

By: Villarreal

H.B. No. 3504

A BILL TO BE ENTITLED

1 AN ACT
2 relating to transferring primary authority for the adoption of the
3 public school curriculum and textbooks from the State Board of
4 Education to the commissioner of education.

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

6 SECTION 1. Section 21.4511(b), Education Code, is amended
7 to read as follows:

8 (b) The training under this section shall include training
9 relating to implementing curriculum and instruction that is aligned
10 with the foundation curriculum described by Section 28.002(a)(1)
11 and standards and expectations for college readiness, as determined
12 by commissioner [~~State Board of Education~~] rule under Section
13 28.008(d).

14 SECTION 2. Section 28.001, Education Code, is amended to
15 read as follows:

16 Sec. 28.001. PURPOSE. It is the intent of the legislature
17 that the essential knowledge and skills, as developed by a
18 curriculum and textbook review team under Section 28.0024 and
19 proposed for adoption by the commissioner to the State Board of
20 Education under this subchapter, shall require all students to
21 demonstrate the knowledge and skills necessary to read, write,
22 compute, problem solve, think critically, apply technology, and
23 communicate across all subject areas. The essential knowledge and
24 skills shall also prepare and enable all students to continue to

1 learn in postsecondary educational, training, or employment
2 settings.

3 SECTION 3. Subchapter A, Chapter 28, Education Code, is
4 amended by adding Section 28.0011 to read as follows:

5 Sec. 28.0011. APPROVAL OF COMMISSIONER RULES. The
6 commissioner must submit a written copy of each rule the
7 commissioner proposes to adopt under this chapter to the State
8 Board of Education for review. The State Board of Education may
9 reject a proposed rule by a vote of at least two-thirds of the
10 members of the board present and voting. If the State Board of
11 Education fails to reject a proposed rule before the 90th day after
12 the date on which it receives the proposed rule, the proposed rule
13 takes effect as a rule of the commissioner as provided by Chapter
14 2001, Government Code. The State Board of Education may not modify a
15 rule proposed by the commissioner under this chapter.

16 SECTION 4. Sections 28.002(b), (c), (f), (g), (h), (i),
17 (j), (k), (l-1), (l-3), (n), (p), and (r), Education Code, are
18 amended to read as follows:

19 (b) The commissioner [~~State Board of Education by rule~~]
20 shall propose rules to designate subjects constituting a
21 well-balanced curriculum to be offered by a school district that
22 does not offer kindergarten through grade 12.

23 (c) The commissioner [~~State Board of Education~~], with
24 public participation, including the direct participation of
25 educators, parents, subject matter experts [~~business and industry~~
26 ~~representatives~~], and employers, in accordance with Sections
27 28.0024 and 28.0025, shall propose rules to [~~by rule~~] identify the

1 essential knowledge and skills of each subject of the required
2 curriculum that all students should be able to demonstrate and that
3 will be used in evaluating textbooks under Chapter 31 and addressed
4 on the assessment instruments required under Subchapter B, Chapter
5 39. As a condition of accreditation, the commissioner [~~board~~]
6 shall require each district to provide instruction in the essential
7 knowledge and skills at appropriate grade levels.

8 (f) A school district may offer courses for local credit in
9 addition to those in the required curriculum. The commissioner
10 [~~State Board of Education~~] shall be flexible in approving a course
11 for credit for high school graduation under this subsection.

12 (g) A local instructional plan may draw on state curriculum
13 frameworks and program standards as appropriate. Each district is
14 encouraged to exceed minimum requirements of law and commissioner
15 [~~State Board of Education~~] rule. Each district shall ensure that
16 all children in the district participate actively in a balanced
17 curriculum designed to meet individual needs.

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

27 (i) The commissioner [~~State Board of Education~~] shall

1 propose [~~adopt~~] rules for the implementation of this subchapter.
2 Except as provided by Subsection (j), the commissioner [~~board~~] may
3 not propose [~~adopt~~] rules that designate the methodology used by a
4 teacher or the time spent by a teacher or a student on a particular
5 task or subject.

6 (j) The commissioner [~~State Board of Education by rule~~] may
7 propose rules to require laboratory instruction in secondary
8 science courses and may require a specific amount or percentage of
9 time in a secondary science course that must be laboratory
10 instruction.

11 (k) The commissioner [~~State Board of Education~~], in
12 consultation with the Department of State Health Services and the
13 Texas Diabetes Council, shall develop a diabetes education program
14 that a school district may use in the health curriculum under
15 Subsection (a)(2)(B).

16 (l-1) In [~~adopting~~] rules relating to an activity described
17 by Subsection (l)(2), the commissioner may permit an exemption for
18 a student who participates in a school-related activity or an
19 activity sponsored by a private league or club only if the student
20 provides proof of participation in the activity.

21 (l-3)(1) This subsection may be cited as "Lauren's Law."

22 (2) The commissioner [~~State Board of Education~~], the
23 Department of State Health Services, or a school district may not
24 propose adoption of or adopt any rule, policy, or program under
25 Subsection [~~Subsections~~] (a), (k), (l), (l-1), or (l-2) that would
26 prohibit a parent or grandparent of a student from providing any
27 food product of the parent's or grandparent's choice to:

1 (A) children in the classroom of the child of the
2 parent or grandparent on the occasion of the child's birthday; or

3 (B) children at a school-designated function.

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

8 (p) The commissioner [~~State Board of Education~~], in
9 conjunction with the office of the attorney general, shall develop
10 a parenting and paternity awareness program that a school district
11 shall use in the district's high school health curriculum. A
12 school district may use the program developed under this subsection
13 in the district's middle or junior high school curriculum. At the
14 discretion of the district, a teacher may modify the suggested
15 sequence and pace of the program at any grade level. The program
16 must:

17 (1) address parenting skills and responsibilities,
18 including child support and other legal rights and responsibilities
19 that come with parenthood;

20 (2) address relationship skills, including money
21 management, communication skills, and marriage preparation; and

22 (3) in district middle, junior high, or high schools
23 that do not have a family violence prevention program, address
24 skills relating to the prevention of family violence.

25 (r) In identifying [~~adopting~~] the essential knowledge and
26 skills for the health curriculum under Subsection (a)(2)(B), the
27 commissioner, in accordance with Sections 28.0024 and 28.0025,

1 ~~[State Board of Education]~~ shall propose adoption of ~~[adopt]~~
2 essential knowledge and skills that address the dangers, causes,
3 consequences, signs, symptoms, and treatment of binge drinking and
4 alcohol poisoning. The agency shall compile a list of
5 evidence-based alcohol awareness programs from which a school
6 district shall choose a program to use in the district's middle
7 school, junior high school, and high school health curriculum. In
8 this subsection, "evidence-based alcohol awareness program" means
9 a program, practice, or strategy that has been proven to
10 effectively prevent or delay alcohol use among students, as
11 determined by evaluations that use valid and reliable measures and
12 that are published in peer-reviewed journals.

13 SECTION 5. Section 28.002(d), Education Code, as added by
14 Chapter 773 (S.B. 891), Acts of the 81st Legislature, Regular
15 Session, 2009, is amended to read as follows:

16 (d) The physical education curriculum required under
17 Subsection (a)(2)(C) must be sequential, developmentally
18 appropriate, and designed, implemented, and evaluated to enable
19 students to develop the motor, self-management, and other skills,
20 knowledge, attitudes, and confidence necessary to participate in
21 physical activity throughout life. Each school district shall
22 establish specific objectives and goals the district intends to
23 accomplish through the physical education curriculum. In
24 identifying the essential knowledge and skills of physical
25 education, the commissioner ~~[State Board of Education]~~ shall ensure
26 that the curriculum:

27 (1) emphasizes the knowledge and skills capable of

1 being used during a lifetime of regular physical activity;

2 (2) is consistent with national physical education
3 standards for:

4 (A) the information that students should learn
5 about physical activity; and

6 (B) the physical activities that students should
7 be able to perform;

8 (3) requires that, on a weekly basis, at least 50
9 percent of the physical education class be used for actual student
10 physical activity and that the activity be, to the extent
11 practicable, at a moderate or vigorous level;

12 (4) offers students an opportunity to choose among
13 many types of physical activity in which to participate;

14 (5) offers students both cooperative and competitive
15 games;

16 (6) meets the needs of students of all physical
17 ability levels, including students who have a disability, chronic
18 health problem, or other special need that precludes the student
19 from participating in regular physical education instruction but
20 who might be able to participate in physical education that is
21 suitably adapted and, if applicable, included in the student's
22 individualized education program;

23 (7) takes into account the effect that gender and
24 cultural differences might have on the degree of student interest
25 in physical activity or on the types of physical activity in which a
26 student is interested;

27 (8) teaches self-management and movement skills;

1 (9) teaches cooperation, fair play, and responsible
2 participation in physical activity;

3 (10) promotes student participation in physical
4 activity outside of school; and

5 (11) allows physical education classes to be an
6 enjoyable experience for students.

7 SECTION 6. Section 28.002(d), Education Code, as added by
8 Chapter 895 (H.B. 3), Acts of the 81st Legislature, Regular
9 Session, 2009, is redesignated as Section 28.002(c-2), Education
10 Code, and amended to read as follows:

11 (c-2) [~~(d)~~] Each time the Texas Higher Education
12 Coordinating Board revises the Internet database of the
13 coordinating board's official statewide inventory of workforce
14 education courses, the commissioner shall propose rules to [~~State~~
15 ~~Board of Education shall by rule~~] revise the essential knowledge
16 and skills of any corresponding career and technology education
17 curriculum as provided by Subsection (c).

18 SECTION 7. Sections 28.0023(b) and (c), Education Code, are
19 amended to read as follows:

20 (b) The commissioner, in accordance with Sections 28.0024
21 and 28.0025, [~~State Board of Education by rule~~] shall propose rules
22 to include elements relating to instruction in cardiopulmonary
23 resuscitation and the use of an automated external defibrillator as
24 part of the essential knowledge and skills of the health curriculum
25 under Section 28.002(a)(2)(B).

26 (c) This subsection applies only to a private school that
27 receives an automated external defibrillator from the agency or

1 receives funding from the agency to purchase or lease an automated
2 external defibrillator. A private school shall provide
3 instruction to students in cardiopulmonary resuscitation and the
4 use of an automated external defibrillator in a manner consistent
5 with the requirements of this section and commissioner [~~State Board~~
6 ~~of Education~~] rules [~~adopted~~] under this section.

7 SECTION 8. Subchapter A, Chapter 28, Education Code, is
8 amended by adding Sections 28.0024 and 28.0025 to read as follows:

9 Sec. 28.0024. CURRICULUM AND TEXTBOOK REVIEW TEAM.

10 (a) For each subject undergoing a review for the purpose of
11 identifying the essential knowledge and skills of a subject of the
12 required curriculum under Section 28.002 or for the adoption of
13 textbooks under Subchapter B, Chapter 31, the commissioner shall
14 appoint a curriculum and textbook review team.

15 (b) The commissioner shall make appointments to a
16 curriculum and textbook review team from among educators
17 representing each regional education service center region,
18 parents of public school students, and employers. Each educator
19 appointed to a team must have at least five years of classroom
20 teaching experience and a bachelor's degree or a more advanced
21 degree in the subject under review.

22 (c) Each regional education service center region must be
23 represented by at least two educator members on a curriculum and
24 textbook review team.

25 (d) For each curriculum and textbook review team, the
26 superintendent of each school district may nominate not more than
27 three educators qualified under Subsection (b) to be considered for

1 placement on the team. Each nomination must be submitted together
2 with a document of not more than one page detailing the educator's
3 experience, including specific experience with the subject under
4 review by the team. A nomination made under this subsection must
5 be submitted to the regional education service center that
6 represents the district from which the educator is nominated.

7 (e) For each curriculum and textbook review team, a
8 statewide organization representing public school employees may
9 nominate not more than three educators qualified under Subsection
10 (b) to be considered for placement on the team. Each nomination
11 must be submitted together with a document of not more than one page
12 detailing the educator's experience, including specific experience
13 with the subject area under review by the team. A nomination made
14 under this subsection must be submitted to the regional education
15 service center that represents the region in which the educator
16 resides.

17 (f) The agency shall develop and post on the agency's
18 Internet website a blind scoring system for ranking nominations
19 made under Subsections (d) and (e) by level of expertise in the
20 subject under review by the curriculum and textbook team. Using the
21 posted ranking system, each regional education service center shall
22 rank the nominations made under Subsections (d) and (e) and submit
23 to the commissioner the 10 highest-ranked nominations based on
24 that ranking system.

25 (g) The commissioner, based on the system developed under
26 Subsection (f), shall make the educator appointments to each
27 curriculum and textbook review team from among nominations

1 submitted by each regional education service center under this
2 section and shall select at least two members from each service
3 center region.

4 (h) In selecting educator appointees for a curriculum and
5 textbook review team, the commissioner shall attempt to achieve a
6 balanced combination of educational perspectives in order to
7 promote better alignment between curriculum and assessment and
8 among all aspects of the public educational system. The
9 commissioner shall attempt to include educators from:

10 (1) all grade levels, including educators working in
11 gifted and talented, special education, and advanced placement and
12 International Baccalaureate programs and programs for students of
13 limited English proficiency;

14 (2) urban and rural school districts; and

15 (3) high-, middle-, and low-wealth level districts.

16 (i) Each curriculum and textbook review team shall, on the
17 same review cycle as that established for review of the essential
18 knowledge and skills or textbooks, as applicable, conduct reviews
19 and make recommendations to the commissioner as to the
20 identification of essential knowledge and skills or the adoption of
21 textbooks for the subject under review. In making recommendations
22 under this subsection, the curriculum and textbook review team
23 shall consider the recommendations of the appropriate higher
24 education curriculum review team appointed under Section 28.0025.

25 (j) The commissioner shall make decisions concerning the
26 identification of essential knowledge and skills and adoption of
27 textbooks, to the greatest extent practicable, on recommendations

1 from the curriculum and textbook review team appointed for the
2 subject under review. If the commissioner proposes for review
3 identification of essential knowledge and skills or adoption of
4 textbooks that differ from the recommendations of the team, the
5 commissioner shall provide the team with a side-by-side comparison
6 of the team's recommendations and the commissioner's proposals. The
7 side-by-side comparison must include a statement justifying the
8 commissioner's decision for each deviation by the commissioner
9 from the recommendation of the team. After allowing the team
10 adequate time to comment and before submitting the proposal to the
11 State Board of Education for review, the commissioner shall make
12 the side-by-side comparison and any comments made by the team
13 available to the public. The commissioner shall then submit to the
14 State Board of Education for review the commissioner's proposed
15 rules identifying the essential knowledge and skills for the
16 subject under review as provided by Section 28.0011 or the
17 commissioner's proposed textbooks for adoption as provided under
18 Section 31.003(b).

19 (k) The same members appointed to a curriculum and textbook
20 review team to review essential knowledge and skills for a subject
21 may, as determined by the commissioner, also be appointed to review
22 textbooks for adoption for that subject.

23 Sec. 28.0025. HIGHER EDUCATION CURRICULUM REVIEW TEAMS.

24 (a) For each subject undergoing a review for the purpose of
25 identification of the essential knowledge and skills of a subject
26 of the required curriculum under Section 28.002, the commissioner
27 of higher education shall appoint a higher education curriculum

1 review team.

2 (b) Each higher education curriculum review team shall
3 consist of not fewer than 5 and not more than 10 faculty members of
4 institutions of higher education and private or independent
5 institutions of higher education, as those terms are defined by
6 Section 61.003. Each member appointed to a team must have:

7 (1) at least five years of higher education teaching
8 experience in the subject under review and a terminal degree in that
9 subject; or

10 (2) at least five years of higher education teaching
11 experience in the field of education and a doctoral degree in
12 education.

13 (c) For each higher education curriculum review team, a
14 public institution of higher education may nominate one faculty
15 member qualified under Subsection (b) to be considered for
16 placement on the team. A nomination made under this subsection must
17 be submitted to the commissioner of higher education together with
18 a document of not more than one page detailing the faculty member's
19 experience, including specific experience with the subject under
20 review by the team.

21 (d) The Texas Higher Education Coordinating Board shall
22 develop and post on the board's Internet website a blind scoring
23 system for ranking nominations made under Subsection (c) by level
24 of expertise in the subject under review by the higher education
25 curriculum review team.

26 (e) The commissioner of higher education, based on the
27 system developed under Subsection (d), shall make the appointments

1 to each higher education curriculum review team from among persons
2 nominated by institutions of higher education under this section.

3 (f) Notwithstanding Subsections (c) and (e), if the subject
4 under review by the higher education curriculum review team is
5 career and technical education:

6 (1) at least one member of the team must be selected
7 from the Texas State Technical College System; and

8 (2) at least one member of the team must be selected
9 from Lamar Institute of Technology.

10 (g) In selecting appointees for a higher education
11 curriculum review team, the commissioner of higher education shall
12 attempt to achieve a balanced combination of educational
13 perspectives.

14 (h) Each higher education curriculum review team shall, on
15 the same review cycle as that established for review of the
16 essential knowledge and skills, conduct reviews and make
17 recommendations to the commissioner of education and the
18 appropriate curriculum and textbook review team established under
19 Section 28.0024 concerning the essential knowledge and skills for
20 the subject under review.

21 SECTION 9. Sections 28.0051(b) and (c), Education Code, are
22 amended to read as follows:

23 (b) The commissioner shall propose rules to establish ~~by~~
24 ~~rule shall adopt~~]:

25 (1) minimum requirements for a dual language immersion
26 program implemented by a school district;

27 (2) standards for evaluating:

1 (A) the success of a dual language immersion
2 program; and

3 (B) the performance of schools that implement a
4 dual language immersion program; and

5 (3) standards for recognizing:

6 (A) schools that offer an exceptional dual
7 language immersion program; and

8 (B) students who successfully complete a dual
9 language immersion program.

10 (c) A school district may implement a dual language
11 immersion program in a manner and at elementary grade levels
12 consistent with ~~[rules adopted by the]~~ commissioner rules under
13 this section.

14 SECTION 10. Sections 28.008(d), (d-1), (e), and (f),
15 Education Code, are amended to read as follows:

16 (d) The commissioner ~~[State Board of Education]~~ shall
17 incorporate college readiness standards and expectations approved
18 by the commissioner of education and the Texas Higher Education
19 Coordinating Board under Subsection (b) into the essential
20 knowledge and skills identified by the commissioner ~~[board]~~ under
21 Section 28.002(c).

22 (d-1) Beginning with the 2008-2009 school year, the
23 commissioner ~~[State Board of Education]~~ shall incorporate college
24 readiness standards and expectations into the essential knowledge
25 and skills of the foundation curriculum under Section 28.002(a)(1)
26 for courses in which students in grades nine through 12 generally
27 enroll, as determined by commissioner ~~[board]~~ rule. This

1 subsection expires December 1, 2012.

2 (e) Notwithstanding any other provision of this section,
3 the commissioner [~~State Board of Education~~] retains the [~~its~~]
4 authority under Section 28.002 concerning the required curriculum.

5 (f) Not later than September 1, 2011, the vertical teams
6 shall complete the development of or establish minimum standards
7 for the curricula and related materials under Subsection
8 (b)(5). The vertical teams shall develop or establish minimum
9 standards for the English language arts curricula and materials
10 first, followed by mathematics, science, and social studies,
11 respectively. [~~The vertical teams shall complete the development
12 of or establish minimum standards for the English language arts
13 curricula and materials for approval by the State Board of
14 Education not later than June 1, 2009. The English language arts
15 curricula and online materials must be made available to high
16 school students beginning with the 2009 fall semester, with the
17 mathematics, science, and social studies curricula and online
18 materials respectively becoming available each subsequent fall
19 semester.~~] This subsection expires December 1, 2012.

20 SECTION 11. Section 28.009(d)(2), Education Code, is
21 amended to read as follows:

22 (2) "Sequence of courses" means career and technical
23 education courses approved by the commissioner [~~State Board of
24 Education~~], innovative courses approved by the commissioner [~~State
25 Board of Education~~] that are provided for local credit, or a
26 tech-prep program of study under Section 61.852.

27 SECTION 12. Section 28.011(e), Education Code, is amended

1 to read as follows:

2 (e) Before proposing [~~adopting~~] rules identifying the
3 essential knowledge and skills of a course offered under this
4 section, the commissioner [~~State Board of Education~~] shall submit
5 the proposed essential knowledge and skills to the attorney
6 general. The attorney general shall review the proposed essential
7 knowledge and skills to ensure that the course complies with the
8 First Amendment to the United States Constitution, and the
9 commissioner [~~board~~] may not propose [~~adopt~~] rules identifying the
10 essential knowledge and skills of a course offered under this
11 section without the attorney general's approval under this
12 subsection.

13 SECTION 13. Sections 28.013(a) and (b), Education Code, are
14 amended to read as follows:

15 (a) The commissioner [~~State Board of Education~~] shall
16 assist in developing a nature science curriculum, in accordance
17 with this section, the following entities, acting jointly:

18 (1) the Outdoor School at Texas Tech University Center
19 at Junction;

20 (2) the Texas Science, Technology, Engineering, and
21 Math (T-STEM) Center of Texas Tech University; and

22 (3) South Llano River State Park.

23 (b) The nature science curriculum must:

24 (1) be designed for instruction of students in grades
25 six through 12;

26 (2) provide for grade-level appropriate instruction
27 in essential knowledge and skills identified by the commissioner

1 ~~[State Board of Education]~~ under Section 28.002 for:

2 (A) science; and

3 (B) mathematics, social studies, and language
4 arts, to the extent practicable and relevant to nature science
5 studies;

6 (3) through participation in outdoor experiential
7 learning projects in state parks, provide for the scientific study
8 by students of:

9 (A) conservation, wildlife or aquatic biology,
10 range ecology, or other areas of nature science; and

11 (B) problems affecting nature, such as threats to
12 the watershed, and possible solutions to those problems; and

13 (4) be designed to:

14 (A) be capable of implementation in any state
15 park;

16 (B) use state park resources in providing
17 instruction; and

18 (C) be presented by classroom teachers and state
19 park employees.

20 SECTION 14. Sections 28.014(a), (c), (e), and (f),
21 Education Code, are amended to read as follows:

22 (a) The ~~[commissioner of education and the]~~ commissioner of
23 higher education shall assist the commissioner of education in the
24 development of the essential knowledge and skills to be adopted
25 ~~[develop and recommend to the State Board of Education for~~
26 ~~adoption]~~ under Section 28.002 for ~~[the essential knowledge and~~
27 ~~skills of]~~ courses in college preparatory mathematics, science,

1 social studies, and English language arts. The courses must be
2 designed:

3 (1) for students at the 12th grade level who do not
4 meet college readiness standards on an end-of-course assessment
5 instrument required under Section 39.023(c); and

6 (2) to prepare students for success in entry-level
7 college courses.

8 (c) The agency, in consultation with the Texas Higher
9 Education Coordinating Board, shall adopt an end-of-course
10 assessment instrument for each course developed under this section
11 to ensure the rigor of the course. A school district shall, in
12 accordance with commissioner [~~State Board of Education~~] rules,
13 administer the end-of-course assessment instrument to a student
14 enrolled in a course developed under this section. Each school
15 district shall adopt a policy that requires a student's performance
16 on the end-of-course assessment instrument to account for 15
17 percent of the student's final grade for the course. A student's
18 performance on an end-of-course assessment instrument administered
19 under this subsection may be used, on a scale of 0-40, in
20 calculating whether the student satisfies the graduation
21 requirements established under Section 39.025.

22 (e) The commissioner, with the approval of the State Board
23 of Education, shall adopt instructional materials for a course
24 developed under this section in accordance with Chapter 31. The
25 instructional materials must include technology resources that
26 enhance the effectiveness of the course and draw on established
27 best practices.

1 (f) To the extent applicable, the commissioner shall draw
2 from curricula and instructional materials developed under
3 Sections 28.008 and 61.0763 in developing a course and related
4 instructional materials under this section. [~~Not later than~~
5 ~~September 1, 2010, the State Board of Education shall adopt~~
6 ~~essential knowledge and skills for each course developed under this~~
7 ~~section.~~] The commissioner [~~State Board of Education~~] shall make
8 each course developed under this section and the related
9 instructional materials available to school districts not later
10 than the 2014-2015 school year. As required by Subsection (c), a
11 school district shall adopt a policy requiring a student's
12 performance on an end-of-course assessment instrument administered
13 under that subsection to account for 15 percent of the student's
14 grade for a course developed under this section not later than the
15 2014-2015 school year. This subsection expires September 1, 2015.

16 SECTION 15. Section 28.023, Education Code, is amended to
17 read as follows:

18 Sec. 28.023. CREDIT BY EXAMINATION. (a) Using guidelines
19 established by commissioner rule [~~the State Board of Education~~], a
20 school district shall develop or select for commissioner [~~board~~]
21 review examinations for acceleration for each primary school grade
22 level and for credit for secondary school academic subjects. The
23 guidelines must provide for the examinations to thoroughly test
24 comprehension of the information presented in the applicable grade
25 level or subject. The commissioner [~~board~~] shall approve
26 examinations that satisfy commissioner [~~board~~] guidelines.

27 (b) A school district shall give a student in a primary

1 grade level credit for a grade level and advance the student one
2 grade level on the basis of a commissioner-approved
3 ~~[board-approved]~~ examination for acceleration if:

4 (1) the student scores in the 90th percentile or above
5 on each section of the examination;

6 (2) a district representative recommends that the
7 student be advanced; and

8 (3) the student's parent or guardian gives written
9 approval of the advancement.

10 (c) A school district shall give a student in grade level
11 six or above credit for a subject on the basis of a
12 commissioner-approved ~~[board-approved]~~ examination for credit in
13 the subject if the student scores in the 90th percentile or above on
14 the examination. If a student is given credit in a subject on the
15 basis of an examination, the district shall enter the examination
16 score on the student's transcript.

17 (d) Each district shall administer each examination not
18 less than once a year, at times to be determined by the commissioner
19 ~~[State Board of Education]~~.

20 SECTION 16. Sections 28.025(a), (b), (b-1), (b-2), (c),
21 (d), and (e), Education Code, are amended to read as follows:

22 (a) The commissioner ~~[State Board of Education by rule]~~
23 shall propose rules to identify ~~[determine]~~ curriculum
24 requirements for the minimum, recommended, and advanced high school
25 programs that are consistent with the required curriculum under
26 Section 28.002. ~~[Subject to Subsection (b-1), the State Board of~~
27 ~~Education shall designate the specific courses in the foundation~~

1 ~~curriculum required for a student participating in the minimum,~~
2 ~~recommended, or advanced high school program. Except as provided~~
3 ~~by Subsection (b-1), the State Board of Education may not designate~~
4 ~~a specific course or a specific number of credits in the enrichment~~
5 ~~curriculum as requirements for the recommended program.]~~

6 (b) A school district shall ensure that each student enrolls
7 in the courses necessary to complete the curriculum requirements
8 identified by the commissioner [~~State Board of Education~~] under
9 Subsection (a) for the recommended or advanced high school program
10 unless the student, the student's parent or other person standing
11 in parental relation to the student, and a school counselor or
12 school administrator agree in writing signed by each party that the
13 student should be permitted to take courses under the minimum high
14 school program [~~and the student:~~

15 [~~(1) is at least 16 years of age,~~

16 [~~(2) has completed two credits required for graduation~~
17 ~~in each subject of the foundation curriculum under Section~~
18 ~~28.002(a)(1), or~~

19 [~~(3) has failed to be promoted to the tenth grade one~~
20 ~~or more times as determined by the school district].~~

21 (b-1) The commissioner [~~State Board of Education by rule~~]
22 shall propose rules to require that:

23 (1) except as provided by Subsection (b-2), the
24 curriculum requirements for the recommended and advanced high
25 school programs under Subsection (a) include a requirement that
26 students successfully complete[+

27 [~~(A)] four courses [~~credits~~] in each subject of~~

1 the foundation curriculum under Section 28.002(a)(1) [~~, including~~
2 ~~at least one-half credit in government and at least one-half credit~~
3 ~~in economics to meet the social studies requirement;~~

4 [~~(B) for the recommended high school program, two~~
5 ~~credits in the same language in a language other than English under~~
6 ~~Section 28.002(a)(2)(A) and, for the advanced high school program,~~
7 ~~three credits in the same language in a language other than English~~
8 ~~under Section 28.002(a)(2)(A)]; and~~

9 [~~(C) for the recommended high school program, six~~
10 ~~elective credits and, for the advanced high school program, five~~
11 ~~elective credits;]~~

12 (2) one or more courses [~~credits~~] offered in the
13 required curriculum for the recommended and advanced high school
14 programs include a research writing component [~~, and~~

15 [~~(3) the curriculum requirements for the minimum,~~
16 ~~recommended, and advanced high school programs under Subsection (a)~~
17 ~~include a requirement that students successfully complete:~~

18 [~~(A) one credit in fine arts under Section~~
19 ~~28.002(a)(2)(D); and~~

20 [~~(B) one credit in physical education under~~
21 ~~Section 28.002(a)(2)(C)].~~

22 (b-2) In proposing [~~adopting~~] rules under Subsection (b-1),
23 the commissioner [~~State Board of Education~~] shall allow a student
24 to comply with the curriculum requirements for a mathematics course
25 under Subsection (b-1)(1) taken after the successful completion of
26 an Algebra II course or science course under Subsection (b-1)(1)
27 taken after the successful completion of a physics course by

1 successfully completing an advanced career and technical course
2 designated by the commissioner [~~State Board of Education~~] as
3 containing substantively similar and rigorous academic content. A
4 student may use the option provided by this subsection for not more
5 than two courses.

6 (c) A person may receive a diploma if the person is eligible
7 for a diploma under Section 28.0251. In other cases, a student may
8 graduate and receive a diploma only if:

9 (1) the student successfully completes the curriculum
10 requirements identified by the commissioner [~~State Board of~~
11 ~~Education~~] under Subsection (a) and complies with Section 39.025;
12 or

13 (2) the student successfully completes an
14 individualized education program developed under Section 29.005.

15 (d) A school district may issue a certificate of coursework
16 completion to a student who successfully completes the curriculum
17 requirements identified by the commissioner [~~State Board of~~
18 ~~Education~~] under Subsection (a) but who fails to comply with
19 Section 39.025. A school district may allow a student who receives
20 a certificate to participate in a graduation ceremony with students
21 receiving high school diplomas.

22 (e) Each school district shall report the academic
23 achievement record of students who have completed a minimum,
24 recommended, or advanced high school program on transcript forms
25 adopted by commissioner rule [~~the State Board of Education~~]. The
26 transcript forms adopted by the commissioner [~~board~~] must be
27 designed to clearly differentiate between each of the high school

1 programs and identify whether a student received a diploma or a
2 certificate of coursework completion.

3 SECTION 17. Section 28.051(2), Education Code, is amended
4 to read as follows:

5 (2) "College advanced placement course" means a
6 commissioner-approved [~~board-approved~~] high-school-level
7 preparatory course for a college advanced placement test that
8 incorporates all topics specified by the college board on its
9 standard syllabus for a given subject area.

10 SECTION 18. Section 28.054, Education Code, is amended to
11 read as follows:

12 Sec. 28.054. SUBSIDIES FOR COLLEGE ADVANCED PLACEMENT TEST
13 OR INTERNATIONAL BACCALAUREATE EXAMINATION. (a) A student is
14 entitled to a subsidy for a fee paid by the student to take a college
15 advanced placement test or an international baccalaureate
16 examination if the student demonstrates financial need. The
17 commissioner, in consultation with the Texas Higher Education
18 Coordinating Board, [~~board~~] shall adopt guidelines for determining
19 financial need consistent with the definition of financial need
20 adopted by the college board or the International Baccalaureate
21 Organization.

22 (b) To obtain a subsidy under this section, a student must:

23 (1) pay the fee for each test or examination for which
24 the student seeks a subsidy; and

25 (2) submit to the commissioner [~~board~~] through the
26 student's guidance counselor a written application on a form
27 prescribed by the commissioner demonstrating financial need and the

1 amount of the fee paid by the student for each test or examination.

2 (c) On approval by the commissioner [~~board~~], the agency may
3 pay each eligible applicant an equal amount, not to exceed \$25 for
4 each applicant.

5 SECTION 19. Section 28.055(b), Education Code, is amended
6 to read as follows:

7 (b) To obtain an award under the program, a school must
8 submit to the commissioner [~~board~~] a written application in a form,
9 manner, and time prescribed by the commissioner.

10 SECTION 20. Section 28.056, Education Code, is amended to
11 read as follows:

12 Sec. 28.056. APPLICATION FOR TEACHER AWARDS AND
13 REIMBURSEMENTS. To obtain an award or reimbursement for training
14 expenses under the program, a teacher must submit to the
15 commissioner [~~board~~] a written application in a form, manner, and
16 time prescribed by the commissioner.

17 SECTION 21. Section 30A.102(b), Education Code, is amended
18 to read as follows:

19 (b) To ensure that a full range of electronic courses,
20 including advanced placement courses, are offered to students in
21 this state, the administering authority:

22 (1) shall create a list of those subjects and courses
23 designated by the commissioner [~~board~~] under Subchapter A, Chapter
24 28, for which the commissioner [~~board~~] has identified essential
25 knowledge and skills or for which the commissioner [~~board~~] has
26 designated content requirements under Subchapter A, Chapter 28;

27 (2) shall enter into agreements with school districts,

1 open-enrollment charter schools, and public or private
2 institutions of higher education for the purpose of offering the
3 courses through the state virtual school network; and

4 (3) may develop or authorize the development of
5 additional electronic courses that:

6 (A) are needed to complete high school graduation
7 requirements; and

8 (B) are not otherwise available through the state
9 virtual school network.

10 SECTION 22. Section 31.003, Education Code, is amended to
11 read as follows:

12 Sec. 31.003. RULES. (a) The commissioner may propose to
13 the State Board of Education as provided by Subsection (b) [~~may~~
14 ~~adopt~~] rules, consistent with this chapter, for the adoption of the
15 textbooks under Subchapter B. The State Board of Education may
16 adopt rules consistent with this chapter regarding textbooks for
17 purposes of Subchapters B-1, C, D, and E [~~, requisition,~~
18 ~~distribution, care, use, and disposal of textbooks]~~.

19 (b) The commissioner must submit a written copy of each of
20 the commissioner's proposed rules for the adoption of textbooks
21 under Subchapter B, other than as provided under Section 31.0231,
22 to the State Board of Education for review. The State Board of
23 Education may reject a proposed rule by a vote of at least
24 two-thirds of the members of the board present and voting. If the
25 State Board of Education fails to reject a proposed rule before the
26 75th day after the date on which it receives the proposed rule, the
27 proposed rule takes effect as a rule of the commissioner as provided

1 by Chapter 2001, Government Code. The State Board of Education may
2 not modify a rule proposed by the commissioner under Subchapter B.

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

5 Sec. 31.022. TEXTBOOK REVIEW AND ADOPTION. (a) The
6 commissioner [~~State Board of Education~~] shall propose rules to
7 adopt a review and adoption cycle for textbooks for elementary
8 grade levels, including prekindergarten, and secondary grade
9 levels, for each subject in the required curriculum under Section
10 28.002.

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

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

25 (d) At least 24 months before the beginning of the school
26 year for which textbooks for a particular subject and grade level
27 will be purchased under the review and adoption cycle [~~adopted by~~

1 ~~the board~~], the commissioner [~~board~~] shall publish notice of the
2 review and adoption cycle for those textbooks.

3 (e) The commissioner [~~board~~] shall designate a request for
4 production of textbooks in a subject area and grade level by the
5 school year in which the textbooks are intended to be made available
6 in classrooms and not by the school year in which the commissioner
7 [~~board~~] makes the request for production.

8 (f) The commissioner [~~board~~] shall amend any request for
9 production issued for the purchase of textbooks to conform to the
10 textbook funding levels provided by the General Appropriations Act
11 for the year of implementation.

12 SECTION 24. Section 31.0221(a), Education Code, is amended
13 to read as follows:

14 (a) The commissioner [~~State Board of Education~~] shall
15 propose [~~adopt~~] rules for the midcycle review and adoption of a
16 textbook for a subject for which textbooks are not currently under
17 review by the commissioner [~~board~~] under Section 31.022. The rules
18 must require:

19 (1) the publisher of the textbook to pay a fee to the
20 commissioner [~~board~~] to cover the cost of the midcycle review and
21 adoption of the textbook;

22 (2) the publisher of the textbook to enter into a
23 contract with the commissioner [~~board~~] concerning the textbook for
24 a term that ends at the same time as any contract entered into by the
25 commissioner [~~board~~] for another textbook for the same subject and
26 grade level; and

27 (3) a commitment from the publisher to provide the

1 textbook to school districts in the manner specified by the
2 publisher, which may include:

3 (A) providing the textbook to any district in a
4 regional education service center area identified by the publisher;
5 or

6 (B) providing a certain maximum number of
7 textbooks specified by the publisher.

8 SECTION 25. Section 31.0222, Education Code, is amended to
9 read as follows:

10 Sec. 31.0222. BUDGET-BALANCED CYCLE. In determining the
11 review and adoption cycle of textbooks under Section 31.022, the
12 commissioner [~~State Board of Education~~] shall:

13 (1) consult with the Legislative Budget Board and the
14 governor's office of budget, planning, and policy before approving
15 and publishing any notice or amendment of a cycle;

16 (2) review and consider:

17 (A) historic average funding levels for
18 textbooks purchased in previous bienniums;

19 (B) expected average costs of future textbook
20 purchases;

21 (C) anticipated student enrollment in future
22 years;

23 (D) scheduled revisions to curriculum; and

24 (E) the impact on the state budget of the
25 adoption of textbooks in all or some grade levels in a subject area;
26 and

27 (3) limit the cycle to subject areas for which

1 textbooks can be purchased with the funding anticipated to be
2 available in the state textbook fund for the school year in which
3 the textbooks are to be adopted.

4 SECTION 26. Section 31.023(a), Education Code, is amended
5 to read as follows:

6 (a) For each subject and grade level, the commissioner, in
7 accordance with Sections 28.0024 and 28.0025, shall propose for
8 adoption to the State Board of Education in the same manner as rules
9 are proposed under Section 31.003(b), [~~shall adopt~~] two lists of
10 textbooks. The conforming list includes each textbook submitted
11 for the subject and grade level that meets applicable physical
12 specifications established [~~adopted~~] by commissioner rule [~~the~~
13 ~~State Board of Education~~] and contains material covering each
14 element of the essential knowledge and skills of the subject and
15 grade level in the student version of the textbook, as well as in
16 the teacher version of the textbook, as determined [~~by the State~~
17 ~~Board of Education~~] under Section 28.002 and adopted under Section
18 31.024. The nonconforming list includes each textbook submitted
19 for the subject and grade level that:

20 (1) meets applicable physical specifications
21 established [~~adopted~~] by commissioner rule [~~the State Board of~~
22 ~~Education~~];

23 (2) contains material covering at least half, but not
24 all, of the elements of the essential knowledge and skills of the
25 subject and grade level in the student version of the textbook, as
26 well as in the teacher version of the textbook; and

27 (3) is adopted under Section 31.024.

1 SECTION 27. Section 31.024, Education Code, is amended to
2 read as follows:

3 Sec. 31.024. ADOPTION [~~BY STATE BOARD OF EDUCATION~~]. (a)
4 The commissioner, after using the process under Section 31.023, [~~By~~
5 ~~majority vote, the State Board of Education~~] shall:

6 (1) place each submitted textbook on a conforming or
7 nonconforming list; or

8 (2) reject a textbook submitted for placement on a
9 conforming or nonconforming list.

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

17 SECTION 28. Section 31.025(a), Education Code, is amended
18 to read as follows:

19 (a) The commissioner [~~State Board of Education~~] shall set a
20 limit on the cost that may be paid from the state textbook fund for a
21 textbook placed on the conforming or nonconforming list for a
22 particular subject and grade level. The commissioner [~~board~~] may
23 not reject a textbook for placement on the conforming or
24 nonconforming list because the textbook's price exceeds the limit
25 established under this subsection.

26 SECTION 29. Sections 31.026(a) and (b), Education Code, are
27 amended to read as follows:

1 (a) The commissioner [~~State Board of Education~~] shall
2 execute a contract:

3 (1) for the purchase of each adopted textbook other
4 than an electronic textbook; and

5 (2) for the purchase or licensing of each adopted
6 electronic textbook.

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

11 SECTION 30. Sections 31.028(a), (b), and (c), Education
12 Code, are amended to read as follows:

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

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

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

5 (1) public schools; or

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

8 SECTION 31. Section 31.029, Education Code, is amended to
9 read as follows:

10 Sec. 31.029. BILINGUAL TEXTBOOKS. The commissioner [~~board~~]
11 shall purchase or otherwise acquire textbooks for use in bilingual
12 education classes.

13 SECTION 32. Section 31.030, Education Code, is amended to
14 read as follows:

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

22 SECTION 33. Sections 31.035(a), (b), and (f), Education
23 Code, are amended to read as follows:

24 (a) Notwithstanding any other provision of this subchapter,
25 the commissioner [~~State Board of Education~~] may, in accordance with
26 Sections 28.0024 and 28.0025, propose for adoption to the State
27 Board of Education, in the same manner as rules are proposed under

1 Section 31.003(b), ~~[adopt]~~ supplemental textbooks that are not on
2 the conforming or nonconforming list under Section 31.023. The
3 commissioner ~~[State Board of Education]~~ may propose for adoption
4 ~~[adopt]~~ a supplemental textbook under this section only if the
5 textbook:

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

10 (2) is not designed to serve as the sole textbook for a
11 full course;

12 (3) meets applicable physical specifications
13 established ~~[adopted]~~ by commissioner rule ~~[the State Board of~~
14 ~~Education]~~; and

15 (4) is free from factual errors.

16 (b) The commissioner, in accordance with Sections 28.0024
17 and 28.0025, ~~[State Board of Education]~~ shall identify the
18 essential knowledge and skills identified under Section 28.002 that
19 are covered by a supplemental textbook adopted ~~[by the board]~~ under
20 this section.

21 (f) A school district or open-enrollment charter school
22 that requisitions supplemental textbooks under Subsection (d)(2)
23 shall certify to the agency that the supplemental textbooks, in
24 combination with any other textbooks or supplemental textbooks used
25 by the district or school, cover the essential knowledge and skills
26 identified under Section 28.002 ~~[by the State Board of Education]~~
27 for the subject and grade level for which the district or school is

1 requisitioning the supplemental textbooks.

2 SECTION 34. Section 28.051(1), Education Code, is repealed.

3 SECTION 35. A rule, form, policy, procedure, or decision of
4 the State Board of Education that relates to the adoption of
5 curriculum under Chapter 28, Education Code, or the adoption of
6 textbooks under Subchapter B, Chapter 31, Education Code, continues
7 in effect as a rule, form, policy, procedure, or decision of the
8 commissioner of education and remains in effect until changed by
9 the commissioner of education in accordance, as necessary, with
10 Chapter 28, Education Code, as amended by this Act, or Subchapter B,
11 Chapter 31, Education Code, as amended by this Act.

12 SECTION 36. This Act applies beginning with the 2011-2012
13 school year.

14 SECTION 37. This Act takes effect immediately if it
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas Constitution.
17 If this Act does not receive the vote necessary for immediate
18 effect, this Act takes effect September 1, 2011.