurred before that date.

7         SECTION 72. This Act takes effect September 1, 2011, if it  
8 receives a vote of two-thirds of all the members elected to each  
9 house, as provided by Section 39, Article III, Texas Constitution.  
10 If this Act does not receive the vote necessary for effect on that  
11 date, this Act takes effect on the 91st day after the last day of the  
12 legislative session.