

Amend SB 810 (house committee report) as follows:

(1) Strike page 9, lines 14 through 16.

(2) Add the following appropriately numbered SECTIONS to the bill:

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

Sec. 31.001. FREE INSTRUCTIONAL MATERIALS. Instructional materials 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 and technology allotment.

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

(1) "Instructional material" 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, 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 open education resource [~~open-source~~] instructional material.

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

SECTION _____. Section 31.004(b), Education Code, is amended to read as follows:

(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 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 education resource [~~open-source~~] instructional materials submitted by eligible institutions and adopted by the State Board of Education under Section 31.0241;

(4) open education resource [~~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; and

(6) open education resource instructional materials and other electronic instructional materials included in the repository under Section 31.083.

SECTION _____. Sections 31.005 and 31.021, Education Code, are amended to read as follows:

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

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

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

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

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

(1) fund the instructional materials and technology 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 education resource [~~open-source~~] instructional material;

(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;

(6) [~~fund the technology lending grant program established under Section 32.201; and~~

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

(7) pay the expenses associated with the instructional materials web portal developed under Section 31.081.

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

SECTION _____. The heading to Section 31.0211, Education Code, is amended to read as follows:

Sec. 31.0211. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT.

SECTION _____. Sections 31.0211(a), (b), and (c), Education Code, are amended to read as follows:

(a) A school district is entitled to an allotment each biennium from the state instructional materials and technology fund for each student enrolled in the district on a date during the last

year of the preceding biennium specified by the commissioner. The commissioner shall determine the amount of the allotment per student each biennium on the basis of the amount of money available in the state instructional materials and technology fund to fund the allotment. An allotment under this section shall be transferred from the state instructional materials and technology fund to the credit of the district's instructional materials and technology 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 and technology 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) instructional materials for use in college preparatory courses under Section 28.014, as provided by Section 31.031;

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

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

(H) instructional materials and technological equipment under any continuing contracts of the district in effect

on September 1, 2011; and

(I) 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 directly involved in student learning.

SECTION _____. The heading to Section 31.0212, Education Code, is amended to read as follows:

Sec. 31.0212. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ACCOUNT.

SECTION _____. Sections 31.0212(a), (b), (d), and (e), Education Code, are amended to read as follows:

(a) The commissioner shall maintain an instructional materials and technology account for each school district. In the first year of each biennium, the commissioner shall deposit in the account for each district the amount of the district's instructional materials and technology 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 and technology account.

(d) Money deposited in a school district's instructional materials and technology 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 and technology allotment.

SECTION _____. Section 31.0213, Education Code, is amended to read as follows:

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

SECTION _____. Section 31.0214(a), Education Code, is amended to read as follows:

(a) Each year the commissioner shall adjust the instructional materials and technology 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 and technology allotment those districts will receive.

SECTION _____. The heading to Section 31.0215, Education Code, is amended to read as follows:

Sec. 31.0215. INSTRUCTIONAL MATERIALS AND TECHNOLOGY [~~MATERIAL~~] ALLOTMENT PURCHASES.

SECTION _____. Sections 31.0215(b) and (c), Education Code, are amended to read as follows:

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

(c) The commissioner shall make payments for orders placed

under this section as funds become available to the instructional materials and technology fund and shall prioritize payment of orders placed under this section over reimbursement of purchases made directly by a school district or open-enrollment charter school.

SECTION _____. Section 31.022, Education Code, is amended by amending Subsection (d) and adding Subsections (g) and (h) to read as follows:

(d) At least 12 months before the beginning of the school year for which instructional materials for a particular subject and grade level will be adopted under the review and adoption cycle, the board shall publish notice of the review and adoption cycle for those instructional materials. A request for production must allow submission of open education resource [~~open-source~~] instructional materials that are available for use by the state without charge on the same basis as instructional materials offered for sale.

(g) In reviewing and adopting instructional materials, the board shall consider a school district's need for technology as well as instructional materials and in any biennium may limit the adoption of instructional materials to provide sufficient resources to purchase technology resources, including digital curriculum.

(h) The board shall include information regarding open education resource instructional materials during the adoption cycle, including any cost savings associated with the adoption of open education resource instructional materials.

SECTION _____. Section 31.0231(b), Education Code, is amended to read as follows:

(b) A school district may select material on the list adopted under Subsection (a) to be funded by the district's instructional materials and technology allotment under Section 31.0211.

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

Sec. 31.0241. ADOPTION OF OPEN EDUCATION RESOURCE [~~OPEN-SOURCE~~] INSTRUCTIONAL MATERIALS.

SECTION _____. Section 31.0241(b), Education Code, is

amended to read as follows:

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

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

(2) the eligible institution identifies each contributing author;

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

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

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

(B) for instructional material for a junior-level and senior-level course, a student who successfully completes the junior-level course based on the instructional material will be prepared for entry into the senior-level course.

SECTION _____. Section 31.0242, Education Code, is amended to read as follows:

Sec. 31.0242. REVIEW OF OPEN EDUCATION RESOURCE [~~OPEN-SOURCE~~] INSTRUCTIONAL MATERIAL. Not later than the 90th day after the date open education resource [~~open-source~~] instructional material is submitted as provided by Section 31.0241, the State Board of Education may review the instructional material. The board shall:

(1) post with the list adopted under Section 31.023 comments made by the board regarding the open education resource

[~~open-source~~] instructional material placed on the list; and

(2) distribute board comments to school districts.

SECTION _____. Section 31.026(d), Education Code, is amended to read as follows:

(d) This section does not apply to open education resource [~~open-source~~] instructional material.

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

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

SECTION _____. Section 31.027(c), Education Code, is amended to read as follows:

(c) This section does not apply to open education resource [~~open-source~~] instructional material.

SECTION _____. Section 31.029(a), Education Code, is amended to read as follows:

(a) A school district shall purchase with the district's instructional materials and technology allotment or otherwise acquire instructional materials for use in bilingual education classes.

SECTION _____. Section 31.031(a), Education Code, is amended to read as follows:

(a) A school district may purchase with the district's instructional materials and technology allotment or otherwise acquire instructional materials for use in college preparatory courses under Section 28.014.

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

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

SECTION _____. Sections 31.071, 31.072, 31.073, 31.074, and

31.075, Education Code, are amended to read as follows:

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

(b) The commissioner:

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

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

(c) State-developed open education resource [~~open-source~~] instructional material 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 after purchase.

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

(1) in accordance with the instructional material 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 options.

(e) The costs of administering this subchapter and purchasing state-developed open education resource [~~open-source~~] instructional materials shall be paid from the state instructional materials and technology fund, as determined by the commissioner.

Sec. 31.072. CONTENT REQUIREMENTS. (a) State-developed open education resource [~~open-source~~] instructional material 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 list adopted under Section 31.023.

(b) Following a curriculum revision by the State Board of Education, the commissioner shall require the revision of state-developed open education resource [~~open-source~~] instructional material relating to that curriculum. The

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

Sec. 31.073. SELECTION BY SCHOOL DISTRICT.

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

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

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

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

Sec. 31.075. OWNERSHIP; LICENSING. (a) State-developed open education resource [~~open-source~~] instructional material 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 state-developed open education resource [~~open-source~~] instructional material.

(c) The commissioner may provide a license to use state-developed open education resource [~~open-source~~] instructional material 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 education resource [~~open-source~~] instructional materials.

SECTION _____. 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 state-developed open education resource [~~open-source~~] instructional material is final and may not be appealed.

SECTION _____. 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 education resource [~~open-source~~] instructional materials 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 adoption cycles under Subchapter B; and
- (3) the availability of instructional materials for development or purchase by the state.

SECTION _____. Chapter 31, Education Code, is amended by adding Subchapter B-2 to read as follows:

SUBCHAPTER B-2. INSTRUCTIONAL MATERIALS WEB PORTAL

Sec. 31.081. INSTRUCTIONAL MATERIALS WEB PORTAL. (a) The commissioner shall develop and maintain a web portal to assist school districts and open-enrollment charter schools in selecting instructional materials under Section 31.101.

(b) The web portal must include general information such as price, computer system requirements, and any other relevant specifications for each instructional material:

(1) on the instructional materials list, including the list adopted under Section 31.0231; or

(2) submitted by a publisher for inclusion in the web portal.

(c) The commissioner by rule shall establish the procedure by which a publisher may submit instructional materials for inclusion in the web portal.

(d) The commissioner shall use a competitive process to contract for the development of the web portal.

(e) The commissioner shall use money in the state instructional materials and technology fund to pay any expenses associated with the web portal.

Sec. 31.082. QUALITY OF INSTRUCTIONAL MATERIALS SUBMITTED BY PUBLISHER. (a) The commissioner shall contract with a private entity to conduct an independent analysis of each instructional material submitted by a publisher for inclusion in the web portal developed under Section 31.081. The analysis must:

(1) evaluate the quality of the material; and

(2) determine the extent to which the material covers the essential knowledge and skills identified under Section 28.002 for the subject and grade level for which the material is intended to be used, including an identification of:

(A) each of the essential knowledge and skills for the subject and grade level or levels covered by the material; and

(B) the percentage of the essential knowledge and skills for the subject and grade level or levels covered by the material.

(b) The commissioner shall include in the web portal developed under Section 31.081 the results of each analysis conducted under Subsection (a).

Sec. 31.083. INSTRUCTIONAL MATERIALS REPOSITORY. (a) The commissioner shall include in the web portal developed under Section 31.081 a repository of open education resource

instructional materials and other electronic instructional materials that school districts and open-enrollment charter schools may access at no cost.

(b) A publisher may submit instructional materials for inclusion in the repository.

Sec. 31.084. RULES. The commissioner may adopt rules as necessary to implement this subchapter.

SECTION _____. Section 31.101, Education Code, is amended by adding Subsection (b) and amending Subsection (f) to read as follows:

(b) In selecting instructional material each year, a school district or open-enrollment charter school may consider the use of open education resource instructional materials.

(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 and technology allotment.

SECTION _____. Section 31.103(d), Education Code, is amended to read as follows:

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

(1) electronic access to the instructional material at no cost to the student; or

(2) printed copies of the portion of the instructional material that will be used in the course.

SECTION _____. Sections 31.104(b), (g), and (h), Education Code, are amended to read as follows:

(b) A school district or open-enrollment charter school may order replacements for instructional materials that have been lost or damaged directly from the publisher of the instructional materials or any source for a printed copy of open education resource [~~open-source~~] instructional material.

(g) At the end of the school year for which open education

resource [~~open-source~~] instructional material 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 education resource [~~open-source~~] instructional material becomes the property of the student to whom it is distributed.

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

SECTION _____. Sections 31.151(d) and (e), Education Code, are amended to read as follows:

(d) A penalty collected under this section shall be deposited to the credit of the state instructional materials and technology fund.

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

SECTION _____. Section 32.001(b), Education Code, is amended to read as follows:

(b) The State Board of Education shall update [~~as necessary~~] the plan developed under Subsection (a) at least every five years.

SECTION _____. 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 and technology allotment under Section 31.0211.

SECTION _____. Section 43.001(d), Education Code, is amended to read as follows:

(d) Each biennium the State Board of Education shall set aside an amount equal to 50 percent of the distribution for that biennium 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 and technology fund established under Section 31.021.

SECTION _____. Section 403.093(d), Government Code, is

amended to read as follows:

(d) The comptroller shall transfer from the general revenue fund to the foundation school fund an amount of money necessary to fund the foundation school program as provided by Chapter 42, Education Code. The comptroller shall make the transfers in installments as necessary to comply with Section 42.259, Education Code, and permit the Texas Education Agency, to the extent authorized by the General Appropriations Act, to make temporary transfers from the foundation school fund for payment of the instructional materials and technology allotment under Section 31.0211, Education Code. Unless an earlier date is necessary for purposes of temporary transfers for payment of the instructional materials and technology allotment, an installment must be made not earlier than two days before the date an installment to school districts is required by Section 42.259, Education Code, and must not exceed the amount necessary for that payment and any temporary transfers for payment of the instructional materials and technology allotment.

SECTION _____. Not later than September 1, 2018, the commissioner of education shall develop the web portal required under Subchapter B-2, Chapter 31, Education Code, as added by this Act.

SECTION _____. In the event that **SB 1784**, 85th Legislature, Regular Session, 2017, is enacted and becomes law, any provisions repealed or language struck by that Act shall also be considered repealed or struck, as applicable, by this Act.

(3) Renumber the SECTIONS of the bill accordingly.