

1-1 By: Taylor of Galveston S.B. No. 1784
 1-2 (In the Senate - Filed March 9, 2017; March 23, 2017, read
 1-3 first time and referred to Committee on Education; April 18, 2017,
 1-4 reported adversely, with favorable Committee Substitute by the
 1-5 following vote: Yeas 10, Nays 0; April 18, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Taylor of Galveston	X			
1-8 Lucio	X			
1-9 Bettencourt	X			
1-10 Campbell	X			
1-11 Hall			X	
1-12 Huffines	X			
1-13 Hughes	X			
1-14 Seliger	X			
1-15 Taylor of Collin	X			
1-16 Uresti	X			
1-17 West	X			

1-19 COMMITTEE SUBSTITUTE FOR S.B. No. 1784 By: Taylor of Galveston

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to state-developed open-source instructional material for
 1-23 public schools.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 31.002(1-a), Education Code, is amended
 1-26 to read as follows:

1-27 (1-a) "Open-source instructional material" means
 1-28 teaching, learning, and research resources that reside in the
 1-29 public domain or have been released under an intellectual property
 1-30 license that permits the free use, reuse, modification, and sharing
 1-31 of the resource with others, including full courses, course
 1-32 materials, modules, textbooks, streaming videos, tests, software,
 1-33 and any other tools, materials, or techniques used to support
 1-34 access to knowledge. [electronic instructional material that is
 1-35 available for downloading from the Internet at no charge to a
 1-36 student and without requiring the purchase of an unlock code,
 1-37 membership, or other access or use charge, except for a charge to
 1-38 order an optional printed copy of all or part of the instructional
 1-39 material.] The term includes state-developed open-source
 1-40 instructional material purchased under Subchapter B-1.

1-41 SECTION 2. Section 31.021(c), Education Code, is amended to
 1-42 read as follows:

1-43 (c) Money in the state instructional materials fund shall be
 1-44 used to:

1-45 (1) fund the instructional materials allotment, as
 1-46 provided by Section 31.0211;

1-47 (2) purchase special instructional materials for the
 1-48 education of blind and visually impaired students in public
 1-49 schools;

1-50 (3) pay the expenses associated with the instructional
 1-51 materials adoption and review process under this chapter;

1-52 (4) pay the expenses associated with the purchase or
 1-53 licensing of open-source instructional material;

1-54 (5) pay the expenses associated with the purchase of
 1-55 instructional material, including intrastate freight and shipping
 1-56 and the insurance expenses associated with intrastate freight and
 1-57 shipping; and

1-58 (6) ~~[fund the technology lending grant program~~
 1-59 ~~established under Section 32.201, and~~

1-60 ~~[(7)]~~ provide funding to the Texas School for the

2-1 Blind and Visually Impaired, the Texas School for the Deaf, and the
2-2 Texas Juvenile Justice Department.

2-3 SECTION 3. Section 31.071(c), Education Code, is amended to
2-4 read as follows:

2-5 (c) Except as provided by Section 31.0711, a
2-6 state-developed [State-developed] open-source instructional
2-7 material must be irrevocably owned by [or licensed to] the state
2-8 [for use in the applicable subject or grade level]. The state must
2-9 have unlimited authority to modify, delete, combine, or add content
2-10 to the instructional material after purchase.

2-11 SECTION 4. Subchapter B-1, Chapter 31, Education Code, is
2-12 amended by adding Section 31.0711 to read as follows:

2-13 Sec. 31.0711. CONTENT NOT OWNED BY STATE. (a) A
2-14 state-developed open-source instructional material may include
2-15 content not owned by the state and for which preexisting rights may
2-16 exist if the content:

- 2-17 (1) is in the public domain;
- 2-18 (2) may be used under a limitation or exception to
2-19 copyright law, including a limitation under Section 107, Copyright
2-20 Act of 1976 (17 U.S.C. Section 107); or
- 2-21 (3) is licensed to the state for use in an open-source
2-22 instructional material.

2-23 (b) A license described by Subsection (a)(3) must:

- 2-24 (1) grant the state unlimited authority to modify,
2-25 delete, combine, or add content; and
- 2-26 (2) permit the free use and repurposing of the
2-27 material by any person.

2-28 SECTION 5. Section 31.075, Education Code, is amended by
2-29 amending Subsections (b) and (c) and adding Subsections (d), (e),
2-30 and (f) to read as follows:

2-31 (b) To encourage the use of state-developed open-source
2-32 instructional materials by school districts and open-enrollment
2-33 charter schools, the [The] commissioner shall provide a license for
2-34 a state-developed open-source instructional material that allows
2-35 for the free use, reuse, modification, or sharing of the material by
2-36 any person [to each public school in the state, including a school
2-37 district, an open-enrollment charter school, and a state or local
2-38 agency educating students in any grade from prekindergarten through
2-39 high school, to use and reproduce state-developed open-source
2-40 instructional material].

2-41 (c) A license provided by the commissioner under this
2-42 section:

2-43 (1) unless exempted by the commissioner, shall require
2-44 that a user who reproduces a state-developed open-source
2-45 instructional material in any manner:

2-46 (A) except as provided by Subdivision (2)(A),
2-47 must keep all copyright notices for the material intact;

2-48 (B) except as provided by Subdivision (2)(A),
2-49 must attribute the authorship of the material to the agency or
2-50 another person specified by the commissioner;

2-51 (C) must indicate if the user has modified the
2-52 material;

2-53 (D) may not assert or imply any connection with
2-54 or sponsorship or endorsement by the agency or this state, unless
2-55 authorized by the commissioner; and

2-56 (E) must provide clear and conspicuous notice of
2-57 how and where a person may obtain the material free of charge; and

2-58 (2) must provide that:

2-59 (A) the commissioner may request that a user
2-60 remove a copyright notice or attribution from the material and that
2-61 a user must comply with the request to the extent reasonably
2-62 practicable; and

2-63 (B) the rights granted under the license to a
2-64 user are automatically terminated if the user fails to comply with
2-65 the terms of the license [The commissioner may provide a license to
2-66 use state-developed open-source instructional material to an
2-67 entity not listed in Subsection (b). In determining the cost of a
2-68 license under this subsection, the commissioner shall seek, to the
2-69 extent feasible, to recover the costs of developing, revising, and

3-1 ~~distributing state-developed open-source instructional~~
3-2 ~~materials]~~.

3-3 (d) The commissioner shall determine what is considered
3-4 reasonably practicable for purposes of Subsection (c)(2)(A).

3-5 (e) The commissioner may:

3-6 (1) specify requirements to reinstate a user's rights
3-7 under a license that has been terminated; and

3-8 (2) reinstate a user's rights on completion of those
3-9 requirements.

3-10 (f) The commissioner may use a license commonly applied to
3-11 an open education resource in implementing this section.

3-12 SECTION 6. Section 31.076(b), Education Code, is amended to
3-13 read as follows:

3-14 (b) A decision by the commissioner regarding the purchase,
3-15 revision, cost, licensing, or distribution of state-developed
3-16 open-source instructional material is final and may not be
3-17 appealed.

3-18 SECTION 7. Section 31.077, Education Code, is repealed.

3-19 SECTION 8. This Act takes effect immediately if it receives
3-20 a vote of two-thirds of all the members elected to each house, as
3-21 provided by Section 39, Article III, Texas Constitution. If this
3-22 Act does not receive the vote necessary for immediate effect, this
3-23 Act takes effect September 1, 2017.

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