

House Bill 6
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

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

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

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

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

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

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

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

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

SENATE VERSION (IE)

No equivalent provision.

SECTION 1. Same as House version except for recitation.

SECTION 2. Same as House version except for recitation.

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

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

SECTION 5. Section 7.108(a), Education Code, is amended to read as follows:

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

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

Sec. 7.112. REPRESENTATION OF [~~TEXTBOOK~~]
PUBLISHER OF INSTRUCTIONAL MATERIALS BY

SECTION 3. Same as House version except for recitation.

SECTION 4. Subsections (a) and (c), Section 7.108, Education Code, are amended to read as follows:

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

(c) In this section:

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

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

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

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

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

- (1) confer with a member of the board of trustees of a school district concerning instructional materials [~~a textbook~~] published by that [textbook] publisher; or
- (2) appear at a meeting of the board of trustees on behalf of the [textbook] publisher.

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

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

SECTION 9. Section 11.158(b), Education Code, is amended to read as follows:

- (b) The board may not charge fees for:
- (1) instructional materials [~~textbooks~~], workbooks, laboratory supplies, or other supplies necessary for participation in any instructional course except as authorized under this code;
 - (2) field trips required as a part of a basic education program or course;
 - (3) any specific form of dress necessary for any required

SECTION 6. Same as House version except for recitation.

SECTION 7. Same as House version except for recitation.

SECTION 8. Same as House version except for recitation.

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educational program or diplomas;

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

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

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

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

(8) lockers.

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

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

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

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

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

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

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

(6) a unit or weekly lesson plan that outlines, in a brief and general manner, the information to be presented during each

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period at the secondary level or in each subject or topic at the elementary level;
(7) an attendance report;
(8) any report required for accreditation review;
(9) any information required by a school district that relates to a complaint, grievance, or actual or potential litigation and that requires the classroom teacher's involvement; or
(10) any information specifically required by law, rule, or regulation.

No equivalent provision.

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SECTION __. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1141 to read as follows:
Sec. 12.1141. REVISION: ADDING SCHOOLS UNDER CERTAIN CIRCUMSTANCES. (a) Except as provided by Subsection (b), the commissioner may not deny approval for a charter holder to add one or more additional open-enrollment charter schools under an existing open-enrollment charter granted to the charter holder if:
(1) considering available data, the charter holder meets all criteria established by rule for adding a charter school under an existing charter other than criteria for performance based on dropout and completion rates of one or more existing charter schools under the charter and the charter holder demonstrates through a process developed by the agency that those criteria would be met if:
(A) a student enrolled at the charter school who is at least 17 years of age at the time of enrollment were not considered a dropout; and
(B) a student who graduates from the charter school before or during the student's sixth year of high school were considered a high school graduate;

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(2) the charter holder, at the time of submission of the application for approval to add one or more additional charter schools, has been assigned a financial accountability rating under Subchapter D, Chapter 39, indicating financial performance that is satisfactory or better; and

(3) each additional charter school:

(A) will serve only high school students;

(B) will have an enrollment of students of whom at least 50 percent did not graduate with a ninth grade cohort; and

(C) will be in the geographical area described for the charter under Section 12.111(a)(14).

(b) The commissioner may not approve a total of more than 10 additional charter schools under Subsection (a). The commissioner may, in accordance with commissioner rule, limit the enrollment of an additional charter school as necessary to conform to the capacity limits of the charter holder or the demand for services in the geographical area, as determined by the commissioner, but may not limit the enrollment of an additional charter school to less than the number of students currently enrolled at the high school level at a charter school operated by the charter holder that focuses on dropout recovery.

(c) This section expires September 1, 2013. [FA13]

No equivalent provision.

SECTION __. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1151 to read as follows:

Sec. 12.1151. LIMITATION ON REVOCATION OR DENIAL OF RENEWAL FOR CERTAIN CHARTER SCHOOLS. (a) This section applies only to an open-enrollment charter school that has an enrollment of students of whom at least 50 percent did not graduate with a ninth grade

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cohort.

(b) The commissioner may not revoke or deny renewal of the charter of an open-enrollment charter school to which this section applies if:

(1) considering available data, the charter holder meets all criteria established by rule for adding a charter school under an existing charter other than criteria for performance based on dropout and completion rates of one or more existing charter schools under the charter and the charter holder demonstrates through a process developed by the agency that those criteria would be met if:

(A) a student enrolled at the charter school who is at least 17 years of age at the time of enrollment were not considered a dropout; and

(B) a student who graduates from the charter school before or during the student's sixth year of high school were considered a high school graduate; and

(2) the charter holder, at the time the ratings appeal is filed, has been assigned a financial accountability rating under Subchapter D, Chapter 39, that indicates financial performance that is satisfactory or better.

(c) This section expires September 1, 2013. [FA13]

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

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

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

SECTION 10. Same as House version except for recitation.

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(a) A parent is entitled to:

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

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

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

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

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

(1) a foundation curriculum that includes:

(A) English language arts;

(B) mathematics;

(C) science; and

(D) social studies, consisting of Texas, United States, and world history, government, economics, with emphasis on the free enterprise system and its benefits, and geography; and

(2) an enrichment curriculum that includes:

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

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- (B) health, with emphasis on the importance of proper nutrition and exercise;
 - (C) physical education;
 - (D) fine arts;
 - (E) ~~economics, with emphasis on the free enterprise system and its benefits;~~
 - ~~(F)~~ career and technology education;
 - ~~(E)~~ ~~(G)~~ technology applications; and
 - ~~(G)~~ ~~(H)~~ religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature.
- (c) The State Board of Education, with the direct participation of educators, parents, business and industry representatives, and employers shall by rule identify the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials ~~textbooks~~ under Chapter 31 and addressed on the assessment instruments required under Subchapter B, Chapter 39. As a condition of accreditation, the board shall require each district to provide instruction in the essential knowledge and skills at appropriate grade levels.
- (h) The State Board of Education and each school district shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter and in reading courses and in the adoption of instructional materials ~~textbooks~~. A primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage.

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

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

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

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

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

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

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

(A) the career and technical education curriculum; and

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

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

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

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

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

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

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

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

No equivalent provision.

SECTION 14. Same as House version except for recitation.

SECTION 15. Same as House version except for recitation.

SECTION __. Subchapter A, Chapter 30A, Education Code, is amended by adding Section 30A.007 to read as follows:

Sec. 30A.007. LOCAL POLICY ON ELECTRONIC COURSES. (a) A school district or open-enrollment charter school shall adopt a policy that provides district or school students with the opportunity to enroll in electronic courses provided through the state virtual school network. The policy must be consistent with the requirements imposed by Section 26.0031.

(b) For purposes of a policy adopted under Subsection (a), the determination of whether or not an electronic course will meet

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the needs of a student with a disability shall be made by the student's admission, review, and dismissal committee in a manner consistent with state and federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794). [FA1]

No equivalent provision.

SECTION __. Subchapter C, Chapter 30A, Education Code, is amended by adding Section 30A.1021 to read as follows:
Sec. 30A.1021. PUBLIC ACCESS TO USER COMMENTS REGARDING ELECTRONIC COURSES. (a) The administering authority shall provide students who have completed or withdrawn from electronic courses offered through the virtual school network and their parents with a mechanism for providing comments regarding courses that are part of the foundation curriculum under Section 28.002(a)(1). (b) The administering authority may provide students who have completed or withdrawn from electronic courses offered through the virtual school network and their parents with a mechanism for providing comments regarding courses that are part of the enrichment curriculum under Section 28.002(a)(2). (c) The mechanism required by Subsection (a) and authorized by Subsection (b) must include a quantitative rating system and a list of verbal descriptors that a student or parent may select as appropriate. (d) The administering authority shall provide public access to the comments submitted by students and parents under this section. The comments must be in a format that permits a person to sort the comments by teacher, electronic course, and provider school district or school. [FA1]

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No equivalent provision.

SECTION __. Section 30A.104, Education Code, is amended to read as follows:

Sec. 30A.104. COURSE ELIGIBILITY IN GENERAL. (a) A course offered through the state virtual school network must:

- (1) be in a specific subject that is part of the required curriculum under Section 28.002(a);
- (2) be aligned with the essential knowledge and skills identified under Section 28.002(c) for a grade level at or above grade level three; and
- (3) be the equivalent in instructional rigor and scope to a course that is provided in a traditional classroom setting during:

- (A) a semester of 90 instructional days; and
- (B) a school day that meets the minimum length of a school day required under Section 25.082.

(b) For purposes of Subsection (a)(2), a course is considered in compliance with the requirement imposed under that subdivision if:

- (1) the course contains at least 80 percent of the applicable essential knowledge and skills; and
- (2) the provider school district or school provides written documentation that the remaining 20 percent of the applicable essential knowledge and skills will be provided by the teacher of the course and instructional materials.

(c) If the essential knowledge and skills with which an approved course is aligned in accordance with Subsection (a)(2) are modified, the provider school district or school must be provided the same time period to revise the course and instructional materials to achieve alignment with the modified essential knowledge and skills as is provided for the modification of a course provided in a traditional classroom

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setting. [FA1]

No equivalent provision.

SECTION __. Section 30A.105, Education Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsection (d) to read as follows:

(a-1) The administering authority shall publish the schedule established under Subsection (a)(1), including any deadlines specified in that schedule, and any guidelines applicable to the submission and approval process for electronic courses.

(a-2) The evaluation required by Subsection (a)(2) must include review of each electronic course component, including off-line material proposed to be used in the course.

(d) If the agency determines that the costs of evaluating and approving a submitted electronic course will not be paid by the agency due to a shortage of funds available for that purpose, the school district, open-enrollment charter school, or public or private institution of higher education that submitted the course for evaluation and approval may pay a fee equal to the amount of the costs in order to ensure that evaluation of the course occurs. The agency shall establish and publish a fee schedule for purposes of this subsection. [FA1]

No equivalent provision.

SECTION __. Subchapter D, Chapter 30A, Education Code, is amended by adding Section 30A.153 to read as follows:

Sec. 30A.153. FOUNDATION SCHOOL PROGRAM FUNDING. (a) A school district or open-enrollment charter school in which a student is enrolled is entitled to funding under Chapter 42 for the student's enrollment in an electronic course offered through the state virtual school network in the same manner that the district or school is entitled to funding

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for the student's enrollment in courses provided in a traditional classroom setting, provided that the student successfully completes the electronic course.

(b) The commissioner, after considering comments from school district and open-enrollment charter school representatives, shall adopt a standard agreement that governs payment of funds and other matters relating to a student's enrollment in an electronic course offered through the state virtual school network. The agreement may not require a school district or open-enrollment charter school to pay the provider the full amount until the student has successfully completed the electronic course.

(c) A school district or open-enrollment charter school shall use the standard agreement adopted under Subsection (b) unless:

(1) the district or school requests from the commissioner permission to modify the standard agreement; and

(2) the commissioner authorizes the modification.

(d) The commissioner shall adopt rules necessary to implement this section, including rules regarding attendance accounting. [FA2]

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

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

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

Sec. 31.001. FREE INSTRUCTIONAL MATERIALS

SECTION 16. Same as House version.

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

Sec. 31.001. FREE INSTRUCTIONAL MATERIALS

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

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

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

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

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

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

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

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

(B) professional use by a classroom teacher.

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

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

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

(b) To determine whether each student has instructional materials that cover all elements of the essential knowledge and skills as required by Subsection (a), a school district or

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

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

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

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open-enrollment charter school may consider:

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

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

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

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

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

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

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

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

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

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

(1) an amount set aside by the State Board of Education from the available school fund, in accordance with Section

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

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

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

(1) an amount set aside by the State Board of Education from the available school fund, in accordance with Section

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43.001(d); and
(2) ~~[all funds accruing from the state's sale of disused textbooks; and~~
~~[(3)]~~ all amounts lawfully paid into the fund from any other source.
(c) Money in the state instructional materials fund shall be used to:
(1) fund the instructional materials allotment, as provided by Section 31.0211;
(2) purchase special instructional materials for the education of blind and visually impaired students in public schools;
(3) pay the expenses associated with the instructional materials adoption and review process under this chapter;
(4) pay the expenses associated with the purchase or licensing of open-source instructional material, to the extent authorized by the General Appropriations Act;
(5) pay the expenses associated with the purchase of instructional material, including freight, shipping, and insurance expenses; and
(6) fund the technology lending grant program established under Section 32.201.
(d) Money transferred to the state instructional materials ~~[textbook]~~ fund remains in the fund until spent and does not lapse to the state at the end of the fiscal year.

SECTION 23. Subchapter B, Chapter 31, Education Code, is amended by adding Sections 31.0211, 31.0212, 31.0213, and 31.0214 to read as follows:
Sec. 31.0211. INSTRUCTIONAL MATERIALS ALLOTMENT. (a) A school district is entitled to an annual allotment from the state instructional materials fund for each

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43.001(d); and
(2) ~~[all funds accruing from the state's sale of disused textbooks; and~~
~~[(3)]~~ all amounts lawfully paid into the fund from any other source.
(c) Money in the state instructional materials fund shall be used to:
(1) fund the instructional materials allotment, as provided by Section 31.0211;
(2) purchase special instructional materials for the education of blind and visually impaired students in public schools;
(3) pay the expenses associated with the instructional materials adoption and review process under this chapter;
(4) pay the expenses associated with the purchase or licensing of open-source instructional material, to the extent authorized by the General Appropriations Act; and
(5) pay the expenses associated with the purchase of instructional material, including intrastate freight and shipping and the insurance expenses associated with intrastate freight and shipping.
(d) Money transferred to the state instructional materials ~~[textbook]~~ fund remains in the fund until spent and does not lapse to the state at the end of the fiscal year. [FA10(1)]

SECTION 22. Subchapter B, Chapter 31, Education Code, is amended by adding Sections 31.0211, 31.0212, 31.0213, and 31.0214 to read as follows:
Sec. 31.0211. INSTRUCTIONAL MATERIALS ALLOTMENT. (a) A school district is entitled to an annual allotment from the state instructional materials fund for each

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student enrolled in the district on a date during the preceding school year specified by the commissioner. The commissioner shall determine the amount of the allotment per student each year on the basis of the amount of money available in the state instructional materials fund to fund the allotment. An allotment under this section shall be transferred from the state instructional materials fund to the credit of the district's instructional materials account as provided by Section 31.0212.

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

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

(1) purchase:

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

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

(C) consumable instructional materials, including workbooks;

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

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

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

(G) instructional materials and technological equipment

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student enrolled in the district on a date during the preceding school year specified by the commissioner. The commissioner shall determine the amount of the allotment per student each year on the basis of the amount of money available in the state instructional materials fund to fund the allotment. An allotment under this section shall be transferred from the state instructional materials fund to the credit of the district's instructional materials account as provided by Section 31.0212.

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

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

(1) purchase:

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

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

(C) consumable instructional materials, including workbooks;

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

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

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

(G) instructional materials and technological equipment

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under any continuing contracts of the district in effect on September 1, 2011; and

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

(2) pay:

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

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

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

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

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

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

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

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

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under any continuing contracts of the district in effect on September 1, 2011; and

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

(2) pay

for training educational personnel directly involved in student learning in the appropriate use of instructional materials and for providing for access to technological equipment for instructional use.

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

(1) instructional materials necessary to permit the district to certify that the district has instructional materials that cover all elements of the essential knowledge and skills of the required curriculum for each grade level as required by Section 28.002; and

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

(d-1) Notwithstanding Subsection (d), for the state fiscal biennium beginning September 1, 2011, a school district shall use an allotment received under this section to purchase

instructional materials that will assist the district in satisfying performance standards under Section 39.0241, as added by

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

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

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

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

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

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

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

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Chapter 895 (H.B. 3), Acts of the 81st Legislature, Regular Session, 2009, on assessment instruments adopted under Sections 39.023(a) and (c).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) foundation curriculum subjects not described by

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

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

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

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

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

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

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

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

(C) foundation curriculum subjects not described by

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Paragraph (A) or (B), including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n); and

(D) enrichment curriculum subjects.

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

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

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

(d) At least 12 [24] months before the beginning of the school year for which instructional materials [~~textbooks~~] for a particular subject and grade level will be adopted [~~purchased~~] under the review and adoption cycle [~~adopted by the board~~], the board shall publish notice of the review and adoption cycle for those instructional materials [~~textbooks~~]. A request for

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Paragraph (A) or (B), including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n); and

(D) enrichment curriculum subjects.

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

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

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production must allow submission of open-source instructional materials that are available for use by the state without charge on the same basis as instructional materials offered for sale.

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

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

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

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

(1) the publisher of the instructional material [~~textbook~~] to

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

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

(f) The board shall amend any request for production issued for the purchase of instructional materials [~~textbooks~~] to conform to the instructional materials [~~textbook~~] funding levels provided by the General Appropriations Act for the year of implementation. [FA7(1),(2)]

SECTION 25. Same as House version.

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pay a fee to the board to cover the cost of the midcycle review and adoption of the instructional material [textbook];

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

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

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

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

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

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

Sec. 31.023. INSTRUCTIONAL MATERIAL LIST [TEXTBOOK LISTS]. (a) For each subject and grade level, the State Board of Education shall adopt a list [two lists] of instructional materials [textbooks]. The conforming list includes each instructional material [textbook] submitted for the subject and grade level that meets applicable physical specifications adopted by the State Board of Education and contains material covering at least half of the elements [each

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

Sec. 31.023. INSTRUCTIONAL MATERIAL [TEXTBOOK] LISTS. (a) For each subject and grade level, the State Board of Education shall adopt two lists of instructional materials [textbooks]. The conforming list includes each instructional material [textbook] submitted for the subject and grade level that meets applicable physical specifications adopted by the State Board of Education and contains material covering each element of the essential

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element of the essential knowledge and skills of the subject and grade level in the student version of the instructional material [~~textbook~~], as well as in the teacher version of the instructional material [~~textbook~~], as determined by the State Board of Education under Section 28.002 and adopted under Section 31.024[. — ~~The nonconforming list includes each textbook submitted for the subject and grade level that:~~

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

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

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

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

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

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

Sec. 31.0231. COMMISSIONER'S [ELECTRONIC TEXTBOOK AND INSTRUCTIONAL MATERIAL] LIST.

(a) The commissioner shall adopt a list of:

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

(2) science [instructional] material that conveys information

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knowledge and skills of the subject and grade level in the student version of the instructional material [~~textbook~~], as well as in the teacher version of the instructional material [~~textbook~~], as determined by the State Board of Education under Section 28.002 and adopted under Section 31.024.

The nonconforming list includes each instructional material [~~textbook~~] submitted for the subject and grade level that:

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

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

(3) is adopted under Section 31.024.

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

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

Sec. 31.0231. COMMISSIONER'S [ELECTRONIC TEXTBOOK AND INSTRUCTIONAL MATERIAL] LIST.

(a) The commissioner shall adopt a list of:

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

(2) science [instructional] material that conveys information

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to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for science in kindergarten through grade five.

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

(c) Before the commissioner places ~~[an electronic textbook or instructional]~~ material on the list adopted under Subsection (a), the State Board of Education must be given an opportunity to comment on the ~~[electronic textbook or instructional]~~ material. If the commissioner places material on the list adopted under Subsection (a), the State Board of Education may, not later than the 90th day after the date the material is placed on the list, require the commissioner to remove the material from the list.

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

- (1) must be reviewed and recommended to the commissioner by a panel of recognized experts in the subject area of the ~~[electronic textbook or instructional]~~ material and experts in education technology;
- (2) must satisfy criteria adopted for the purpose by commissioner rule; and
- (3) must meet the National Instructional Materials Accessibility Standard, to the extent practicable as determined by the commissioner.

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

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

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to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for science in kindergarten through grade five.

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

(c) Before the commissioner places ~~[an electronic textbook or instructional]~~ material on the list adopted under Subsection (a), the State Board of Education must be given an opportunity to comment on the ~~[electronic textbook or instructional]~~ material. The State Board of Education may review and comment on the material until the 90th day after the date of the material is placed on the list.

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

- (1) must be reviewed and recommended to the commissioner by a panel of recognized experts in the subject area of the ~~[electronic textbook or instructional]~~ material and experts in education technology;
- (2) must satisfy criteria adopted for the purpose by commissioner rule; and
- (3) must meet the National Instructional Materials Accessibility Standard, to the extent practicable as determined by the commissioner.

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

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

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

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

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

(3) include appropriate training for teachers.

(e) The commissioner shall update, as necessary, the list adopted under Subsection (a). Before the commissioner places ~~[an electronic textbook or instructional]~~ material on the updated list, the requirements of Subsection (c) must be met.

~~[Before the commissioner removes an electronic textbook or instructional material from the updated list, the removal must be recommended by a panel of recognized experts in the subject area of the electronic textbook or instructional material and experts in education technology.]~~

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

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

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

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

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

(3) include appropriate training for teachers.

(e) The commissioner shall update, as necessary, the list adopted under Subsection (a). Before the commissioner places ~~[an electronic textbook or instructional]~~ material on the updated list, the requirements of Subsection (c) must be met.

The State Board of Education may, in the manner provided by Subsection (c), review and comment on material placed on the updated list.

~~[Before the commissioner removes an electronic textbook or instructional material from the updated list, the removal must be recommended by a panel of recognized experts in the subject area of the electronic textbook or instructional material and experts in education technology.]~~

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

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

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knowledge or information.

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

- (1) be consistent with Section 31.151 regarding the duties of publishers and manufacturers, as appropriate, and the imposition of a reasonable administrative penalty; and
- (2) require public notice of an opportunity for the submission of ~~[an electronic textbook or instructional]~~ material.

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

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

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

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

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

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knowledge or information.

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

- (1) be consistent with Section 31.151 regarding the duties of publishers and manufacturers, as appropriate, and the imposition of a reasonable administrative penalty; and
- (2) require public notice of an opportunity for the submission of ~~[an electronic textbook or instructional]~~ material. [FA8,FA1,3rd(1),(2)]

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

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

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

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

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

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

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

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

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

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

(2) the eligible institution identifies each contributing author;

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

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

(A) for instructional material ~~[a textbook]~~ for a senior-level course, a student who successfully completes a course based on the instructional material ~~[textbook]~~ will be prepared, without remediation, for entry into the eligible institution's

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SECTION 29. Same as House version.

SECTION 30. Subsections (b) and (c), Section 31.0241, Education Code, are amended to read as follows:

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

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

(2) the eligible institution identifies each contributing author;

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

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

(A) for instructional material ~~[a textbook]~~ for a senior-level course, a student who successfully completes a course based on the instructional material ~~[textbook]~~ will be prepared, without remediation, for entry into the eligible institution's

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freshman-level course in that subject; or
(B) for instructional material [~~a textbook~~] for a junior-level and senior-level course, a student who successfully completes the junior-level course based on the instructional material [~~textbook~~] will be prepared for entry into the senior-level course.

(c) This section does not prohibit an eligible institution from submitting instructional material [~~a textbook~~] for placement on the [a conforming or nonconforming] list adopted under Section 31.023 through any other adoption process provided by this chapter.

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

Sec. 31.026. CONTRACT; PRICE. (a) The State Board of Education shall execute a contract[:

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

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

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

(c) As applicable, a contract must provide for the purchase or licensing of instructional material [~~a textbook~~] at a specific price, which may not exceed the lowest price paid by any

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freshman-level course in that subject; or
(B) for instructional material [~~a textbook~~] for a junior-level and senior-level course, a student who successfully completes the junior-level course based on the instructional material [~~textbook~~] will be prepared for entry into the senior-level course; and

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

(c) This section does not prohibit an eligible institution from submitting instructional material [~~a textbook~~] for placement on a conforming or nonconforming list through any other adoption process provided by this chapter. [FA2,3rd]

SECTION 31. Same as House version.

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other state or any school or school district. The price must be fixed for the term of the contract.

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

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

Sec. 31.0261. CONTRACTS FOR PRINTING OF OPEN-SOURCE INSTRUCTIONAL MATERIALS ~~[TEXTBOOKS]~~. The State Board of Education may execute a contract for the printing of ~~[an]~~ open-source instructional materials placed ~~[textbook listed]~~ on the ~~[conforming or nonconforming]~~ list adopted under Section 31.023. The contract must allow a school district to requisition printed copies of ~~[an]~~ open-source instructional materials ~~[textbook]~~ as provided by Section 31.103.

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

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

(b) A publisher shall provide at least two sample copies in digital format of each submitted instructional material ~~[adopted textbook]~~ to be maintained at each regional

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

Sec. 31.0261. CONTRACTS FOR PRINTING OF OPEN-SOURCE INSTRUCTIONAL MATERIALS ~~[TEXTBOOKS]~~. The State Board of Education may execute a contract for the printing of ~~[an]~~ open-source instructional materials [textbook] listed on the conforming or nonconforming list. The contract must allow a school district to requisition printed copies of ~~[an]~~ open-source instructional materials ~~[textbook]~~ as provided by Section 31.103.

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

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

(b) A publisher shall provide an electronic [at least two] sample [copies] of each submitted instructional material ~~[adopted textbook]~~ to be maintained at each regional

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education service center.

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

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

Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS ~~[TEXTBOOKS]~~. (a) The commissioner ~~[State Board of Education]~~ may purchase special instructional materials ~~textbooks~~ for the education of blind and visually impaired students in public schools. In addition, for a teacher who is blind or visually impaired, the commissioner ~~board~~ shall provide a teacher's edition in Braille or large type, as requested by the teacher, for each instructional material ~~textbook~~ the teacher uses in the instruction of students. The teacher edition must be available at the same time the student instructional materials ~~textbooks~~ become available.

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

(c) The commissioner ~~board~~ may also enter into agreements providing for the acceptance, requisition, and distribution of special instructional materials ~~textbooks~~ and instructional aids pursuant to 20 U.S.C. Section 101 et seq. for use by

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education service center.

(c) ~~(d)~~ This section does not apply to ~~an~~ open-source instructional material ~~textbook~~. [FA7(3)-(5)]

SECTION 34. Same as House version.

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students enrolled in:

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

(d) In this section:

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

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

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

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

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

SECTION 35. Same as House version.

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

Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The State Board of Education shall adopt rules to ensure that used instructional materials [~~textbooks~~] sold to school districts and open-enrollment charter schools

SECTION 36. Same as House version.

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are not sample copies that contain factual errors. The rules may provide for the imposition of an administrative penalty in accordance with Section 31.151 against a seller of used instructional materials [textbooks] who knowingly violates this section.

SECTION 37. The heading to Section 31.035, Education Code, is amended to read as follows:
Sec. 31.035. SUPPLEMENTAL INSTRUCTIONAL MATERIALS [TEXTBOOKS].

SECTION 38. Sections 31.035(a), (b), (c), (d), and (f), Education Code, are amended to read as follows:
(a) Notwithstanding any other provision of this subchapter, the State Board of Education may adopt supplemental instructional materials [textbooks] that are not on the conforming or nonconforming list adopted under Section 31.023. The State Board of Education may adopt [a] supplemental instructional material [textbook] under this section only if the instructional material [textbook]:
(1) contains material covering one or more primary focal points or primary topics of a subject in the required curriculum under Section 28.002, as determined by the State Board of Education;
(2) is not designed to serve as the sole instructional material [textbook] for a full course;
(3) meets applicable physical specifications adopted by the State Board of Education; and
(4) is free from factual errors.
(b) The State Board of Education shall identify the essential

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SECTION 37. Same as House version.

SECTION 38. Subsections (a) through (d) and (f), Section 31.035, Education Code, are amended to read as follows:
(a) Notwithstanding any other provision of this subchapter, the State Board of Education may adopt supplemental instructional materials [textbooks] that are not on the conforming or nonconforming list under Section 31.023. The State Board of Education may adopt [a] supplemental instructional material [textbook] under this section only if the instructional material [textbook]:
(1) contains material covering one or more primary focal points or primary topics of a subject in the required curriculum under Section 28.002, as determined by the State Board of Education;
(2) is not designed to serve as the sole instructional material [textbook] for a full course;
(3) meets applicable physical specifications adopted by the State Board of Education; and
(4) is free from factual errors.
(b) The State Board of Education shall identify the essential

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knowledge and skills identified under Section 28.002 that are covered by [a] supplemental instructional material [textbook] adopted by the board under this section.

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

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

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

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

requisitions the supplemental instructional material [textbook] along with other supplemental instructional materials [textbooks] or instructional materials [textbooks] on the nonconforming list adopted under Section 31.023 that in combination cover each element of the essential knowledge and skills for the course for which the district or school is requisitioning the supplemental instructional materials [textbooks].

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

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knowledge and skills identified under Section 28.002 that are covered by [a] supplemental instructional material [textbook] adopted by the board under this section.

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

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

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

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

requisitions the supplemental instructional material [textbook] along with other supplemental instructional materials [textbooks] or instructional materials [textbooks] on the nonconforming list under Section 31.023 that in combination cover each element of the essential knowledge and skills for the course for which the district or school is requisitioning the supplemental instructional materials [textbooks].

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

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or school is requisitioning the supplemental instructional materials [textbooks].

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

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

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

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

(b) The commissioner:

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

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

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

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

(1) in accordance with the instructional material [textbook]

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or school is requisitioning the supplemental instructional materials [textbooks].

SECTION 39. Same as House version.

SECTION 40. Same as House version.

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review and adoption cycle under Section 31.022; or
(2) at any other time the commissioner determines that a need exists for additional instructional material [~~textbook~~] options.
(e) The costs of administering this subchapter and purchasing state-developed open-source instructional materials [~~textbooks~~] shall be paid from the state instructional materials [~~textbook~~] fund, as determined by the commissioner and subject to Section 31.021.

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

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

- (1) be evaluated by teachers or other experts, as determined by the commissioner, before purchase; and
- (2) meet the requirements for inclusion on the instructional material [~~a conforming or nonconforming textbook~~] list adopted under Section 31.023.

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

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SECTION 41. Subsections (a) and (b), Section 31.072, Education Code, are amended to read as follows:

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

- (1) be evaluated by teachers or other experts, as determined by the commissioner, before purchase; and
- (2) meet the requirements for inclusion on a conforming or nonconforming instructional material [~~textbook~~] list under Section 31.023.

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

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

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

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

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

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

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

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

(b) The commissioner may use a competitive process to contract for printing or other reproduction of [a] state-developed open-source instructional material [~~textbook~~] on

SECTION 42. Same as House version.

SECTION 43. Same as House version except for recitation.

SECTION 44. Same as House version.

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behalf of a school district or open-enrollment charter school. The commissioner may not require a school district or open-enrollment charter school to contract with a state-approved provider for the printing or reproduction of [a] state-developed open-source instructional material [~~textbook~~].

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

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

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

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

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

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

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SECTION 45. Same as House version.

SECTION 46. Same as House version except for recitation.

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be appealed.

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

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

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

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

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

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

- (a) Each year, during a period established by the State Board of Education, the board of trustees of each school district and the governing body of each open-enrollment charter school shall:
- (1) for a subject in the foundation curriculum, notify the State

SECTION 47. Same as House version.

SECTION 48. Same as House version.

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

- (a) Each year, during a period established by the State Board of Education, the board of trustees of each school district and the governing body of each open-enrollment charter school shall:
- (1) for a subject in the foundation curriculum, notify the State

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Board of Education of the instructional materials [~~textbooks~~] selected by the board of trustees or governing body for the following school year from among the instructional materials [~~textbooks on the appropriate conforming or nonconforming~~] list, including the list adopted under Section 31.0231; or

(2) for a subject in the enrichment curriculum:

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

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

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

(e) A school district or open-enrollment charter school that selects [a] subscription-based [~~electronic textbook or~~] instructional material on the conforming list adopted under Section 31.023 or electronic instructional material on the list adopted by the commissioner under Section 31.0231 may cancel the subscription and subscribe to [a] new [~~electronic textbook or~~] instructional material on the conforming list adopted under Section 31.023 or electronic instructional

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Board of Education of the instructional materials [~~textbooks~~] selected by the board of trustees or governing body for the following school year from among the instructional materials [~~textbooks~~] on the appropriate conforming or nonconforming list, including the list adopted under Section 31.0231; or

(2) for a subject in the enrichment curriculum:

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

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

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

(e) A school district or open-enrollment charter school that selects [a] subscription-based [~~electronic textbook or~~] instructional material on the conforming list under Section 31.023 or electronic instructional material on the list adopted by the commissioner under Section 31.0231 may cancel the subscription and subscribe to [a] new [~~electronic textbook or~~] instructional material on the conforming list under Section 31.023 or electronic instructional material on the list adopted

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material on the list adopted by the commissioner under Section 31.0231 before the end of the state contract period under Section 31.026 if:

- (1) the district or school has used the ~~[electronic textbook or]~~ instructional material for at least one school year; and
- (2) the agency approves the change based on a written request to the agency by the district or school that specifies the reasons for changing the ~~[electronic textbook or]~~ instructional material used by the district or school.

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

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

Sec. 31.102. TITLE AND CUSTODY. (a) Each instructional material [textbook] purchased as provided by this chapter for a school district or an open-enrollment charter school is the property of the district or school [this state].

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

(c) The board of trustees of a school district or the governing body of an open-enrollment charter school [is the legal custodian of textbooks purchased as provided by this chapter for the district or school. The board of trustees] shall distribute printed instructional material [textbooks] to students

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by the commissioner under Section 31.0231 before the end of the state contract period under Section 31.026 if:

- (1) the district or school has used the ~~[electronic textbook or]~~ instructional material for at least one school year; and
- (2) the agency approves the change based on a written request to the agency by the district or school that specifies the reasons for changing the ~~[electronic textbook or]~~ instructional material used by the district or school.

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

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

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

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

(c) The board of trustees of a school district or the governing body of an open-enrollment charter school is the legal custodian of printed instructional materials [textbooks] purchased as provided by this chapter for the district or school. The board of trustees shall distribute printed

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in the manner that the board or governing body determines is most effective and economical.

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

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

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

(b) ~~[A requisition for textbooks for the following school year shall be based on the maximum attendance reports under Subsection (a), plus an additional 10 percent, except as otherwise provided.]~~ A school district or open-enrollment charter school shall make a requisition for instructional material using the online requisition program maintained by ~~[a textbook on the conforming or nonconforming list through]~~ the commissioner ~~[to the state depository designated by the publisher or as provided by State Board of Education rule, as applicable,]~~ not later than June 1 of each year. The ~~[designated state depository or, if the publisher or manufacturer does not have a designated textbook depository in this state under Section 31.151(a)(6)(B), the]~~ publisher or manufacturer shall fill a requisition approved by the agency

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instructional materials ~~[textbooks]~~ to students in the manner that the board or governing body determines is most effective and economical.

(d) Printed instructional material purchased with a school district's instructional materials allotment becomes the property of the district on the date the printed instructional material is discontinued for use in the public schools by the State Board of Education or the commissioner.

SECTION 51. Same as House version.

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

(b) ~~[A requisition for textbooks for the following school year shall be based on the maximum attendance reports under Subsection (a), plus an additional 10 percent, except as otherwise provided.]~~ A school district or open-enrollment charter school shall make a requisition for instructional material using the online requisition program maintained by ~~[a textbook on the conforming or nonconforming list through]~~ the commissioner ~~[to the state depository designated by the publisher or as provided by State Board of Education rule, as applicable,]~~ not later than June 1 of each year. The ~~[designated state depository or, if the publisher or manufacturer does not have a designated textbook depository in this state under Section 31.151(a)(6)(B), the]~~ publisher or manufacturer shall fill a requisition approved by the agency

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~~[at any other time in the case of an emergency]. [As made necessary by available funds, the commissioner shall reduce the additional percentage of attendance for which a district or school may requisition textbooks. The commissioner may, on application of a district or school that is experiencing high enrollment growth, increase the additional percentage of attendance for which the district or school may requisition textbooks.]~~

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

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

- (1) electronic access to the instructional material ~~[textbook]~~ at no cost to the student; or
- (2) printed copies of the portion of the instructional material ~~[textbook]~~ that will be used in the course.

No equivalent provision.

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~~[at any other time in the case of an emergency]. [As made necessary by available funds, the commissioner shall reduce the additional percentage of attendance for which a district or school may requisition textbooks. The commissioner may, on application of a district or school that is experiencing high enrollment growth, increase the additional percentage of attendance for which the district or school may requisition textbooks.]~~

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

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

- (1) electronic access to the instructional material ~~[textbook]~~ at no cost to the student; or
- (2) printed copies of the portion of the instructional material ~~[textbook]~~ that will be used in the course.

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

Sec. 31.1031. SHORTAGE OF REQUISITIONED PRINTED INSTRUCTIONAL MATERIALS

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[~~TEXTBOOKS~~]. If a school district or open-enrollment charter school does not have a sufficient number of copies of printed instructional materials [~~a textbook~~] used by the district or school for use during the following school year, and a sufficient number of additional copies will not be available from the [~~depository or the~~] publisher within the time specified by Section 31.151(a)(8), the district or school is entitled to[:

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

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

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

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

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

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

~~[(2)] the [~~textbook~~] publisher of the instructional materials or~~

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

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

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

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

~~[(2)] the [~~textbook~~] publisher of the instructional materials or~~

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~~[manufacturer if the textbook publisher or manufacturer does not have a designated textbook depository in this state under Section 31.151(a)(6)(B); or~~

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

(c) ~~Each textbook must state that the textbook is the property of or is licensed to this state, as appropriate. Each textbook, other than an electronic textbook or a printed copy of an open-source textbook, must be covered by the student under the direction of the teacher.~~

Except as provided by Subsection (g), a student must return all instructional materials ~~[textbooks]~~ to the teacher at the end of the school year or when the student withdraws from school.

(d) Each student, or the student's parent or guardian, is responsible for all instructional materials ~~[each textbook, including an electronic textbook,]~~ and [all] technological equipment not returned in an acceptable condition by the student. Except as provided by Subsection (d-1).

a [A] student who fails to return in an acceptable condition all instructional materials [textbooks, including electronic textbooks,] and technological equipment forfeits the right to free instructional materials [textbooks, including electronic textbooks,] and technological equipment until all instructional materials [each textbook, including an electronic textbook,] and [all] technological equipment previously issued but not returned in an acceptable condition are [is] paid for by the student, parent, or guardian. As provided by policy of the board of trustees or governing body, a school district or open-enrollment charter school may waive or reduce the payment requirement if the student is from a low-income family. The

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~~[manufacturer if the textbook publisher or manufacturer does not have a designated textbook depository in this state under Section 31.151(a)(6)(B); or~~

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

(c) Each instructional material [textbook] must state that the instructional material [textbook] is the property of or is licensed to this state or the school district, as appropriate. Each instructional material [textbook], other than [an] electronic instructional material [textbook] or a printed copy of [an] open-source instructional material [textbook], must be covered by the student under the direction of the teacher.

Except as provided by Subsection (g), a student must return all instructional materials ~~[textbooks]~~ to the teacher at the end of the school year or when the student withdraws from school.

(d) Each student, or the student's parent or guardian, is responsible for all instructional materials ~~[each textbook, including an electronic textbook,]~~ and [all] technological equipment not returned in an acceptable condition by the student.

A student who fails to return in an acceptable condition all instructional materials [textbooks, including electronic textbooks,] and technological equipment forfeits the right to free instructional materials [textbooks, including electronic textbooks,] and technological equipment until all instructional materials [each textbook, including an electronic textbook,] and [all] technological equipment previously issued but not returned in an acceptable condition are [is] paid for by the student, parent, or guardian. As provided by policy of the board of trustees or governing body, a school district or open-enrollment charter school may waive or reduce the payment requirement if the student is from a low-income family. The

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district or school shall allow the student to use instructional materials [textbooks, including electronic textbooks,] and technological equipment at school during each school day. If instructional materials [a textbook, including an electronic textbook,] or technological equipment is not returned in an acceptable condition or paid for, the district or school may withhold the student's records. A district or school may not, under this subsection, prevent a student from graduating, participating in a graduation ceremony, or receiving a diploma. The commissioner by rule shall adopt criteria for determining whether instructional materials [a textbook, including an electronic textbook,] and technological equipment are returned in an acceptable condition.

(d-1) A school district may require the payment of a fee by a student in the district to cover the cost of insuring technological equipment issued to the student. The fee may not exceed the amount necessary to cover the cost of insurance on lost, damaged, or stolen technological equipment. A district charging a fee under this subsection shall adopt a policy to waive or reduce the fee of a student who is from a low-income family. A student assessed a fee under this subsection may not be held financially responsible for any loss of or damage to technological equipment in the student's possession.

(e) The board of trustees of a school district may not require an employee of the district who acts in good faith to pay for instructional materials [a textbook, electronic textbook,] or technological equipment that is damaged, stolen, misplaced, or not returned, unless the instructional materials or technological equipment is damaged, stolen, misplaced, or not returned due to an intentional act of the employee.

A school district employee may not waive this provision by

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district or school shall allow the student to use instructional materials [textbooks, including electronic textbooks,] and technological equipment at school during each school day. If instructional materials [a textbook, including an electronic textbook,] or technological equipment is not returned in an acceptable condition or paid for, the district or school may withhold the student's records. A district or school may not, under this subsection, prevent a student from graduating, participating in a graduation ceremony, or receiving a diploma. The commissioner by rule shall adopt criteria for determining whether instructional materials [a textbook, including an electronic textbook,] and technological equipment are returned in an acceptable condition.

(e) The board of trustees of a school district may not require an employee of the district who acts in good faith to pay for instructional materials [a textbook, electronic textbook,] or technological equipment that is damaged, stolen, misplaced, or not returned.

A school district employee may not waive this provision by

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contract or any other means, except that a district may enter into a written agreement with a school employee whereby the employee assumes financial responsibility for electronic instructional material ~~[textbook]~~ or technological equipment usage off school property or outside of a school-sponsored event in consideration for the ability of the school employee to use the electronic instructional material ~~[textbook]~~ or technological equipment for personal business. Such a written agreement shall be separate from the employee's contract of employment, if applicable, and shall clearly inform the employee of the amount of the financial responsibility and advise the employee to consider obtaining appropriate insurance. An employee may not be required to agree to such an agreement as a condition of employment.

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

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

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

Sec. 31.105. SALE OR DISPOSAL OF INSTRUCTIONAL MATERIALS AND TECHNOLOGICAL EQUIPMENT ~~[TEXTBOOKS]~~. (a) The board of trustees of a school district or governing body of an open-enrollment charter school may sell printed instructional materials on the date the instructional material is discontinued for use in the public schools by the

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contract or any other means, except that a district may enter into a written agreement with a school employee whereby the employee assumes financial responsibility for electronic instructional material ~~[textbook]~~ or technological equipment usage off school property or outside of a school-sponsored event in consideration for the ability of the school employee to use the electronic instructional material ~~[textbook]~~ or technological equipment for personal business. Such a written agreement shall be separate from the employee's contract of employment, if applicable, and shall clearly inform the employee of the amount of the financial responsibility and advise the employee to consider obtaining appropriate insurance. An employee may not be required to agree to such an agreement as a condition of employment.

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

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

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

Sec. 31.105. SALE OR DISPOSAL OF INSTRUCTIONAL MATERIALS AND TECHNOLOGICAL EQUIPMENT ~~[TEXTBOOKS]~~. (a) The board of trustees of a school district or governing body of an open-enrollment charter school may sell printed instructional materials on the date the instructional material is discontinued for use in the public schools by the

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State Board of Education or the commissioner. The board of trustees or governing body may also sell electronic instructional materials and technological equipment owned by the district or school. Any funds received by a district or school from a sale authorized by this subsection must be used to purchase instructional materials and technological equipment allowed under Section 31.0211 [textbooks, other than electronic textbooks, to a student or another school at the state contract price. The district shall send money from the sale of textbooks to the commissioner as required by the commissioner. The commissioner shall deposit the money in the state textbook fund].

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

(c) The board of trustees of a school district or governing body of an open-enrollment charter school may dispose of printed instructional material before the date the instructional material is discontinued for use in the public schools by the State Board of Education if the board of trustees or governing body determines that the instructional material is not needed by the district or school and the board of trustees or governing body does not reasonably expect that the instructional material will be needed. A district or school must notify the commissioner of any instructional material the district or school disposes of under this subsection.

SECTION 55. Section 31.106, Education Code, is amended to read as follows:

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State Board of Education or the commissioner. The board of trustees or governing body may also sell electronic instructional materials and technological equipment owned by the district or school. Any funds received by a district or school from a sale authorized by this subsection must be used to purchase instructional materials and technological equipment allowed under Section 31.0211 [textbooks, other than electronic textbooks, to a student or another school at the state contract price. The district shall send money from the sale of textbooks to the commissioner as required by the commissioner. The commissioner shall deposit the money in the state textbook fund].

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

(c) The board of trustees of a school district or **the** governing body of an open-enrollment charter school **shall notify the commissioner that the district or school intends to sell or otherwise dispose of instructional material as authorized by this section.**

SECTION 56. Same as House version.

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

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

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

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

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

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

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

(5) may not become associated or connected with, directly or indirectly, any combination in restraint of trade in

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SECTION 57. Subsections (a) and (d), Section 31.151, Education Code, are amended to read as follows:

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

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

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

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

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

(5) may not become associated or connected with, directly or indirectly, any combination in restraint of trade in

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instructional materials [~~textbooks~~] or enter into any understanding or combination to control prices or restrict competition in the sale of instructional materials [~~textbooks~~] for use in this state;

(6) shall[:

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

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

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

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

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

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

(9) shall submit to the State Board of Education an affidavit

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instructional materials [~~textbooks~~] or enter into any understanding or combination to control prices or restrict competition in the sale of instructional materials [~~textbooks~~] for use in this state;

(6) shall[:

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

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

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

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

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

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

(9) shall submit to the State Board of Education an affidavit

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certifying any instructional material [~~textbook~~] the publisher or manufacturer offers in this state to be free of factual errors at the time the publisher executes the contract required by Section 31.026.

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

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

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

Sec. 31.152. ~~ACCEPTING REBATE ON [TEXTBOOKS, ELECTRONIC—TEXTBOOKS,]~~ INSTRUCTIONAL MATERIALS[;] OR TECHNOLOGICAL EQUIPMENT.

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

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

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

- (1) is given to the person or the person's school;
- (2) might reasonably tend to influence a trustee,

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certifying any instructional material [~~textbook~~] the publisher or manufacturer offers in this state to be free of factual errors at the time the publisher executes the contract required by Section 31.026.

(d) A penalty collected under this section shall be deposited to the credit of the state instructional materials [~~textbook~~] fund. [FA10(2)]

SECTION 58. Same as House version.

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

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

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

- (1) is given to the person or the person's school;
- (2) might reasonably tend to influence a trustee,

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administrator, or teacher in the selection of [~~a textbook, electronic textbook,~~] instructional material[;] or technological equipment; and

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

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

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

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

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

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

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

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

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

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

SUBCHAPTER E. TECHNOLOGY LENDING PROGRAM GRANTS

Sec. 32.201. ESTABLISHMENT OF PROGRAM. (a) The

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administrator, or teacher in the selection of [~~a textbook, electronic textbook,~~] instructional material[;] or technological equipment; and

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

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

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

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

SECTION 60. Same as House version.

SECTION 61. Same as House version except for recitation.

No equivalent provision.

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commissioner may establish a grant program under which grants are awarded to school districts and open-enrollment charter schools to implement a technology lending program to provide students access to equipment necessary to use electronic instructional materials.

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

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

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

(c) The commissioner may determine the terms of a grant awarded under this section, including limits on the grant amount and approved uses of grant funds.

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

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

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

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

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

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

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

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

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

SECTION 64. Section 43.001(b), Education Code, as amended by Chapters 201 (H.B. 3459) and 328 (S.B. 206), Acts of the 78th Legislature, Regular Session, 2003, is reenacted to read as follows:

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SECTION 62. Same as House version except for recitation.

SECTION 63. Same as House version except for recitation.

SECTION 64. Same as House version.

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

- (1) the distributions to the fund from the permanent school fund as provided by Section 5(a), Article VII, Texas Constitution;
- (2) one-fourth of all revenue derived from all state occupation taxes, exclusive of delinquencies and cost of collection;
- (3) one-fourth of revenue derived from state gasoline and special fuels excise taxes as provided by law; and
- (4) all other appropriations to the available school fund made by the legislature for public school purposes.

No equivalent provision.

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SECTION __. Section 42.302(a), Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$$GYA = (GL \times WADA \times DTR \times 100) - LR$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is an amount described by Subsection (a-1) or a greater amount for any year provided by appropriation;

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the

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school district's allotments under Subchapters B and C, less any allotment to the district for transportation, any allotment under Section 42.158~~[-42.159,]~~ or 42.160, and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of maintenance and operations taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100. [FA2]

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

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

SECTION 65. Section 43.001, Education Code, is amended by adding Subsections (d) through (g) to read as follows:

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

(e) Subsection (d) applies beginning with the state fiscal biennium beginning September 1, 2013. For the state fiscal

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(e) In calculating the amounts to be set aside as provided by Subsection (d) for the state fiscal biennium beginning September 1, 2011, the State Board of Education shall consider only the amounts of the annual distribution of the permanent school fund for that biennium. The board shall not consider amounts distributed for the state fiscal biennium beginning September 1, 2009, regardless of the date on which those amounts were approved for distribution. This subsection expires September 1, 2014.

No equivalent provision

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biennium beginning September 1, 2011, each year the State Board of Education shall set aside an amount equal to 40 percent of the annual distribution for that year from the permanent school fund to the available school fund as provided by Section 5(a), Article VII, Texas Constitution, to be placed, subject to the General Appropriations Act, in the state instructional materials fund established under Section 31.021.

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

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

SECTION __. Section 44.031, Education Code, is amended by adding Subsection (n) to read as follows:

(n) A school district contract to which Subsection (a) applies under which the district contracts with another entity for that entity to manage or otherwise provide food services at one or more district schools must require that any other contract the entity makes in performance of its duties under the contract with the district and to which Subsection (a) would apply if the district were making the contract be made:

(1) under the method listed by Subsection (a) that provides the best value to the entity and the district;

(2) with consideration of the factors specified under

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Subsection (b) and, as applicable, under Subsection (b-1), in determining to whom to award the contract; and (3) as provided by Subsection (g). [FA11]

No equivalent provision.

SECTION __. Section 44.031(n), Education Code, as added by this Act, applies only to a contract entered into on or after the effective date of this Act by a school district with another entity for that entity to manage or otherwise provide food services at one or more district schools. A contract entered into before the effective date of this Act by a school district with another entity for that entity to manage or otherwise provide food services at one or more district schools is governed by the law in effect on the date the contract was entered into, and that law is continued in effect for that purpose. [FA11]

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

- (1) Section 7.108(c)(2);
- (2) Section 31.002(3);
- (3) Sections 31.021(b), (e), and (f);
- (4) Section 31.0222;
- (5) Section 31.025;
- (6) Sections 31.035(e) and (g);
- (7) Section 31.072(c);
- (8) Sections 31.073(a) and (b);
- (9) Sections 31.101(b), (b-1), (c), and (c-1);
- (10) Section 31.1011;
- (11) Sections 31.103(a) and (e);
- (12) Section 31.1031;

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

- (1) Subdivision (3), Section 31.002;
- (2) Subsections (b), (e), and (f), Section 31.021;
- (3) Subsection (d), Section 31.022;
- (4) Section 31.0222;
- (5) Section 31.025;
- (6) Subsections (e) and (g), Section 31.035;
- (7) Subsection (c), Section 31.072;
- (8) Subsections (a) and (b), Section 31.073;
- (9) Subsections (b), (b-1), (c), and (c-1), Section 31.101;
- (10) Section 31.1011;
- (11) Subsections (a) and (e), Section 31.103;

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- (13) Subchapter E, Chapter 31;
- (14) Section 32.005;
- (15) Sections 32.251 through 32.257;
- (16) Sections 32.259 through 32.263; and
- (17) Subchapter H, Chapter 32.

SECTION 67. Sections 2175.128(a-1) and (b-1), Government Code, are repealed.

No equivalent provision.

SECTION 68. The change in law made by this Act to Section 7.108, Education Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 69. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

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- (12) Subchapter E, Chapter 31;
- (13) Section 32.005;
- (14) Sections 32.251 through 32.257; and
- (15) Sections 32.259 through 32.263.

No equivalent provision.

SECTION __. Section 42.159, Education Code, is repealed.
[FA2]

No equivalent provision.

No equivalent provision.

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SECTION 70. This Act takes effect September 1, 2011.

No equivalent provision.

No equivalent provision.

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SECTION 67. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011. [FA3]

SECTION __. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.135 to read as follows:
Sec. 12.135. DESIGNATION AS CHARTER DISTRICT FOR PURPOSES OF BOND GUARANTEE. (a) On the application of the charter holder, the commissioner may grant designation as a charter district to an open-enrollment charter school that meets financial standards adopted by the commissioner. The financial standards must require an open-enrollment charter school to have an investment grade credit rating as specified by Section 45.0541.
(b) A charter district may apply for bonds issued under Chapter 53 for the open-enrollment charter school to be guaranteed by the permanent school fund as provided by Chapter 45. [FA4]

SECTION __. Section 45.051, Education Code, is amended by adding Subdivision (1-a) and amending Subdivision (2) to read as follows:
(1-a) "Charter district" means an open-enrollment charter school designated as a charter district under Section 12.135.
(2) "Paying agent" means the financial institution that is designated by a school district or charter district as its agent for the payment of the principal of and interest on guaranteed

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bonds. [FA4]

No equivalent provision.

SECTION __. Section 45.052, Education Code, is amended to read as follows:

Sec. 45.052. GUARANTEE. (a) On approval by the commissioner, bonds issued under Subchapter A by a school district or Chapter 53 for a charter district, including refunding bonds, are guaranteed by the corpus and income of the permanent school fund.

(b) Notwithstanding any amendment of this subchapter or other law, the guarantee under this subchapter of school district or charter district bonds remains in effect until the date those bonds mature or are defeased in accordance with state law. [FA4]

No equivalent provision.

SECTION __. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0532 to read as follows:

Sec. 45.0532. LIMITATION ON GUARANTEE OF CHARTER DISTRICT BONDS. (a) In addition to the general limitation under Section 45.053, the commissioner may not approve charter district bonds for guarantee under this subchapter in a total amount that exceeds the percentage of the total available capacity of the guaranteed bond program that is equal to the percentage of the number of students enrolled in open-enrollment charter schools in this state compared to the total number of students enrolled in all public schools in this state, as determined by the commissioner.

(b) For purposes of Subsection (a), the total available capacity of the guaranteed bond program is the limit established by the board under Sections 45.053(d) and

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45.0531 minus the total amount of outstanding guaranteed bonds. Each time the board increases the limit under Section 45.053(d), the total amount of charter district bonds that may be guaranteed increases accordingly under Subsection (a).

(c) Notwithstanding Subsections (a) and (b), the commissioner may not approve charter district bonds for guarantee under this subchapter if the guarantee will result in lower bond ratings for school district bonds for which a guarantee is requested under this subchapter.

(d) The commissioner may request that the comptroller place the portion of the permanent school fund committed to the guarantee of charter district bonds in a segregated account if the commissioner determines that a separate account is needed to avoid any negative impact on the bond ratings of school district bonds for which a guarantee is requested under this subchapter.

(e) A guarantee of charter district bonds must be made in accordance with this chapter and any applicable federal law.
[FA4]

No equivalent provision.

SECTION __. Section 45.054, Education Code, is amended to read as follows:

Sec. 45.054. ELIGIBILITY OF SCHOOL DISTRICT BONDS. To be eligible for approval by the commissioner, school district bonds must be issued under Subchapter A of this chapter or under Subchapter A, Chapter 1207, Government Code, to make a deposit under Subchapter B or C of that chapter, by an accredited school district. [FA4]

No equivalent provision.

SECTION __. Subchapter C, Chapter 45, Education Code, is

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amended by adding Section 45.0541 to read as follows:
Sec. 45.0541. ELIGIBILITY OF CHARTER DISTRICT BONDS. To be eligible for approval by the commissioner, charter district bonds must:
(1) without the guarantee, be rated as investment grade by a nationally recognized investment rating firm; and
(2) be issued under Chapter 53. [FA4]

No equivalent provision.

SECTION __. Subsections (a) and (b), Section 45.055, Education Code, are amended to read as follows:
(a) A school district or charter district seeking guarantee of eligible bonds under this subchapter shall apply to the commissioner using a form adopted by the commissioner for the purpose. The commissioner may adopt a single form on which a school district seeking guarantee or credit enhancement of eligible bonds may apply simultaneously first for guarantee under this subchapter and then, if that guarantee is rejected, for credit enhancement under Subchapter I.
(b) An application under Subsection (a) must include:
(1) the name of the school district or charter district and the principal amount of the bonds to be issued;
(2) the name and address of the district's paying agent for those bonds; and
(3) the maturity schedule, estimated interest rate, and date of the bonds. [FA4]

No equivalent provision.

SECTION __. Section 45.056, Education Code, is amended to read as follows:
Sec. 45.056. INVESTIGATION. (a) Following receipt of an application for the guarantee of bonds, the commissioner shall

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conduct an investigation of the applicant school district or charter district in regard to:

- (1) the status of the district's accreditation; and
 - (2) the total amount of outstanding guaranteed bonds.
- (b) If following the investigation the commissioner is satisfied that the school district's bonds should be guaranteed under this subchapter or provided credit enhancement under Subchapter I, as applicable, or the charter district's bonds should be guaranteed under this subchapter, the commissioner shall endorse the bonds. [FA4]

No equivalent provision.

SECTION __. Subsection (b), Section 45.057, Education Code, is amended to read as follows:

- (b) The guarantee is not effective unless the attorney general approves the bonds under Section 45.005 or 53.40, as applicable. [FA4]

No equivalent provision.

SECTION __. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0571 to read as follows:

Sec. 45.0571. CHARTER DISTRICT BOND GUARANTEE RESERVE FUND. (a) The charter district bond guarantee reserve fund is a special fund in the state treasury outside the general revenue fund. The following amounts shall be deposited in the fund:

- (1) money due from a charter district as provided by Subsection (b); and
- (2) interest earned on balances in the fund.

(b) A charter district that has a bond guaranteed as provided by this subchapter must annually remit to the commissioner, for deposit in the charter district bond guarantee reserve fund,

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an amount equal to 10 percent of the savings to the charter district that is a result of the lower interest rate on the bond due to the guarantee by the permanent school fund. The amount due under this section shall be amortized and paid over the duration of the bond. Each payment is due on the anniversary of the date the bond was issued. The commissioner shall adopt rules to determine the total and annual amounts due under this section.

(c) The commissioner may direct the comptroller to annually withhold the amount due to the charter district bond guarantee reserve fund under Subsection (b) for that year from the state funds otherwise payable to the charter district.

(d) Each year, the commissioner shall:

(1) review the condition of the bond guarantee program and the amount that must be deposited in the charter district bond guarantee reserve fund from charter districts; and

(2) determine if charter districts should be required to submit a greater percentage of the savings resulting from the guarantee.

(e) The commissioner shall make recommendations to the legislature based on the review under Subsection (d). [FA4]

No equivalent provision.

SECTION __. Section 45.058, Education Code, is amended to read as follows:

Sec. 45.058. NOTICE OF DEFAULT. Immediately following a determination that a school district or charter district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, but not later than the fifth day before maturity date, the school district or charter district shall notify the commissioner. [FA4]

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No equivalent provision.

SECTION __. The heading to Section 45.059, Education Code, is amended to read as follows:

Sec. 45.059. PAYMENT OF SCHOOL DISTRICT BOND ON DEFAULT [~~FROM PERMANENT SCHOOL FUND~~]. [FA4]

No equivalent provision.

SECTION __. Subsection (a), Section 45.059, Education Code, is amended to read as follows:

(a) Immediately following receipt of notice under Section 45.058 that a school district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, the commissioner shall instruct the comptroller to transfer from the appropriate account in the permanent school fund to the district's paying agent the amount necessary to pay the maturing or matured principal or interest. [FA4]

No equivalent provision.

SECTION __. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0591 to read as follows:

Sec. 45.0591. PAYMENT OF CHARTER DISTRICT BOND ON DEFAULT. (a) Immediately following receipt of notice under Section 45.058 that a charter district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, the commissioner shall instruct the comptroller to transfer from the charter district bond guarantee reserve fund created under Section 45.0571 to the district's paying agent the amount necessary to pay the maturing or matured principal or interest.

(b) If money in the charter district bond guarantee reserve fund is insufficient to pay the amount due on a bond under Subsection (a), the commissioner shall instruct the comptroller

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to transfer from the appropriate account in the permanent school fund to the district's paying agent the amount necessary to pay the balance of the unpaid maturing or matured principal or interest.

(c) Immediately following receipt of the funds for payment of the principal or interest, the paying agent shall pay the amount due and forward the canceled bond or coupon to the comptroller. The comptroller shall hold the canceled bond or coupon on behalf of the fund or funds from which payment was made.

(d) Following full reimbursement to the charter district bond guarantee reserve fund and the permanent school fund, if applicable, with interest, the comptroller shall further cancel the bond or coupon and forward it to the charter district for which payment was made. [FA4]

No equivalent provision.

SECTION __. Section 45.060, Education Code, is amended to read as follows:

Sec. 45.060. BONDS NOT ACCELERATED ON DEFAULT. If a school district or charter district fails to pay principal or interest on a guaranteed bond when it matures, other amounts not yet mature are not accelerated and do not become due by virtue of the school district's or charter district's default. [FA4]

No equivalent provision.

SECTION __. The heading to Section 45.061, Education Code, is amended to read as follows:

Sec. 45.061. REIMBURSEMENT OF FUNDS [~~PERMANENT SCHOOL FUND~~]. [FA4]

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No equivalent provision.

SECTION __. Section 45.061, Education Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) If the commissioner orders payment from the permanent school fund or the charter district bond guarantee reserve fund on behalf of a school district or charter district, the commissioner shall direct the comptroller to withhold the amount paid, plus interest, from the first state money payable to the school district or charter district. Except as provided by Subsection (a-1), the [The] amount withheld shall be deposited to the credit of the permanent school fund.

(a-1) After the permanent school fund has been reimbursed for all money paid from the fund as the result of a default of a charter district bond guaranteed under this subchapter, any remaining amounts withheld under Subsection (a) shall be deposited to the credit of the charter district bond guarantee reserve fund.

(b) In accordance with the rules of the board, the commissioner may authorize reimbursement to the permanent school fund or charter district bond guarantee reserve fund with interest in a manner other than that provided by this section. [FA4]

No equivalent provision.

SECTION __. Section 45.062, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) If a total of two or more payments are made under this subchapter on charter district bonds and the commissioner determines that the charter district is acting in bad faith under the guarantee program under this subchapter, the commissioner may request the attorney general to institute appropriate legal action to compel the charter district and its

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officers, agents, and employees to comply with the duties required of them by law in regard to the bonds. [FA4]

No equivalent provision.

SECTION __. Subdivision (10), Section 53.02, Education Code, is amended to read as follows:
(10) "Authorized charter school" means an open-enrollment charter school that holds a charter granted under Subchapter D, Chapter 12, and includes an open-enrollment charter school designated as a charter district as provided by Section 12.135.
[FA4]

No equivalent provision.

SECTION __. Section 53.351, Education Code, is amended by amending Subsection (f) and adding Subsection (f-1) to read as follows:
(f) Except as provided by Subsection (f-1), a [A] revenue bond issued under this section is not a debt of the state or any state agency, political corporation, or political subdivision of the state and is not a pledge of the faith and credit of any of these entities. A revenue bond is payable solely from the revenue of the authorized open-enrollment charter school on whose behalf the bond is issued. A revenue bond issued under this section must contain on its face a statement to the effect that:
(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the bond; and
(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the bond.

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(f-1) Subsection (f) does not apply to a revenue bond issued under this section for a charter district if the bond is approved for guarantee by the permanent school fund under Subchapter C, Chapter 45. [FA4]

No equivalent provision.

SECTION __. The changes in law made by this Act relating to a charter district and the guarantee of a charter district's bonds apply only to a bond issued or refunded on or after the effective date of this Act by an open-enrollment charter school designated as a charter district under Section 12.135, Education Code, as added by this Act. A bond issued or refunded by an open-enrollment charter school before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose. [FA4]

No equivalent provision.

SECTION __. Section 28.0216, Education Code, is amended to read as follows:
Sec. 28.0216. DISTRICT GRADING POLICY. (a) Before each school year, a [A] school district shall adopt a grading policy, including provisions for the assignment of grades on class assignments and examinations and the calculation of cumulative averages of grades[, before each school year]. A district grading policy:
(1) must require a [classroom] teacher to assign a grade that reflects the student's relative mastery of the subject without employing grade inflation or misrepresenting a student's deserved grade [an assignment];
(2) may not require a [classroom] teacher to assign a

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minimum grade [~~for an assignment~~] without regard to the student's quality of work; and

(3) may allow a student a reasonable opportunity to make up or redo a class assignment or examination for which the student received a failing grade.

(b) A district grading policy shall apply to the assignment of a grade for which written notice is required under Section 28.022(a)(2), in addition to any other grade assigned by the district. [FA12]

No equivalent provision.

SECTION __. This Act applies beginning with the 2011-2012 school year. [FA12]

No equivalent provision.

SECTION __. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011. [FA12]

No equivalent provision.

SECTION __. The heading to Section 12.101, Education Code, is amended to read as follows:
Sec. 12.101. AUTHORIZATION FOR LICENSE. [FA14]

No equivalent provision.

SECTION __. Section 12.101, Education Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (e) and (f) to read as follows:
(a) In accordance with this subchapter, the State Board of Education may issue [~~grant~~] a license [~~charter~~] on the

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application of an eligible entity for an open-enrollment charter school to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. In this subsection, "eligible entity" means:

- (1) an institution of higher education as defined under Section 61.003;
- (2) a private or independent institution of higher education as defined under Section 61.003;
- (3) an organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)); or
- (4) a governmental entity.

(b) The State Board of Education, after thoroughly investigating and evaluating an applicant, may issue [grant] a license [charter] for an open-enrollment charter school only to an applicant that meets any financial, governing, curriculum development and implementation, and operational standards adopted by the commissioner under this subchapter. In a state fiscal year, the [The] State Board of Education may not issue [grant a total of] more than 10 new licenses [215 charters] for an open-enrollment charter school plus a number of licenses equal to any number of charters for an open-enrollment charter school revoked or surrendered during the preceding state fiscal year.

(d) An educator employed by a school district before the effective date of a license [charter] for an open-enrollment charter school operated at a school district facility may not be transferred to or employed by the open-enrollment charter school over the educator's objection.

(e) A license holder is subject to any law applicable to a charter holder.

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(f) The commissioner shall adopt rules for the form of a license, the basis and a procedure for modification or revocation of a license, and any other rules necessary for the issuance and administration of licenses under this subchapter. A rule adopted under this subsection must, to the greatest extent practicable, be consistent with a provision of this subchapter or a rule adopted under this subchapter for the same purpose as applicable to a charter. [FA14]

No equivalent provision.

SECTION __. Subchapter D, Chapter 12, Education Code, is amended by adding Sections 12.1011 and 12.10111 to read as follows:

Sec. 12.1011. AUTHORIZATION FOR ISSUANCE OF LICENSES FOR SCHOOLS PRIMARILY SERVING STUDENTS WITH DISABILITIES. (a) The State Board of Education may issue under Section 12.101 a license on the application of an eligible entity for an open-enrollment charter school intended primarily to serve students with disabilities, including students with autism. The State Board of Education may not issue more than two new licenses for an open-enrollment charter school under this section each state fiscal year. A license issued under this section is not considered for purposes of the limit on the number of licenses imposed by Section 12.101(b).

(b) For purposes of the applicability of state and federal law, including a law prescribing requirements concerning students with disabilities, an open-enrollment charter school described by Subsection (a) is considered the same as any other school for which a license or charter is issued under this subchapter.

(c) To the fullest extent permitted under federal law, a parent of a student with a disability may choose to enroll the parent's

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child in an open-enrollment charter school described by Subsection (a) regardless of whether a disproportionate number of the school's students are students with disabilities.

(d) This section does not authorize an open-enrollment charter school to discriminate in admissions or in the services provided based on the presence, absence, or nature of an applicant's or student's disability.

Sec. 12.10111. AUTHORIZATION FOR CHARTER. (a) The State Board of Education shall grant a charter for an open-enrollment charter school to a license holder under Section 12.101 if:

(1) the open-enrollment charter school for which the license has been issued has been assigned an acceptable performance rating as provided by Subchapter C, Chapter 39, for any two of the preceding three school years;

(2) no campus operating under the license has been assigned an unacceptable performance rating as provided by Subchapter C, Chapter 39, for any two of the three preceding school years or such a campus has been closed; and

(3) the license holder satisfies standards of financial solvency and financial accountability established by the commissioner under Subchapter D, Chapter 39.

(b) Notwithstanding Section 12.101 and in accordance with Section 12.110, the State Board of Education may grant a charter for an open-enrollment charter school to an applicant for a charter that:

(1) is an entity described by Section 12.101(a)(3) that has operated one or more charter schools in another state and, as determined by the commissioner in accordance with commissioner rule, has achieved high performance under federal accountability and other appropriate academic and financial criteria, including at a minimum having achieved

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adequate yearly progress in accordance with federal law for the preceding three school years; or

(2) is an entity that has operated one or more charter schools established under Subchapter C, D, or E and, as determined by the commissioner in accordance with commissioner rule, has performed well under appropriate academic and financial criteria.

(c) A charter for an open-enrollment charter school granted under Subsection (b)(1) is considered a license for purposes of the limit on the number of licenses imposed by Section 12.101(b).

(d) A charter holder may establish one or more new open-enrollment charter school campuses under a charter without applying for authorization if:

(1) each open-enrollment charter school campus operating under the charter has been assigned an acceptable performance rating as provided by Subchapter C, Chapter 39, for the two preceding school years;

(2) the charter holder satisfies standards of financial solvency and financial accountability established by commissioner rule under Subchapter D, Chapter 39;

(3) the charter holder provides written notice, in the time, manner, and form provided by commissioner rule, to the State Board of Education and the commissioner of the establishment of any campus under this subsection; and

(4) not later than the 90th day after the date the charter holder provides written notice under Subdivision (3), the commissioner does not provide written notice to the charter holder disapproving a new campus under this section.

(e) For purposes of Subsection (d), an open-enrollment charter school campus rated as academically acceptable or higher under Subchapter D, Chapter 39, as that subchapter

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existed January 1, 2009, for the 2009-2010 or 2010-2011 school year is considered to have been assigned an acceptable performance rating for the applicable school year. This subsection expires January 1, 2015. [FA14]

No equivalent provision.

SECTION __. Section 12.1012, Education Code, is amended by adding Subdivision (7) to read as follows:
(7) "License holder" means the entity to which a license is granted under this subchapter. [FA14]

No equivalent provision.

SECTION __. Section 12.1056, Education Code, is amended to read as follows:
Sec. 12.1056. IMMUNITY [~~FROM LIABILITY~~]. (a) In matters related to operation of an open-enrollment charter school, an open-enrollment charter school is immune [~~from liability~~] to the same extent as a school district, and its employees and volunteers are immune [~~from liability~~] to the same extent as school district employees and volunteers. A member of the governing body of an open-enrollment charter school or of a charter holder is immune [~~from liability~~] to the same extent as a school district trustee.
(b) An open-enrollment charter school is a governmental unit as defined by Section 101.001, Civil Practice and Remedies Code, and is subject to liability only as provided by Chapter 101, Civil Practice and Remedies Code, and only in the manner that liability is provided by that chapter for a school district.
(c) An open-enrollment charter school is a local government as defined by Section 102.001, Civil Practice and Remedies Code, and a payment on a tort claim must comply with

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Chapter 102, Civil Practice and Remedies Code.

(d) An open-enrollment charter school is a local governmental entity as defined by Section 271.151, Local Government Code, and is subject to liability on a contract as provided by Subchapter I, Chapter 271, Local Government Code, and only in the manner that liability is provided by that subchapter for a school district. [FA14]

No equivalent provision.

SECTION __. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1058 to read as follows:

Sec. 12.1058. APPLICABILITY OF OTHER LAWS. (a)

An open-enrollment charter school is considered to be:

(1) a local government for purposes of Chapter 791, Government Code;

(2) a local government for purposes of Chapter 2259, Government Code, except that an open-enrollment charter school may not issue public securities as provided by Section 2259.031(b), Government Code; and

(3) a political subdivision for purposes of Chapter 172, Local Government Code.

(b) An open-enrollment charter school may elect to extend workers' compensation benefits to employees of the school through any method available to a political subdivision under Chapter 504, Labor Code, except that an open-enrollment charter school that self-insures either individually or collectively under Chapter 504, Labor Code, may not provide workers' compensation medical benefits to injured employees in the manner described by Section 504.053(b)(2), Labor Code. An open-enrollment charter school that elects to extend workers' compensation benefits as permitted under this section is considered to be a political subdivision for all purposes

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under Chapter 504, Labor Code. An open-enrollment charter school that self-insures either individually or collectively under Chapter 504, Labor Code, is considered to be an insurance carrier for purposes of Subtitle A, Title 5, Labor Code. [FA14]

No equivalent provision.

SECTION __. Section 12.110, Education Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (a-1) and (e) to read as follows:

(a) The State Board of Education shall adopt:

(1) an application form and a procedure that must be used to apply for a license [~~charter~~] for an open-enrollment charter school; and

(2) criteria to use in selecting a program for which to issue [~~grant~~] a license [~~charter~~].

(a-1) The State Board of Education shall adopt:

(1) an application form and a procedure that must be used by an applicant described by Section 12.10111(b)(1) or (2) to apply for a charter for an open-enrollment charter school; and

(2) criteria to use in selecting a program for which to grant a charter.

(b) The application forms under Subsections (a) and (a-1) [~~form~~] must provide for including the information required under Section 12.111 [~~to be contained in a charter~~].

(c) As part of the application procedure, the board may require a petition supporting a license or charter for a school signed by a specified number of parents or guardians of school-age children residing in the area in which a school is proposed or may hold a public hearing to determine parental support for the school.

(e) The commissioner by rule may establish a fee for

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applying for a license or charter for an open-enrollment charter school. A fee established under this subsection must be sufficient to cover the agency's administrative costs for the application process, including the costs of investigating the applicant. [FA14]

No equivalent provision.

SECTION __. Section 12.1101, Education Code, is amended to read as follows:

Sec. 12.1101. NOTIFICATION OF LICENSE OR CHARTER APPLICATION OR ESTABLISHMENT OF CAMPUS. The commissioner by rule shall adopt a procedure for providing notice to the following persons on receipt by the State Board of Education of an application for a license or charter for an open-enrollment charter school under Section 12.110 or on receipt by the board and the commissioner of notice of the establishment of a campus as authorized under Section 12.10111(d):

- (1) the board of trustees of each school district from which the proposed open-enrollment charter school or campus is likely to draw students, as determined by the commissioner; and
- (2) each member of the legislature that represents the geographic area to be served by the proposed school or campus, as determined by the commissioner. [FA14]

No equivalent provision.

SECTION __. Section 12.111, Education Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (c) to read as follows:

- (a) Except as provided by Subsection (a-1), each license issued or ~~[Each]~~ charter granted under this subchapter must:

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- (1) describe the educational program to be offered, which must include the required curriculum as provided by Section 28.002;
- (2) specify the period for which the charter or, consistent with Section 12.116(b-1), any charter renewal is valid;
- (3) provide that continuation or renewal of the charter is contingent on the status of the charter as provided by Section 12.116(b-1) [~~acceptable student performance on assessment instruments adopted under Subchapter B, Chapter 39, and on compliance with any accountability provision specified by the charter, by a deadline or at intervals specified by the charter~~];
- (4) [~~establish the level of student performance that is considered acceptable for purposes of Subdivision (3)~~];
[~~(5)~~] specify any basis, in addition to a basis specified by this subchapter, on which the charter may be placed on probation or revoked or on which an alternative to revoking the charter, as described by Section 12.115(a-1), may be used [~~renewal of the charter may be denied~~];
- (5) [~~(6)~~] prohibit discrimination in admission policy on the basis of sex, national origin, ethnicity, religion, disability, academic, artistic, or athletic ability, or the district the child would otherwise attend in accordance with this code, although the license or charter, as applicable, may:
 - (A) provide for the exclusion of a student who has a documented history of a criminal offense, a juvenile court adjudication, or discipline problems under Subchapter A, Chapter 37; and
 - (B) provide for an admission policy that requires a student to demonstrate artistic ability if the school specializes in performing arts;
- (6) [~~(7)~~] specify the grade levels to be offered;
- (7) [~~(8)~~] describe the governing structure of the program,

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including:

- (A) the officer positions designated;
- (B) the manner in which officers are selected and removed from office;
- (C) the manner in which members of the governing body of the school are selected and removed from office;
- (D) the manner in which vacancies on that governing body are filled;
- (E) the term for which members of that governing body serve; and
- (F) whether the terms are to be staggered;
- (8) [~~(9)~~] specify the powers or duties of the governing body of the school that the governing body may delegate to an officer;
- (9) [~~(10)~~] specify the manner in which the school will distribute to parents information related to the qualifications of each professional employee of the program, including any professional or educational degree held by each employee, a statement of any certification under Subchapter B, Chapter 21, held by each employee, and any relevant experience of each employee;
- (10) [~~(11)~~] describe the process by which the person providing the program will adopt an annual budget;
- (11) [~~(12)~~] describe the manner in which an annual audit of the financial and programmatic operations of the program is to be conducted, including the manner in which the person providing the program will provide information necessary for the school district in which the program is located to participate, as required by this code or by State Board of Education rule, in the Public Education Information Management System (PEIMS);
- (12) [~~(13)~~] describe the facilities to be used;

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(13) ~~[(14)]~~ describe the geographical area served by the program; and

(14) ~~[(15)]~~ specify any type of enrollment criteria to be used.

(a-1) A license issued under this subchapter is not required to comply with Subsection (a)(2), (3), or (4).

(b) A license holder or charter holder ~~[of an open-enrollment charter school]~~ shall consider including in the school's license or charter, as applicable, a requirement that the school develop and administer personal graduation plans under Section 28.0212.

(c) The enrollment of a student with a disability, including autism, is not considered for purposes of any maximum student enrollment described by the charter. [FA14]

No equivalent provision.

SECTION __. Section 12.115, Education Code, is amended to read as follows:

Sec. 12.115. BASIS FOR MODIFICATION, PLACEMENT ON PROBATION, OR REVOCATION; ALTERNATIVES TO REVOCATION ~~[, OR DENIAL OF RENEWAL]~~. (a)

The commissioner shall ~~may~~ modify, place on probation, or revoke ~~[, or deny renewal of]~~ the charter of an open-enrollment charter school if the commissioner determines that the charter holder:

(1) committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;

(2) failed to satisfy generally accepted accounting standards of fiscal management;

(3) failed to protect the health, safety, or welfare of the students enrolled at the school; or

(4) failed to comply with this subchapter or another

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applicable law or rule.

(a-1) Based on a determination described by Subsection (a) concerning the charter holder, as an alternative to revoking the charter of an open-enrollment charter school, the commissioner may:

(1) reconstitute the governing body of the charter holder; or

(2) assign operations of a school campus to a different charter holder.

(b) The action the commissioner takes under Subsection (a) or (a-1) shall be based on:

(1) the best interest of the school's students;

(2) [;] the severity of the violation[;] and any previous violation the school has committed; and

(3) the accreditation status of the school under Subchapter C, Chapter 39. [FA14]

No equivalent provision.

SECTION __. Section 12.116, Education Code, is amended to read as follows:

Sec. 12.116. PROCEDURE FOR MODIFICATION, PLACEMENT ON PROBATION, REVOCATION, ALTERNATIVE TO REVOCATION, OR DENIAL OF RENEWAL. (a) The commissioner shall adopt a procedure ~~[to be used]~~ for modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school or for using an alternative to revocation as described by Section 12.115(a-1).

~~[(b)]~~ The procedure ~~[adopted under Subsection (a)]~~ must, except as provided by Subsection (b), provide an opportunity for a hearing to the charter holder and to parents and guardians of students enrolled in the school. A hearing under this subsection must be held in the county in which the school

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is located [at the facility at which the program is operated].

(a-1) The commissioner shall revoke the charter of an open-enrollment charter school in accordance with the procedure adopted under Subsection (a) if, after all information required for determining a performance rating under Subchapter D, Chapter 39, has been considered, the commissioner determines that the school is insolvent. In determining whether the school is insolvent, the commissioner shall consider whether the insolvency is a result of recovery of overallocated state funds under Section 42.258(a).

(b) The commissioner shall revoke the charter of an open-enrollment charter school without a hearing if each campus operated under the school's charter has been ordered closed under Section 39.107.

(b-1) The procedure adopted under Subsection (a) for denying renewal of the charter of an open-enrollment charter school must provide that the charter automatically renews unless the school's charter is revoked under Subchapter E, Chapter 39, before the expiration of a charter term. In addition, the procedure must require the commissioner and the charter holder to act in a timely manner, according to the procedure, to initiate revocation or renewal of the charter, as applicable. The term for which a charter is renewed shall not be less than 10 years.

(c) Chapter 2001, Government Code, does not apply to a hearing that is related to a modification, placement on probation, revocation, alternative to revocation, or denial of renewal under this subchapter. [FA14]

No equivalent provision.

SECTION __. Subsection (a), Section 12.1164, Education Code, is amended to read as follows:

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(a) The commissioner must notify the Teacher Retirement System of Texas in writing of the revocation~~;~~ ~~denial of renewal,~~ or surrender of a charter under this subchapter not later than the 10th business day after the date of the event. [FA14]

No equivalent provision.

SECTION __. Section 12.117, Education Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) An open-enrollment charter school for which a license is issued on or after September 1, 2011, may not admit a student unless the student:

(1) was enrolled in a public school in this state during the school year preceding the school year for which the student is seeking admission to the charter school; or

(2) is seeking admission for the first grade or a lower grade level.

(d) An open-enrollment charter school authorized by a license issued or charter granted under this subchapter to a municipality:

(1) is considered a work-site open-enrollment charter school for purposes of federal regulations regarding admissions policies that apply to open-enrollment charter schools receiving federal funding; and

(2) notwithstanding Subsection (a), may admit children of employees of the municipality to the school before conducting a lottery to fill remaining available positions, provided that the number of children admitted under this subdivision constitutes only a small percentage, as may be further specified by federal regulation, of the school's total enrollment. [FA14]

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No equivalent provision.

SECTION __. Subsection (a), Section 12.118, Education Code, is amended to read as follows:

(a) The commissioner shall designate an impartial organization with experience in evaluating school choice programs to conduct, under the supervision of the commissioner, an annual evaluation of open-enrollment charter schools. [FA14]

No equivalent provision.

SECTION __. Subsection (c), Section 12.119, Education Code, is amended to read as follows:

(c) On request, the State Board of Education shall provide the information required by this section and Section 12.111(a)(7) [~~12.111(8)~~] to a member of the public. The board may charge a reasonable fee to cover the board's cost in providing the information. [FA14]

No equivalent provision.

SECTION __. Section 12.156, Education Code, is amended to read as follows:

Sec. 12.156. **APPLICABILITY OF CERTAIN PROVISIONS.** (a) Except as otherwise provided by this subchapter, Subchapter D applies to a college or university charter school or junior college charter school as though the college or university charter school or junior college charter school, as applicable, were issued a license or granted a charter under that subchapter.

(b) A license issued or charter granted under this subchapter is not considered for purposes of the limit on the number of open-enrollment charter schools imposed by Section 12.101(b). [FA14]

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No equivalent provision.

No equivalent provision.

No equivalent provision.

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SECTION __. Subsection (b), Section 12.113, Education Code, is repealed. [FA14]

SECTION __. The amendment of Subchapter D, Chapter 12, Education Code, by this Act, does not affect the status of a charter granted under Subchapter D, Chapter 12, Education Code, before the effective date of this Act and the implementation of licensing under Subchapter D, Chapter 12, Education Code, in accordance with this Act. [FA14]

SECTION __. Section 12.101, Education Code, as amended by this Act, and Sections 12.1011 and 12.10111, Education Code, as added by this Act, apply beginning with the 2012-2013 school year. [FA14]

CONFERENCE