

By: Bohac

H.B. No. 4140

Substitute the following for H.B. No. 4140:

By: Bernal

C.S.H.B. No. 4140

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the instructional materials and technology allotment,  
3 open education resource instructional materials, and the State  
4 Board of Education long-range technology plan.

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

6 SECTION 1. Section 31.001, Education Code, is amended to  
7 read as follows:

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

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

17 (1) "Instructional material" means content that  
18 conveys the essential knowledge and skills of a subject in the  
19 public school curriculum through a medium or a combination of media  
20 for conveying information to a student. The term includes a book,  
21 supplementary materials, a combination of a book, workbook, and  
22 supplementary materials, computer software, magnetic media, DVD,  
23 CD-ROM, computer courseware, on-line services, or an electronic  
24 medium, or other means of conveying information to the student or

1 otherwise contributing to the learning process through electronic  
2 means, including open education resource [~~open-source~~]  
3 instructional material.

4 (1-a) "Open education resource [~~Open-source~~]  
5 instructional material" means teaching, learning, and research  
6 resources that reside in the public domain or have been released  
7 under an intellectual property license that allows for free use,  
8 reuse, modification, and sharing with others, including full  
9 courses, course materials, modules, textbooks, streaming videos,  
10 tests, software, and any other tools, materials, or techniques used  
11 to support access to knowledge [~~electronic instructional material~~  
12 ~~that is available for downloading from the Internet at no charge to~~  
13 ~~a student and without requiring the purchase of an unlock code,~~  
14 ~~membership, or other access or use charge, except for a charge to~~  
15 ~~order an optional printed copy of all or part of the instructional~~  
16 ~~material~~]. The term includes state-developed open education  
17 resource [~~open-source~~] instructional material purchased under  
18 Subchapter B-1.

19 SECTION 3. Section 31.004(b), Education Code, is amended to  
20 read as follows:

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

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

27 (2) materials adopted or purchased by the commissioner

1 under Section 31.0231 or Subchapter B-1;

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

5 (4) open education resource [~~open-source~~]  
6 instructional materials made available by other public schools; and

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

9 SECTION 4. Sections 31.005 and 31.021, Education Code, are  
10 amended to read as follows:

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

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

18 (1) an amount set aside by the State Board of Education  
19 from the available school fund, in accordance with Section  
20 43.001(d); and

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

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

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

27 (2) purchase special instructional materials for the

1 education of blind and visually impaired students in public  
2 schools;

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

5 (4) pay the expenses associated with the purchase or  
6 licensing of open education resource [~~open-source~~] instructional  
7 material;

8 (5) pay the expenses associated with the purchase of  
9 instructional material, including intrastate freight and shipping  
10 and the insurance expenses associated with intrastate freight and  
11 shipping; and

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

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

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

20 SECTION 5. The heading to Section [31.0211](#), Education Code,  
21 is amended to read as follows:

22 Sec. 31.0211. INSTRUCTIONAL MATERIALS AND TECHNOLOGY  
23 ALLOTMENT.

24 SECTION 6. Sections [31.0211](#)(a), (b), and (c), Education  
25 Code, are amended to read as follows:

26 (a) A school district is entitled to an allotment each  
27 biennium from the state instructional materials and technology fund

1 for each student enrolled in the district on a date during the last  
2 year of the preceding biennium specified by the commissioner. The  
3 commissioner shall determine the amount of the allotment per  
4 student each biennium on the basis of the amount of money available  
5 in the state instructional materials and technology fund to fund  
6 the allotment. An allotment under this section shall be  
7 transferred from the state instructional materials and technology  
8 fund to the credit of the district's instructional materials and  
9 technology account as provided by Section [31.0212](#).

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

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

19 (1) purchase:

20 (A) materials on the list adopted by the  
21 commissioner, as provided by Section [31.0231](#);

22 (B) instructional materials, regardless of  
23 whether the instructional materials are on the list adopted under  
24 Section [31.024](#);

25 (C) consumable instructional materials,  
26 including workbooks;

27 (D) instructional materials for use in bilingual

1 education classes, as provided by Section 31.029;

2 (E) instructional materials for use in college  
3 preparatory courses under Section 28.014, as provided by Section  
4 31.031;

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

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

10 (H) instructional materials and technological  
11 equipment under any continuing contracts of the district in effect  
12 on September 1, 2011; and

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

17 (2) pay:

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

22 (B) the salary and other expenses of an employee  
23 who provides technical support for the use of technological  
24 equipment directly involved in student learning.

25 SECTION 7. The heading to Section 31.0212, Education Code,  
26 is amended to read as follows:

27 Sec. 31.0212. INSTRUCTIONAL MATERIALS AND TECHNOLOGY

1 ACCOUNT.

2 SECTION 8. Sections 31.0212(a), (b), (d), and (e),  
3 Education Code, are amended to read as follows:

4 (a) The commissioner shall maintain an instructional  
5 materials and technology account for each school district. In the  
6 first year of each biennium, the commissioner shall deposit in the  
7 account for each district the amount of the district's  
8 instructional materials and technology allotment under Section  
9 31.0211.

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

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

20 (e) The commissioner shall adopt rules as necessary to  
21 implement this section. The rules must include a requirement that a  
22 school district:

23 (1) provide the title and publication information for  
24 any instructional materials requisitioned or purchased by the  
25 district with the district's instructional materials and  
26 technology allotment; and

27 (2) certify that the use of open education resource

1 instructional material was considered as required by Section  
2 31.101(b).

3 SECTION 9. Section 31.0213, Education Code, is amended to  
4 read as follows:

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

10 SECTION 10. Section 31.0214(a), Education Code, is amended  
11 to read as follows:

12 (a) Each year the commissioner shall adjust the  
13 instructional materials and technology allotment of school  
14 districts experiencing high enrollment growth. The commissioner  
15 shall establish a procedure for determining high enrollment growth  
16 districts eligible to receive an adjustment under this section and  
17 the amount of the instructional materials and technology allotment  
18 those districts will receive.

19 SECTION 11. The heading to Section 31.0215, Education Code,  
20 is amended to read as follows:

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

23 SECTION 12. Sections 31.0215(b) and (c), Education Code,  
24 are amended to read as follows:

25 (b) The commissioner may allow a school district or  
26 open-enrollment charter school to place an order for instructional  
27 materials before the beginning of a fiscal biennium and to receive

1 instructional materials before payment. The commissioner shall  
2 limit the cost of an order placed under this section to 80 percent  
3 of the estimated amount to which a school district or  
4 open-enrollment charter school is estimated to be entitled as  
5 provided by Subsection (a) and shall first credit any balance in a  
6 district or charter school instructional materials and technology  
7 account to pay for an order placed under this section.

8 (c) The commissioner shall make payments for orders placed  
9 under this section as funds become available to the instructional  
10 materials and technology fund and shall prioritize payment of  
11 orders placed under this section over reimbursement of purchases  
12 made directly by a school district or open-enrollment charter  
13 school.

14 SECTION 13. Section 31.022, Education Code, is amended by  
15 amending Subsection (d) and adding Subsections (g) and (h) to read  
16 as follows:

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

25 (g) In reviewing and adopting instructional materials, the  
26 board shall consider a school district's need for technology as  
27 well as instructional materials and in any biennium may limit the

1 adoption of instructional materials to provide sufficient  
2 resources to purchase technology resources, including digital  
3 curriculum.

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

8 SECTION 14. Section 31.0231(b), Education Code, is amended  
9 to read as follows:

10 (b) A school district may select material on the list  
11 adopted under Subsection (a) to be funded by the district's  
12 instructional materials and technology allotment under Section  
13 31.0211.

14 SECTION 15. The heading to Section 31.0241, Education Code,  
15 is amended to read as follows:

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

18 SECTION 16. Section 31.0241(b), Education Code, is amended  
19 to read as follows:

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

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

27 (2) the eligible institution identifies each

1 contributing author;

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

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

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

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

19 SECTION 17. Section 31.0242, Education Code, is amended to  
20 read as follows:

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

27 (1) post with the list adopted under Section 31.023

1 comments made by the board regarding the open education resource  
2 [~~open-source~~] instructional material placed on the list; and

3 (2) distribute board comments to school districts.

4 SECTION 18. Section 31.026(d), Education Code, is amended  
5 to read as follows:

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

8 SECTION 19. Section 31.0261, Education Code, is amended to  
9 read as follows:

10 Sec. 31.0261. CONTRACTS FOR PRINTING OF OPEN EDUCATION  
11 RESOURCE [~~OPEN-SOURCE~~] INSTRUCTIONAL MATERIALS. The State Board of  
12 Education may execute a contract for the printing of open education  
13 resource [~~open-source~~] instructional materials placed on the list  
14 adopted under Section 31.023. The contract must allow a school  
15 district to requisition printed copies of open education resource  
16 [~~open-source~~] instructional materials as provided by Section  
17 31.103.

18 SECTION 20. Section 31.027(c), Education Code, is amended  
19 to read as follows:

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

22 SECTION 21. Section 31.029(a), Education Code, is amended  
23 to read as follows:

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

1 SECTION 22. Section 31.031(a), Education Code, is amended  
2 to read as follows:

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

7 SECTION 23. The heading to Subchapter B-1, Chapter 31,  
8 Education Code, is amended to read as follows:

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

11 SECTION 24. Sections 31.071 and 31.072, Education Code, are  
12 amended to read as follows:

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

16 (b) The commissioner:

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

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

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

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

4 (1) in accordance with the instructional material  
5 review and adoption cycle under Section 31.022; or

6 (2) at any other time the commissioner determines that  
7 a need exists for additional instructional material options.

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

12 Sec. 31.072. CONTENT REQUIREMENTS. (a) State-developed  
13 open education resource [~~open-source~~] instructional material must:

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

16 (2) meet the requirements for inclusion on the  
17 instructional material list adopted under Section 31.023.

18 (b) Following a curriculum revision by the State Board of  
19 Education, the commissioner shall require the revision of  
20 state-developed open education resource [~~open-source~~]  
21 instructional material relating to that curriculum. The  
22 commissioner may, at any time, require an additional revision of  
23 state-developed open education resource [~~open-source~~]  
24 instructional material or contract for ongoing revisions of  
25 state-developed open education resource [~~open-source~~]  
26 instructional material for a period not to exceed the period under  
27 Section 31.022 for which instructional material for that subject

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

5 SECTION 25. Sections 31.073, 31.074, and 31.075, Education  
6 Code, are amended to read as follows:

7 Sec. 31.073. SELECTION BY SCHOOL DISTRICT. (c)  
8 Notwithstanding Section 31.022, a school district or  
9 open-enrollment charter school may adopt state-developed open  
10 education resource [~~open-source~~] instructional material at any  
11 time, regardless of the instructional material review and adoption  
12 cycle under that section.

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

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

22 (b) The commissioner may use a competitive process to  
23 contract for printing or other reproduction of state-developed open  
24 education resource [~~open-source~~] instructional material on behalf  
25 of a school district or open-enrollment charter school. The  
26 commissioner may not require a school district or open-enrollment  
27 charter school to contract with a state-approved provider for the

1 printing or reproduction of state-developed open education  
2 resource [~~open-source~~] instructional material.

3 Sec. 31.075. OWNERSHIP; LICENSING. (a) State-developed  
4 open education resource [~~open-source~~] instructional material is  
5 the property of the state.

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

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

19 SECTION 26. Section 31.076(b), Education Code, is amended  
20 to read as follows:

21 (b) A decision by the commissioner regarding the purchase,  
22 revision, cost, or distribution of state-developed open education  
23 resource [~~open-source~~] instructional material is final and may not  
24 be appealed.

25 SECTION 27. Section 31.077, Education Code, is amended to  
26 read as follows:

27 Sec. 31.077. ADOPTION SCHEDULE. The commissioner shall

1 develop a schedule for the adoption of state-developed open  
2 education resource [~~open-source~~] instructional materials under  
3 this subchapter. In developing the adoption schedule under this  
4 section, the commissioner shall consider:

- 5 (1) the availability of funds;
- 6 (2) the existing instructional material adoption  
7 cycles under Subchapter B; and
- 8 (3) the availability of instructional materials for  
9 development or purchase by the state.

10 SECTION 28. Section 31.101, Education Code, is amended by  
11 adding Subsection (b) and amending Subsection (f) to read as  
12 follows:

13 (b) In selecting instructional material each year, a school  
14 district or open-enrollment charter school must consider the use of  
15 open education resource instructional materials and must certify to  
16 the State Board of Education that the district considered the  
17 selection of open education resource instructional materials.

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

22 SECTION 29. Section 31.103(d), Education Code, is amended  
23 to read as follows:

24 (d) A school district or open-enrollment charter school  
25 that selects open education resource [~~open-source~~] instructional  
26 material shall requisition a sufficient number of printed copies  
27 for use by students unable to access the instructional material

1 electronically unless the district or school provides to each  
2 student:

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

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

7 SECTION 30. Sections 31.104(b), (g), and (h), Education  
8 Code, are amended to read as follows:

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

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

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

22 SECTION 31. Sections 31.151(d) and (e), Education Code, are  
23 amended to read as follows:

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

27 (e) An eligible institution, as defined by Section

1 31.0241(a), that offers open education resource [~~open-source~~]  
2 instructional materials under Section 31.0241 is not a publisher or  
3 manufacturer for purposes of this section.

4 SECTION 32. Section 32.001(b), Education Code, is amended  
5 to read as follows:

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

8 SECTION 33. Section 41.124(c), Education Code, is amended  
9 to read as follows:

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

15 SECTION 34. Section 43.001(d), Education Code, is amended  
16 to read as follows:

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

24 SECTION 35. Section 403.093(d), Government Code, is amended  
25 to read as follows:

26 (d) The comptroller shall transfer from the general revenue  
27 fund to the foundation school fund an amount of money necessary to

1 fund the foundation school program as provided by Chapter 42,  
2 Education Code. The comptroller shall make the transfers in  
3 installments as necessary to comply with Section 42.259, Education  
4 Code, and permit the Texas Education Agency, to the extent  
5 authorized by the General Appropriations Act, to make temporary  
6 transfers from the foundation school fund for payment of the  
7 instructional materials and technology allotment under Section  
8 31.0211, Education Code. Unless an earlier date is necessary for  
9 purposes of temporary transfers for payment of the instructional  
10 materials and technology allotment, an installment must be made not  
11 earlier than two days before the date an installment to school  
12 districts is required by Section 42.259, Education Code, and must  
13 not exceed the amount necessary for that payment and any temporary  
14 transfers for payment of the instructional materials and technology  
15 allotment.

16 SECTION 36. This Act takes effect immediately if it  
17 receives a vote of two-thirds of all the members elected to each  
18 house, as provided by Section 39, Article III, Texas Constitution.  
19 If this Act does not receive the vote necessary for immediate  
20 effect, this Act takes effect September 1, 2017.