

BILL ANALYSIS

Senate Research Center
88R28977 TSS-D

C.S.H.B. 1605
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Education
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The majority of instructional materials used in classrooms do not meet grade-level TEKS standards. This lack of access to appropriate curricular resources inadequately prepares students, places a greater burden on teachers and creates barriers for parents to review classroom content. A recent study showed that only 17 percent of students were engaged with on grade level classwork.

The Texas Teacher Vacancy Task Force recommended "funding, professional learning, and support for teachers to access and utilize High Quality Instructional Material."

Governor Abbott also included in his 2024-2025 budget, "The 88th Legislature [should] address curriculum challenges with outcomes that enhance student performance...improve quality of classroom instructional materials, help ease teachers' workloads, and ensure curriculum transparency for parents."

H.B. 1605 seeks to create a new State Board of Education (SBOE) process of vetting of instructional materials with additional funding for districts who use the SBOE approved materials. Overall, the bill seeks to increase access to high-quality instructional material for students, give necessary relief to teachers, and provide more transparency for parents.

H.B. 1605 eliminates the Texas Education Agency's (TEA) instructional materials portal and review process and eliminates SBOE proclamation process. Instead, a new unified process is built with checks and balances, where TEA does instructional materials reviews subject to SBOE oversight, and materials are ultimately approved by SBOE.

A funding formula, supplemental to the Instructional Materials Allotment, of \$40/student is provided to buy SBOE-approved materials, as long as those materials are made available by publishers in an online portal for parents to easily browse.

TEA is also required to ensure open-source textbooks are available, but with this bill those materials must be approved by SBOE like any other textbooks. These textbooks must be free to districts in digital form, and there is an additional printing fund allotted (\$20/student) for districts that want to print them for use in the classroom.

Districts have the option to use SBOE-approved materials if they like, and this bill prohibits TEA from requiring districts to use any SBOE-approved materials (except as might be required for F-rated campus turnaround plans).

This bill ensures parent transparency in the classroom, publishers will have to establish an online portal and give parents access to log into and browse lessons in their child's textbooks.

The bill requires TEA to develop an elementary school textbook that allows teachers to cover all the core content, and provide required tutoring, by working no more than 4 hours a day.

It also requires that school districts give teachers a full sequence of instructional materials (including a textbook), so teachers are no longer forced to perform two jobs: creating curriculum/lesson design and lesson planning/differentiation, unless the district employs the teacher specifically for lesson design. Additionally, teachers are also given a safe-harbor from

discipline for inappropriate content concerns if they are teaching from SBOE-approved materials.

This bill also sets up a curriculum review fund. If a district wants to review its own instructional materials to make sure they are on grade level and being taught with fidelity, a district can request a review, and the state will cover the cost. Parents can also request these reviews, but a board of trustees retains final authority on whether they happen.

The substitute for H.B. 1605:

- Allows TEA to make bulk purchases of instructional materials and technology, using funds specifically appropriated for that purpose.
- Simplifies the rules under which the advisory committee tasked to help in the instructional materials review process may operate.
- Simplifies the language around the immunity that protects a teacher that delivers the open education resource material.
- Clarifies that a teacher may voluntarily create or select instructional materials during the teacher's planning and preparation time.
- Prohibits the use of three-cuing during reading instruction.

C.S.H.B. 1605 amends current law relating to instructional material and technology, the adoption of essential knowledge and skills for certain public school foundation curriculum subjects, and the extension of additional state aid to school districts for the provision of certain instructional materials and authorizes a fee.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the State Board of Education in SECTION 6 (Section 26.0061, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education SECTION 13 (Section 31.003, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is rescinded in SECTION 17 (Sections 31.0212, 31.0214, and 31.0215, Education Code), SECTION 18 (Section 31.0211, Education Code), and SECTION 51 (Sections 31.0231, 31.081, and 31.084, Education Code) of this bill.

Rulemaking authority previously granted to the State Board of Education is rescinded in SECTION 22 (Section 31.022, Education Code) and SECTION 51 (Section 31.0221, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.164, Education Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Prohibits a classroom teacher from being required to prepare any written information other than certain documents, including a unit or weekly lesson plan that outlines, subject to Subsection (a-1), in a brief and general manner, the information to be presented during each period at the secondary level or in each subject or topic at the elementary level.

(a-1) Provides that a unit or weekly lesson plan that is included in instructional material, as defined by Section 31.002 (Definitions), and adopted by the board of trustees of the school district at which a teacher is employed is sufficient to satisfy a requirement to prepare written information described by Subsection (a)(6).

SECTION 2. Amends Section 21.044, Education Code, by amending Subsection (a-1) and adding Subsection (h), as follows:

(a-1) Requires that any training requirements for a certificate specified under Subsection (a) (relating to requiring the State Board of Education (SBOE) to propose certain rules relating to educator requirements) require that the person demonstrate certain skills, including thorough understanding of and competence in the use of open education resource instructional materials included on the list of approved instructional materials maintained by SBOE under Section 31.022 (Instructional Materials Review and Adoption) in each subject area and grade level covered by the person's certificate.

(h) Prohibits an educator preparation program from including instruction on the use of instructional materials that incorporate the method of three-cueing, as defined by Section 28.0062(a-1), into foundational skills reading instruction.

SECTION 3. Amends Subchapter I, Chapter 21, Education Code, by adding Section 21.4045, as follows:

Sec. 21.4045. PLANNING AND NONINSTRUCTIONAL DUTIES OF TEACHERS.

(a) Authorizes a school district to enter into a supplemental agreement with a classroom teacher under which the teacher agrees to perform a duty relating to initial lesson plan design or instructional material selection that is not a duty generally:

(1) anticipated to be performed during the instructional day; and

(2) assigned to all classroom teachers of the same subject and grade level under those teachers' employment contracts.

(b) Prohibits a school district from requiring a classroom teacher for a foundation curriculum course to spend planning and preparation time to which the teacher is entitled under Section 21.404 (Planning and Preparation Time) creating or selecting instructional materials to initially cover the applicable essential knowledge and skills for the course unless the teacher has entered into a supplemental agreement described by Subsection (a). Prohibits this subsection from being construed to prohibit a classroom teacher from choosing to spend the teacher's planning and preparation time creating or selecting instructional materials.

(c) Requires that a supplemental agreement between a school district and a classroom teacher described by Subsection (a) under which a teacher is assigned responsibility for a greater number of duties unrelated to providing instruction than other full-time teachers of the same grade level in the district explicitly state each of the teacher's duties unrelated to providing instruction.

SECTION 4. Amends Subchapter B, Chapter 22, Education Code, by adding Section 22.05125, as follows:

Sec. 22.05125. IMMUNITY FROM DISCIPLINARY PROCEEDINGS FOR CLASSROOM TEACHERS. (a) Defines "disciplinary proceeding."

(b) Prohibits a classroom teacher employed by a school district from being subject to disciplinary proceedings for an allegation that the teacher violated Section 28.0022 (Certain Instructional Requirements and Prohibitions), the Establishment Clause of the First Amendment of the United States Constitution, or a related state or federal law if:

(1) the teacher used only instructional material included on the list of approved instructional material maintained by SBOE under Section 31.022 and adopted by the district; and

(2) the allegation does not dispute that the teacher delivered instruction from instructional material described by Subdivision (1) with fidelity.

(c) Provides that the immunity provided by Subsection (b) is in addition to any other immunity provided by law. Prohibits this section from being construed to interfere with any other immunity provided by law.

SECTION 5. Amends Section 26.006, Education Code, by amending Subsection (b) and adding Subsections (b-1) and (f), as follows:

(b) Requires a school district to make tests readily available for review by parents in person and teaching materials readily available for review by parents both in person and, if applicable, through an instructional materials parent portal established under Section 31.154, rather than requires a school district to make teaching materials and tests readily available for review by parents. Requires the district, in providing access to instructional materials to a student's parent under Section 26.006 (Access to Teaching Materials), to:

(1) allow access beginning not later than 30 days before the school year begins and concluding not earlier than 30 days after the school year ends; and

(2) include, for the entire period specified in Subdivision (1), access to all instructional materials that pertain to each subject area in the grade level in which the student is enrolled, except for:

(A) tests or exams that have not yet been administered to the student; and

(B) the student's graded assignments.

(b-1) Authorizes the district to specify reasonable hours for in-person review.

(f) Prohibits a school district from denying a parent access to an instructional materials parent portal hosted under Section 31.154.

SECTION 6. Amends Chapter 26, Education Code, by adding Section 26.0061, as follows:

Sec. 26.0061. RIGHT TO REQUEST INSTRUCTIONAL MATERIAL REVIEW. (a) Requires the board of trustees of each school district (board) to establish a process by which a parent of a student, as indicated on the student registration form at the student's campus, is authorized to request an instructional material review under Section 31.0252 for a subject area in the grade level in which the student is enrolled.

(b) Provides that a process established under Subsection (a):

(1) is prohibited from requiring more than one parent of a student to make the request;

(2) is required to provide for the board to determine if the request will be granted, either originally or through an appeal process; and

(3) is authorized to permit the requesting parent to review the instructional material directly before the district conducts an instructional material review under Section 31.0252.

(c) Requires the board, if the parents of at least 25 percent of the students enrolled at a campus present to the board of the district in which the campus is located a petition for the board to conduct an instructional material review under Section 31.0252, to, subject to Subsection (d), conduct the review, unless the petition is presented by the parents of less than 50 percent of the students enrolled at the campus and, by a majority vote, the board denies the request. Requires that a review conducted under this subsection include a review of instructional materials for each subject area or grade level specified in the petition.

(d) Provides that the board is not required to conduct a review under this section for a specific subject area or grade level at a specific district campus more than once per school year.

(e) Provides that parental access to instructional material provided by an instructional material review conducted under this section is in addition to any other right to access instructional material granted by Title 2 (Public Education) or school district policy.

(f) Authorizes SBOE to adopt rules to implement this section.

SECTION 7. Amends Section 28.002, Education Code, by adding Subsections (c-4) and (c-5), as follows:

(c-4) Requires SBOE, in adopting essential knowledge and skills for English language arts under Subsection (a)(1)(A) (relating to requiring each school district that offers kindergarten through grade 12 to offer a foundation curriculum that includes English language arts), to specify a list of required vocabulary and at least one literary work to be taught in each grade level. Requires that the vocabulary specified by SBOE support the essential knowledge and skills adopted for other courses offered under the foundation curriculum under Subsection (a)(1) (relating to requiring each school district that offers kindergarten through grade 12 to offer a foundation curriculum that includes certain subjects).

(c-5) Requires SBOE to initiate the process of specifying an initial list of vocabulary and literary works as required by Subsection (c-4) not later than February 1, 2024. Requires SBOE to request from the Texas Education Agency (TEA) recommendations regarding the list, and provides that that request for recommendations is authorized to be considered an initiation of the process. Provides that this subsection expires September 1, 2025.

SECTION 8. Amends the heading to Section 28.0027, Education Code, to read as follows:

Sec. 28.0027. DISTRICT CURRICULUM SCOPE, SEQUENCE, AND INSTRUCTIONAL MATERIAL.

SECTION 9. Amends Sections 28.0027(a) and (b), Education Code, as follows:

(a) Requires a school district, in adopting a recommended or designated scope and sequence or instructional materials for a subject in the required curriculum under Section 28.002(a) in a particular grade level, to ensure sufficient time is provided for teachers to teach and students to learn the essential knowledge and skills for that subject and grade level.

(b) Prohibits a school district, except as provided by Subsection (c) (relating to authorizing a school district to take appropriate action with respect to a teacher for certain conduct), from penalizing a teacher who does not follow the pacing of recommended or designated instructional materials or the pacing of the recommended or designated scope and sequence for a subject in the required curriculum under Section 28.002(a) (relating to requiring a school district to ensure sufficient time is provided for teachers to teach and students to learn the essential knowledge and skills for that subject and grade level) in a particular grade level based on the teacher's determination that the teacher's students need more or less time in a specific area to demonstrate proficiency in the essential knowledge and skills for that subject and grade level.

SECTION 10. Amends Section 28.0062, Education Code, by adding Subsection (a-1), as follows:

(a-1) Defines "three-cueing." Prohibits a school district or open-enrollment charter school from including any instruction that incorporates three-cueing in the phonics curriculum required under Subsection (a)(1) (relating to requiring each school district and open-

enrollment charter school to provide for the use of a phonics curriculum that uses systematic direct instruction in kindergarten through third grade to ensure all students obtain necessary early literacy skills).

SECTION 11. Amends the heading to Chapter 31, Education Code, to read as follows:

CHAPTER 31. INSTRUCTIONAL MATERIALS AND TECHNOLOGY

SECTION 12. Amends Section 31.002, Education Code, by amending Subdivisions (1) and (1-a) and adding Subdivisions (1-b), (1-c), and (3) to define "full subject tier one instructional material," "partial subject tier one instructional material," and "supplemental instructional material" and redefine "instructional material" and "open education resource instructional material."

SECTION 13. Amends Section 31.003, Education Code, as follows:

Sec. 31.003. RULES. (a) Creates this subsection from existing text.

(b) Authorizes the commissioner of education (commissioner) to adopt rules, consistent with Chapter 31 (Instructional Materials), as necessary to implement this chapter.

SECTION 14. Amends Subchapter A, Chapter 31, Education Code, by adding Section 31.006, as follows:

Sec. 31.006. ADVISORY COMMITTEE. Authorizes SBOE or TEA to form an advisory committee to comply with the provisions of this chapter. Provides that Chapter 2110 (Advisory Committees), Government Code, does not apply to an advisory committee formed under this section.

SECTION 15. Amends Chapter 31, Education Code, by adding Subchapter A-1 and adding a heading to read as follows:

SUBCHAPTER A-1. STATE FUNDING FOR INSTRUCTIONAL MATERIALS AND TECHNOLOGY

SECTION 16. Transfers Section 31.005, Education Code, to Subchapter A-1, Chapter 31, Education Code, as added by this Act, and redesignates it as Section 31.0205, as follows:

Sec. 31.0205. FUNDING FOR OPEN-ENROLLMENT CHARTER SCHOOLS. Makes no changes to this section.

SECTION 17. Transfers Sections 31.021, 31.0212, 31.0214, and 31.0215, Education Code, to Subchapter A-1, Chapter 31, Education Code, as added by this Act, and amends them, as follows:

Sec. 31.021. STATE INSTRUCTIONAL MATERIALS AND TECHNOLOGY FUND.

(a) Makes no changes to this subsection.

(c) Requires that money in the state instructional materials and technology fund be used to:

(1)-(2) makes no changes to these subdivisions;

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

(4) pay the expenses associated with the purchase, licensing, printing, or other reproduction of open education resource instructional material;

(5) makes no changes to this subdivision; and

(6)-(7) makes nonsubstantive changes to these subdivisions.

Deletes existing text requiring that money in the state instructional materials and technology fund be used to pay the expenses associated with the instructional materials web portal developed under Section 31.081 (Instructional Materials Web Portal).

(d) Makes no changes to this subsection.

Sec. 31.0212. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ACCOUNT.

(a)-(b) Makes no changes to these subsections.

(c) Deletes existing text authorizing a school district to use funds in the district's account to purchase electronic instructional materials or technological equipment. Deletes existing text requiring the district to submit to the commissioner a request for funds for this purpose from the district's account. Deletes existing text requiring the commissioner to adopt rules regarding the documentation a school district is required to submit to receive funds under this subsection. Redesignates Subsection (d) as Subsection (c).

(d) Requires a school district to provide to TEA the title and publication information for any instructional materials requisitioned or purchased by the district with the district's instructional materials and technology allotment. Deletes existing text requiring the commissioner to adopt rules as necessary to implement this section. Deletes existing text requiring that the rules 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.

(e) Requires TEA to provide for the development and maintenance of an online requisition and disbursement system for each school district's instructional materials and technology account.

Sec. 31.0214. ADJUSTMENT FOR HIGH ENROLLMENT GROWTH DISTRICTS.

Deletes existing Subsection (b) authorizing the commissioner to adopt rules as necessary to implement this section. Makes a nonsubstantive change to this section.

Sec. 31.0215. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT PURCHASES. (a) Makes no changes to this subsection.

(b) Requires, rather than authorizes, the commissioner to 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.

(c)-(e) Makes no changes to these subsections.

Deletes existing Subsection (f) authorizing the commissioner to adopt rules to implement this section.

SECTION 18. Reenacts Section 31.0211, Education Code, as amended by Chapters 806 (H.B. 1525) and 1003 (H.B. 3261), Acts of the 87th Legislature, Regular Session, 2021, transfers it to Subchapter A-1, Chapter 31, Education Code, as added by this Act, and amends it, as follows:

Sec. 31.0211. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT.

(a)-(b) Makes no changes to these subsections.

(c) Authorizes funds allotted under this section to be used to:

(1) purchase:

(A) instructional materials, regardless of whether the instructional materials are on the list of approved instructional materials maintained by SBOE under Section 31.022;

(B)-(D) makes nonsubstantive changes to these paragraphs;

(E) supplemental instructional materials;

(F) open education resource instructional materials, as provided by Subchapter B-1 (State-Developed Open Education Resource Instructional Materials);

(G) makes a nonsubstantive change to this paragraph;

(H) technological equipment necessary to support the use of any instructional materials purchased with an allotment under this section; and

(I)-(J) makes nonsubstantive changes to these paragraphs; and

(2) makes nonsubstantive changes to this subdivision;

Deletes existing text authorizing funds allotted under this section to be used to purchase materials on the list adopted by the commissioner, as provided by Section 31.0231 (Commissioner's List), instructional materials, regardless of whether the instructional materials are on the list adopted under Section 31.024 (Adoption by State Board of Education), supplemental instructional materials, as provided by Section 31.035 (Supplemental Instructional Materials), state-developed open education resource instructional materials, as provided by Subchapter B-1, and technological equipment necessary to support the use of materials included on the list adopted by the commissioner under Section 31.0231.

(d) Deletes existing text requiring the commissioner each biennium to assess the technology needs for all school districts and provide an estimate of the cost for these resources to SBOE. Redesignates existing Subsection (d-1) as Subsection (d).

(e) Makes no changes to this subsection.

(f) Prohibits funds allotted under this section from being used to purchase instructional material that contains obscene or harmful content or would otherwise cause the school district to which the funds were allotted to be unable to submit the certification required under Section 31.1011(a)(1)(B). Deletes existing text authorizing the commissioner to adopt rules to implement this section.

SECTION 19. Amends Subchapter A-1, Chapter 31, Education Code, as added by this Act, by adding Section 31.0216, as follows:

Sec. 31.0216. AGENCY PURCHASE OF INSTRUCTIONAL MATERIALS AND TECHNOLOGY. (a) Authorizes TEA, from funds appropriated for the purpose, to contract directly, including by extending a contract, for the purchase of instructional materials and technology for use by school districts.

(b) Provides that the provisions of Chapter 2157 (Purchasing: Purchase of Automated Information Systems), Government Code, requiring a state agency to use a contract or contract terms developed or preapproved by the Department of

Information Resources do not apply to a contract entered into under this section, but authorizes TEA to participate in a program authorized by that chapter.

SECTION 20. Amends the heading to Subchapter B, Chapter 31, Education Code, to read as follows:

SUBCHAPTER B. STATE REVIEW AND ADOPTION

SECTION 21. Amends the heading to Section 31.022, Education Code, to read as follows:

Sec. 31.022. STATE BOARD OF EDUCATION INSTRUCTIONAL MATERIALS REVIEW AND APPROVAL.

SECTION 22. Amends Section 31.022, Education Code, by amending Subsections (a), (b), (c), and (d) and adding Subsection (c-1), as follows:

(a) Requires SBOE to review instructional materials provided to SBOE by TEA under Section 31.023. Requires SBOE, before approving instructional material, to determine that the material is free from factual error and suitable for the subject and grade level for which the material is designed, and, if the material is intended to cover the foundational skills reading curriculum in kindergarten through third grade, does not include three-cueing, as defined by Section 28.0062(a-1). Requires SBOE to add each material approved under this section to a list of approved instructional materials and authorizes SBOE to add a material not approved under this section to a list of rejected instructional materials. Deletes existing text requiring SBOE to adopt a review and adoption cycle for instructional materials for elementary grade levels, including prekindergarten, and secondary grade levels, for each subject in the required curriculum under Section 28.002 (Required Curriculum). Deletes existing text providing that SBOE, in adopting the cycle:

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

(2) is required to 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 (Assessment of Academic Skills), Chapter 39, including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n) (relating to authorizing SBOE by rule develop and implement a plan designed to incorporate foundation curriculum requirements into the career and technology education curriculum);

(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 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) Authorizes SBOE to adopt criteria necessary for approval of instructional material under Subsection (a) and to require:

(1) all instructional material submitted as full subject tier one instructional material to cover a minimum percentage, as determined by SBOE, of the essential

knowledge and skills adopted for the subject and grade level for which the material is designed;

(2) electronic samples of the material;

(3) certain physical specifications; and

(4) the instructional material to not contain obscene or harmful content and otherwise be compatible with certification requirements under Section 31.1011(a)(1)(B).

Deletes existing text requiring SBOE to organize the cycle for subjects in the foundation curriculum so that not more than one-fourth of the instructional materials for subjects in the foundation curriculum are reviewed each biennium. Deletes existing text requiring SBOE to adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum every eight years. Deletes existing text authorizing the adoption of instructional materials for a subject in the foundation curriculum to be extended beyond the eight-year period only if the content of instructional materials for a subject is sufficiently current.

(c) Authorizes SBOE to remove instructional material from the list of approved instructional materials under this section if the essential knowledge and skills intended to be covered by the material are revised or the material is revised without the approval of SBOE. Deletes existing text requiring SBOE to adopt rules to provide for a full and complete investigation of instructional materials for each subject in the enrichment curriculum on a cycle SBOE considers appropriate.

(c-1) Requires SBOE, if SBOE intends to remove an instructional material from the list of approved instructional materials under Subsection (c) because SBOE plans to revise the essential knowledge and skills intended to be covered by the material, to issue a proclamation requesting the revision of the applicable instructional materials and, not later than December 1 of the year preceding the school year for which the revision will take effect, to provide to each school district the updated list of approved instructional materials for the relevant subject or grade level.

(d) Requires SBOE to indicate whether each instructional material reviewed under Subsection (a) is capable of being made available through an instructional materials parent portal established under Section 31.154. Deletes existing text requiring SBOE, 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, to publish notice of the review and adoption cycle for those instructional materials. Deletes existing text requiring that a request for production allow submission of open education resource instructional materials that are available for use by the state without charge on the same basis as instructional materials offered for sale.

SECTION 23. Amends Section 31.023, Education Code, as follows;

Sec. 31.023. New heading: INSTRUCTIONAL MATERIAL REVIEW. (a) Requires the commissioner to establish, in consultation with and with the approval of SBOE, a process for the annual review of instructional materials by TEA. Requires that the process established under this subsection:

(1) establish a process for TEA to select instructional materials for review that includes:

(A) evaluating requests for review of instructional materials submitted to TEA by:

(i) a school district;

(ii) a majority of the members of SBOE; or

(iii) a publisher of instructional material, which may only be submitted for material published by the requesting publisher;

(B) reviewing instructional materials requisitioned or purchased under Section 31.0212; and

(C) reviewing instructional materials using a time frame appropriate for the proclamation requesting the revision of the instructional materials under Section 31.022(c-1) to address revisions made by SBOE to the essential knowledge and skills for a particular subject or grade level;

(2) describe the types of instructional materials TEA is authorized to review, including:

(A) partial subject tier one instructional material, including those designed for use in the phonics curriculum required under Section 28.0062(a)(1) (relating to requiring each school district and open-enrollment charter school to provide for the use of a phonics curriculum that uses systematic direct instruction in kindergarten through third grade);

(B) open education resource instructional material;

(C) instructional materials developed by a school district and submitted to TEA by the district for review; and

(D) commercially available full subject tier one instructional material;

(3) establish procedures for TEA to conduct reviews of instructional materials, including:

(A) the use of a rubric approved under Subsection (b); and

(B) consultation with classroom teachers and other curriculum experts for the appropriate subject and grade level; and

(4) ensure the procedures for review allow TEA to review at least 200 individual instructional materials each year.

Deletes existing text requiring SBOE, for each subject and grade level, to adopt a list of instructional materials. Deletes existing text providing that the list includes each instructional material submitted for the subject and grade level that meets applicable physical specifications adopted by SBOE and contains material covering at least half of the elements of the essential knowledge and skills of the subject and grade level in the student version of the instructional material, as well as in the teacher version of the instructional material, as determined by SBOE under Section 28.002 and adopted under Section 31.024.

(b) Requires TEA, in conducting a review under this section, to use a rubric developed by TEA in consultation with and approved by SBOE that includes, with respect to the instructional material being reviewed, a determination of:

(1) whether the material is free from factual error and satisfies the criteria adopted by SBOE under Section 31.022;

- (2) the quality of the material;
- (3) the essential knowledge and skills for the subject and grade level for which the material was developed that are covered by the material, including identification of:
 - (A) each essential knowledge and skill covered by the material;
 - (B) for a full subject tier one instructional material, the percentage of the essential knowledge and skills adopted for the subject and grade level covered by the material; and
 - (C) for a partial subject tier one instructional material, the percentage of the essential knowledge and skills for the relevant portion of the subject and grade level covered by the material; and
- (4) whether the material contains obscene or harmful content or is otherwise incompatible with certification requirements under Section 31.1011(a)(1)(B)

Deletes existing text requiring that each instructional material on the list be free from factual errors, suitable for the subject and grade level for which the instructional material was submitted, and reviewed by academic experts in the subject and grade level for which the instructional material was submitted.

Deletes existing Subsection (a-1) requiring SBOE to determine the percentage of the elements of the essential knowledge and skills of the subject and grade level covered by each instructional material submitted. Deletes existing text providing that SBOE's determination under this subsection is final.

(c) Requires TEA, after completing a review under this section, to provide the results of the review and any related recommendations to SBOE for approval or rejection of the instructional material and the inclusion of the instructional material on a list maintained by SBOE under Section 31.022.

(d) Requires TEA to use funds appropriated to TEA for the purposes of reviewing instructional material or available in the state instructional materials and technology fund for purposes of implementing this section.

(e) Provides that a process established under Subsection (a) or a rubric developed under Subsection (b) is automatically approved by SBOE if not rejected by SBOE before the 91st day after the date TEA submits the item to SBOE.

SECTION 24. Amends Subchapter B, Chapter 31, Education Code, by adding Sections 31.025, 31.0251, and 31.0252, as follows:

Sec. 31.025. INSTRUCTIONAL MATERIAL INTERNET WEBSITE. (a) Requires TEA to develop and maintain an instructional material Internet website to assist school districts in locating and selecting instructional material.

(b) Requires that the Internet website developed and maintained under this section, for each instructional material included, provide:

- (1) the price of the material;
- (2) the technological requirements needed to use the material;
- (3) the results of a TEA review of the material conducted under Section 31.023;

(4) a statement of whether the material is included on the list of approved instructional materials maintained by SBOE under Section 31.022 or has been rejected by SBOE; and

(5) any other information TEA determines relevant to a school district's selection of instructional material.

(c) Requires that the Internet website developed and maintained under this section include the repository of open education resource instructional material required by Section 31.0722.

(d) Requires TEA to use funds appropriated to TEA for the purposes of reviewing instructional material or available in the state instructional materials and technology fund for purposes of implementing this section.

Sec. 31.0251. INSTRUCTIONAL MATERIAL SUPPORT. (a) Requires TEA, on request of a school district, to provide the district assistance in evaluating, adopting, or using instructional materials.

(b) Prohibits TEA, except as otherwise provided, from requiring a school district to adopt or otherwise use instructional material reviewed by TEA under Section 31.023 or included on the list of approved instructional materials maintained by SBOE under Section 31.022.

Sec. 31.0252. LOCAL REVIEW OF CLASSROOM INSTRUCTIONAL MATERIAL.

(a) Requires TEA to develop standards in consultation with stakeholders, including educators, by which a school district is authorized to conduct a review of instructional materials used by a classroom teacher in a foundation curriculum course under Section 28.002(a)(1) to determine the degree to which the material:

(1) corresponds with the instructional materials adopted by the school district or campus; and

(2) meets the level of rigor of the knowledge and skills adopted under Section 28.002 for the grade level in which it is being used.

(b) Requires TEA to develop a rubric, approved by SBOE, to determine if reviewed instructional material complies with the rigor requirements described by Subsection (a)(2).

(c) Provides that TEA, in developing standards under Subsection (a):

(1) is required to minimize, to the extent possible, the time a classroom teacher is required to spend complying with a review conducted under this section; and

(2) is prohibited from, unless unavoidable, requiring a teacher to spend more than 30 minutes on a single review conducted under this section; and

(3) is prohibited from authorizing the review of instructional materials used by a classroom teacher for a specific subject or grade level at a specific school district campus more than once per school year.

(d) Requires TEA to permit a regional education service center or a curriculum review service provider approved by TEA to conduct the review for a school district under this section and provide to approved centers and providers training relating to appropriately conducting the review.

(e) Requires TEA to award grants to assist school districts in conducting reviews under this section.

SECTION 25. Amends Sections 31.026(a) and (b), Education Code, as follows:

(a) Authorizes, rather than requires, SBOE to execute a contract for the purchase or licensing of each adopted instructional material.

(b) Deletes existing text requiring that a contract require the publisher to provide the number of instructional materials required by school districts in this state for the term of the contract, which is required to coincide with SBOE's adoption cycle.

SECTION 26. Amends the heading to Subchapter B-1, Chapter 31, Education Code, to read as follows:

SUBCHAPTER B-1. OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIALS

SECTION 27. Amends Subchapter B-1, Chapter 31, Education Code, by adding Section 31.0701, as follows:

Sec. 31.0701. REFERENCES TO STATE-DEVELOPED OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL. Provides that a reference to a state-developed open education resource instructional material in this chapter means an open education resource instructional material, as defined by Section 31.002.

SECTION 28. Amends Section 31.071, Education Code, as follows:

Sec. 31.071. New heading: AVAILABILITY OF OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL. (a) Requires the commissioner to ensure that open education resource instructional materials are available for use by school districts in accordance with this subchapter. Deletes existing text authorizing the commissioner to purchase state-developed open education resource instructional materials in accordance with this subchapter.

(b) Authorizes the commissioner, to ensure the availability of open education resource instructional materials under Subsection (a), to:

- (1) purchase a license authorizing the use of open education resource instructional materials in a manner that complies with all applicable state laws and rules relating to procurement by a state agency;
- (2) purchase or otherwise acquire ownership of open education resource instructional materials;
- (3) develop open education resource instructional materials;
- (4) adopt open education resource instructional materials; or
- (5) use any combination of the methods described by Subdivisions (1), (2), (3), and (4) to acquire open education resource instructional materials.

Deletes existing text providing that the commissioner is required to purchase any state-developed open education resource instructional materials through a competitive process and is authorized to purchase more than one state-developed open education resource instructional material for a subject or grade level.

(b-1) Authorizes the commissioner to make available more than one open education resource instructional material for a subject or grade level.

(b-2) Requires the commissioner to:

(1) to the extent practicable, ensure full subject tier one instructional materials are available as open education resource instructional material for:

(A) English language arts and mathematics courses in kindergarten through grade eight;

(B) prekindergarten, in subject areas related to English language arts and mathematics; and

(C) all foundation curriculum courses in kindergarten through grade five in a manner that permits the instruction of the content to be provided:

(i) in an integrated manner; and

(ii) for approximately 240 minutes of instructional time per day, including time needed each day for accelerated instruction under Section 28.0211 (Accelerated Learning Committee; Accelerated Instruction; Modified Teacher Assignment); and

(2) ensure open education resource instructional materials are available to all students, parents, classroom teachers, and school districts in this state free of charge, except for a fee for the printing or shipping of the material.

(c) Requires that an open education resource instructional material, except as provided by Section 31.0711, be licensed to this state under an intellectual property license that allows for free use, reuse, modification, or sharing with others as described by Section 31.07101. Deletes existing text requiring that a state-developed open education resource instructional material be irrevocably owned by the state. Deletes existing text requiring the state to have unlimited authority to modify, delete, combine, or add content to the instructional material after purchase.

(d) Requires that the costs of administering this subchapter and ensuring the availability of open education resource instructional materials be paid from funds appropriated for the purpose and the state instructional materials and technology fund, as determined by the commissioner. Deletes existing text authorizing the commissioner to issue a request for proposals for state-developed open education resource instructional material in accordance with the instructional material review and adoption cycle under Section 31.022 or at any other time the commissioner determines that a need exists for additional instructional material options. Makes a conforming change.

SECTION 29. Amends Subchapter B-1, Chapter 31, Education Code, by adding Section 31.07101, as follows:

Sec. 31.07101. FREE USE, REUSE, MODIFICATION, OR SHARING LICENSE. (a) Provides that instructional material is licensed to this state under an intellectual property license that allows for free use, reuse, modification, or sharing with others if the license:

(1) is irrevocable and perpetual;

(2) permits the state to sublicense the material;

(3) authorizes the use of the material by any person in any location permitted by the terms of the original license, if applicable;

(4) authorizes access, use, transmission, adaptation, public display, public performance, public distribution, and copying of the material; and

(5) authorizes the creation of derivative works as permitted by the terms of the original license, if applicable.

(b) Provides that instructional material licensed to this state under an intellectual property license that is restricted to noncommercial or educational use qualifies under this subchapter as instructional material licensed to this state under a license that allows for free use, reuse, modification, or sharing with others.

SECTION 30. Amends Section 31.0711, Education Code, as follows:

Sec. 31.0711. **CONTENT NOT OWNED BY STATE.** Authorizes open education resource instructional material made available under this subchapter, rather than instructional materials purchased under this subchapter, to include content not owned by the state and for which preexisting rights may exist if the content:

(1) makes no change to this subdivision;

(2) makes a nonsubstantive change to this subdivision;

(3) has been made available by the copyright owner under a Creative Commons license or another intellectual property license that allows for free use, reuse, modification, or sharing as described by Section 31.07101; or

(4) is licensed to the state under another license, rather than a license, that:

(A) grants access to and allows for use of the material by students, teachers, educators, and other education professionals, rather than grants the state unlimited authority to modify, delete, combine, or add content;

(B) permits access, use, public display, public performance, public distribution, and copying of the material for noncommercial or educational purposes, rather than permits the free use and repurposing of the material by any person or entity; and

(C) makes no changes to this paragraph.

SECTION 31. Amends Subchapter B-1, Chapter 31, Education Code, by adding Section 31.0712, as follows:

Sec. 31.0712. **OPEN EDUCATION RESOURCE ADVISORY BOARD.** Requires TEA to establish an open education resource advisory board to ensure that open education resource instructional materials made available under this subchapter are:

(1) of the highest quality;

(2) aligned with the essential knowledge and skills adopted by SBOE under Section 28.002 for the applicable subject and grade level;

(3) suitable for the age of students at the grade level for which the materials are developed;

(4) free from bias and factual error; and

(5) in compliance with Section 28.0022.

SECTION 32. Amends Section 31.072, Education Code, as follows:

Sec. 31.072. **CONTENT REQUIREMENTS.** (a) Requires that open education resource instructional material, before being made available under this subchapter, be evaluated by teachers or other experts, as determined by the commissioner, and parents of students in this state. Deletes existing text requiring that state-developed open education resource instructional material be evaluated by teachers or other experts, as determined by the commissioner, before purchase, and meet the requirements for inclusion on the instructional material list adopted under Section 31.023.

(b) Authorizes the commissioner, based on feedback received by TEA from teachers, parents, and other experts regarding open education resource instructional materials made available under this subchapter, at any time, to require an additional revision of the material. Deletes existing text requiring the commissioner, following a curriculum revision by SBOE, to require the revision of state-developed open education resource instructional material relating to that curriculum. Deletes existing text authorizing the commissioner, at any time, to require an additional revision of state-developed open education resource instructional material or contract for ongoing revisions of state-developed open education resource instructional material for a period not to exceed the period under Section 31.022 for which instructional material for that subject and grade level is authorized to be adopted. Deletes existing text requiring the commissioner to use a competitive process to request proposals to revise state-developed open education resource instructional material under this subsection.

SECTION 33. Amends Subchapter B-1, Chapter 31, Education Code, by adding Section 31.0721, as follows:

Sec. 31.0721. **REVIEW AND RELEASE OF OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL.** (a) Prohibits open education resource instructional material, except as provided by Subsection (b), from being made available under this subchapter to students, teachers, educators, or other education professionals before being reviewed by TEA under Section 31.023 and included on the list of approved instructional materials maintained by SBOE under Section 31.022.

(b) Authorizes TEA to make open education resource instructional material available to a limited number of classroom teachers for a limited time before the material is reviewed by TEA under Section 31.023 and included on the list of approved instructional materials maintained by SBOE under Section 31.022 to assist in developing or testing the quality of the material. Authorizes a school district to only use unreviewed material made available under this subsection in a grade level in which the material has not been used previously if:

(1) the board of a school district approves the use of the unreviewed material; and

(2) the district provides evidence to TEA showing that classroom teachers support the use of the material.

SECTION 34. Transfers Section 31.083, Education Code, to Subchapter B-1, Chapter 31, Education Code, redesignates it as Section 31.0722, and amends it, as follows:

Sec. 31.0722. **New heading: OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIALS REPOSITORY.** (a) Requires the commissioner to include in the Internet website developed under Section 31.025, rather than the web portal developed under Section 31.081, a repository of open education resource instructional materials, including open education resource instructional materials made available under Section 31.0721(b), and other electronic instructional materials that school districts and open-enrollment charter schools are authorized to access at no cost.

(b) Requires that the repository under Subsection (a):

(1) comply with the requirements of Section 31.154; and

(2) allow a person to provide comments on open education resource instructional material contained in the repository to assist TEA in improving and updating the material.

Deletes existing text authorizing a publisher to submit instructional materials for inclusion in the repository.

(c) Requires TEA to ensure that a person is authorized to order a print copy of any open education resource instructional material included in the repository that is reducible to print.

SECTION 35. Amends Sections 31.073 and 31.074, Education Code, as follows:

Sec. 31.073. SELECTION BY SCHOOL DISTRICT. (a) Prohibits the commissioner, except as otherwise provided by this code, from requiring a school district or open-enrollment charter school to adopt or use an open education resource instructional material.

(c) Authorizes a school district or open-enrollment charter school to adopt open education resource instructional material at any time. Deletes existing text authorizing a school district or open-enrollment charter school, notwithstanding Section 31.022, to adopt state-developed open education resource instructional material at any time, regardless of the instructional material review and adoption cycle under that section.

(d) Prohibits a school district or open-enrollment charter school from being charged for a cost associated with the selection of an open education resource instructional material, except for the cost of printing copies of the material. Deletes existing text prohibiting a school district or open-enrollment charter school from being charged for selection of state-developed open education resource instructional material in addition to instructional material adopted under Subchapter B (State Funding, Adoption, and Purchase).

Sec. 31.074. DISTRIBUTION. (a) Makes conforming changes to this subsection.

(b) Authorizes the commissioner to use a competitive process to contract for printing, other reproduction, or storage of open education resource instructional material on behalf of a school district or open-enrollment charter school. Prohibits the commissioner from requiring a school district or open-enrollment charter school to contract with a state-approved provider for the printing, reproduction, or storage of open education resource instructional material. Makes nonsubstantive and conforming changes.

(c) Provides that TEA is not required to comply with Subchapters C (Distribution of Publications) and D (Publication Production and Charges), Chapter 2052, Government Code, with regard to the printing or reproduction of an open education resource instructional material made available under this subchapter.

SECTION 36. Amends the heading to Section 31.075, Education Code, to read as follows:

Sec. 31.075. STATE OWNERSHIP; LICENSING.

SECTION 37. Amends Sections 31.075(a), (b), (c), (d), and (e), Education Code, as follows:

(a) Creates an exception under this subchapter. Makes a conforming change.

(b) Authorizes the commissioner, to encourage the use of instructional material purchased by the state under this subchapter by school districts and open-enrollment charter schools, to provide a license for the instructional material that:

- (1) requires that a user who reproduces the instructional material in any manner meet certain requirements;
- (2) provides that certain criteria are met; and
- (3) includes any additional terms determined by the commissioner.

Deletes existing text requiring the commissioner, to encourage the use of instructional material purchased by the state under this subchapter by school districts and open-enrollment charter schools, to provide a license for the instructional material that allows for the free use, reuse, modification, or sharing of the material by any person or entity. Deletes existing text providing that the terms of a license provided by the commissioner under Section 31.075 (Ownership; Licensing) is required to require that a user who reproduces the instructional material in any manner meet certain requirements, is required to provide that certain criteria are met, and is authorized to include any additional terms determined by the commissioner.

(d)-(e) Makes conforming changes to these subsections.

SECTION 38. Amends Subchapter B-1, Chapter 31, Education Code, by adding Sections 31.0751, 31.0752, and 31.0753, as follows:

Sec. 31.0751. OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL TRANSITION PLAN. (a) Requires a board, except as provided by Subsection (c), to qualify for additional state aid under Section 48.308, to adopt an open education resource instructional material transition plan to assist classroom teachers in the district who will be using an open education resource instructional material in a specific subject or grade level for which the teacher has not previously used an open education resource instructional material.

(b) Requires that a plan adopted under this section ensure that open education resource instructional materials are used in a manner that maintains the instructional flexibility of a classroom teacher to address the needs of each student.

(c) Provides that a school district that participates in the program developed and maintained by TEA under Section 31.0752 is not required to adopt a transition plan under this section.

Sec. 31.0752. OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL SUPPORT PROGRAM. Requires TEA to develop and maintain a program to assist school districts and open-enrollment charter schools in adopting and using open education resource instructional material made available under this subchapter, including by assisting districts and schools to:

- (1) maintain the instructional flexibility of classroom teachers to address the needs of each student; and
- (2) schedule instructional periods in a manner that allows classroom teachers sufficient time to effectively prepare and present instructional material within the teacher's normal work day.

Sec. 31.0753. TEACHER CANDIDATE ACCESS AND SUPPORT PROGRAM. Requires TEA to develop and maintain a program to assist educator preparation programs in implementing Section 21.044(a-1)(4).

SECTION 39. Amends Section 31.076(b), Education Code, as follows:

(b) Provides that a decision made by the commissioner under this subchapter, rather than a decision by the commissioner regarding the purchase, revision, cost, licensing, or distribution of state-developed open education resource instructional material, is final and is prohibited from being appealed.

SECTION 40. Transfers Section 31.004, Education Code, to Subchapter C, Chapter 31, Education Code, redesignates it as Section 31.1011, and amends it, as follows:

Sec. 31.1011. CERTIFICATION OF PROVISION OF INSTRUCTIONAL MATERIALS. (a) Requires each school district and open-enrollment charter school to annually certify to SBOE and the commissioner that:

(1) for each subject in the required curriculum under Section 28.002, other than physical education, and each grade level, the district or school:

(A) creates this paragraph from existing text; and

(B) in the provision of instructional materials, protects students from obscene or harmful content as necessary for compliance with:

(i) the Children's Internet Protection Act (Pub. L. No. 106-554);

(ii) Section 28.0022;

(iii) Section 43.22 (Obscene Display or Distribution), Penal Code; and

(iv) any other law or regulation that protects students from obscene or harmful content; and

(2) the district or school used money allocated to the district or school under the instructional materials and technology allotment only for purposes allowed under Section 31.0211.

(b) Authorizes a school district or open-enrollment charter school, to determine whether each student has instructional materials that cover all elements of the essential knowledge and skills as required by Subsection (a), to consider certain information, including instructional materials developed, purchased, or otherwise acquired by the school district or open-enrollment charter school. Deletes existing text authorizing a school district or open-enrollment charter school, to determine whether each student has instructional materials that cover all elements of the essential knowledge and skills as required by Subsection (a), to consider materials adopted or purchased by the commissioner under Section 31.0231 or Subchapter B-1, open education resource instructional materials submitted by eligible institutions and adopted by SBOE under Section 31.0241 (Adoption of Open Education Resource Instructional Materials), and open education resource instructional materials made available by other public schools. Makes nonsubstantive and conforming changes.

SECTION 41. Amends Subchapter C, Chapter 31, Education Code, by adding Section 31.1012, as follows:

Sec. 31.1012. REPORT TO AGENCY. Requires each school district to annually report to TEA information regarding the instructional materials used by the district during the previous school year, including the cost of each material, to assist TEA in ensuring compliance with Section 31.151(a).

SECTION 42. Amends the heading to Section 31.102, Education Code, to read as follows:

Sec. 31.102. TITLE AND CUSTODY; SCHOOL DISTRICT PURCHASES.

SECTION 43. Amends Section 31.102, Education Code, by adding Subsection (d), as follows:

(d) Provides that a school district is not required to use a method provided by Section 44.031(a) (relating to requiring certain purchases to be made by a certain method that provides the best value for the district) to purchase instructional materials that have been reviewed by TEA under Section 31.023 and included on the list of approved instructional materials maintained by SBOE under Section 31.022.

SECTION 44. Amends Section 31.103(c), Education Code, as follows:

(c) Authorizes a school district or open-enrollment charter school, in making a requisition under Section 31.103 (Instructional Material Requisitions), to requisition instructional materials, rather than instructional materials on the list adopted under Section 31.023, for grades above the grade level in which a student is enrolled.

SECTION 45. Amends Section 31.151, Education Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Provides that a publisher or manufacturer of instructional materials:

(1)-(7) makes no changes to these subdivisions;

(8)-(9) makes conforming changes to these subdivisions; and

(10) is required to comply with all other standard terms and conditions adopted by SBOE for use in contracts for the procurement of instructional materials under Subsection (a-1).

(a-1) Requires SBOE to adopt standard terms and conditions for use in contracts for the procurement of instructional materials from publishers and manufacturers under Section 31.151 (Duties of Publishers and Manufacturers).

SECTION 46. Amends Subchapter D, Chapter 31, Education Code, by adding Section 31.154, as follows:

Sec. 31.154. INSTRUCTIONAL MATERIALS PARENT PORTAL. (a) Requires SBOE to adopt standards for entities that supply instructional materials reviewed by TEA under Section 31.023 to make instructional materials supplied by the entity available on a parent portal hosted by the entity.

(b) Requires that an instructional materials parent portal:

(1) provide to each parent of a student enrolled in a school district or open-enrollment charter school access to instructional materials, other than tests or exams, that are included in the portal and used by the district or school;

(2) organize instructional material by unit and in the order in which the material is designed to be used;

(3) be capable of being searched by key word; and

(4) for instructional material not available in a digital format, contain sufficient information to allow a parent to locate a physical copy of the material.

(c) Prohibits standards adopted under Subsection (a) from requiring:

(1) a classroom teacher to submit instructional materials developed by the teacher for inclusion in an instructional materials parent portal; or

(2) an entity hosting an instructional materials parent portal to include tests or exams in the portal.

(d) Authorizes a parent, to comply with an intellectual property license or other restrictions placed on an instructional material and to maintain security of the information contained in an instructional materials parent portal under this section, to be required, before accessing the portal, to:

(1) enter a password;

(2) comply with other user access verification procedures; and

(3) accept user terms and conditions, which are prohibited from limiting or excluding access to instructional material based on the uses of the material that would otherwise be permitted under fair use provisions of copyright law.

(e) Requires an entity that hosts an instructional materials parent portal to comply with requests regarding parental access to the portal made by a school district in compliance with this section or Section 26.006.

SECTION 47. Amends Section 33.004(b), Education Code, as follows:

(b) Requires that all materials, including curriculum to be used during the year that is not available digitally through an instructional materials parent portal under Section 31.154, be available for a parent or guardian to preview during school hours. Prohibits materials or curriculum not included in the materials on the instructional materials parent portal or available on the campus for preview from being used.

SECTION 48. Amends Section 48.277(b), Education Code, as follows:

(b) Requires the commissioner, for purposes of calculating maintenance and operations revenue under Subsection (a), to:

(1) makes no changes to this subdivision;

(2) include all state and local funding, except for any funding resulting from:

(A) makes no changes to this paragraph;

(B)-(C) makes nonsubstantive changes to these paragraphs; and

(D) additional state aid under Section 48.307 or 48.308; and

(3)-(4) makes no changes to these subdivisions.

SECTION 49. Amends Subchapter G, Chapter 48, Education Code, by adding Sections 48.307 and 48.308, as follows:

Sec. 48.307. **ADDITIONAL STATE AID FOR STATE-APPROVED INSTRUCTIONAL MATERIALS.** (a) Provides that a school district, for each student enrolled in the district, is entitled to additional state aid for each school year in an amount equal to \$40, or a greater amount provided by appropriation, to procure instructional material that has been:

- (1) reviewed by TEA under Section 31.023;
- (2) placed on the list of approved instructional materials maintained by SBOE under Section 31.022;
- (3) designated by SBOE under Section 31.022 as being included or capable of being included in an instructional materials parent portal under Section 31.154; and
- (4) acquired from a publisher, manufacturer, or other entity that has not been found to violate Section 31.151.

(b) Provides that a school district is entitled to the amount of state aid provided by Subsection (a) each school year, regardless of whether the district uses the amount during the school year for which the amount was provided.

(c) Provides that additional state aid provided under this section is required to be deposited to the credit of the district's instructional materials and technology account maintained by the commissioner under Section 31.0212 and is authorized to be accessed only for the procurement of instructional materials in accordance with this section.

(d) Requires that funds provided to a school district under this section be spent in compliance with the requirements for the use of funds provided under this section and Section 31.0211.

Sec. 48.308. ADDITIONAL STATE AID FOR OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL. (a) Provides that a school district, subject to Section 31.0751, is entitled to additional state aid for each school year in an amount not to exceed \$20 for each student for the costs incurred or for which the district is obligated to pay during the school year in which the aid is provided for the printing and shipping of open education resource instructional material made available under Subchapter B-1, Chapter 31.

(b) Prohibits the amount to which a school district is entitled under this section from exceeding actual costs incurred by the district or for which the district is obligated to pay during the school year for which the funds were provided.

(c) Provides that additional state aid provided under this section is required to be deposited to the credit of the district's instructional materials and technology account maintained by the commissioner under Section 31.0212 and is authorized to be accessed only for the procurement of instructional materials in accordance with this section.

(d) Requires that funds provided to a school district under this section must be spent in compliance with the requirements for the use of funds provided under this section and Section 31.0211.

SECTION 50. Amends Chapter 322, Government Code, by adding Section 322.0082, as follows:

Sec. 322.0082. INCLUSION OF CERTAIN EDUCATION FUNDS REQUIRED. (a) Requires the director of the Legislative Budget Board (director) to include in the budget of estimated appropriations prepared under Section 322.008(c) (relating to requiring the director to transmit a copy of the budget of estimated appropriations prepared by the director to the governor and each member of the legislature by a certain date):

- (1) the amount set aside under Section 43.001(d) (relating to requiring SBOE each biennium to set aside an amount equal to 50 percent of the distribution for that biennium from the permanent school fund to the available school fund to be placed, subject to the General Appropriations

Act, in the state instructional materials and technology fund), Education Code, by SBOE from the available school fund for the state instructional materials and technology fund established under Section 31.021, Education Code; and

(2) the amount that is remaining in the state instructional materials and technology fund from the previous fiscal biennium that is available for use by school districts and open-enrollment charter schools.

(b) Requires the director, if the amount estimated to be appropriated for purposes of the state instructional materials and technology fund for a fiscal biennium is less than the amount set aside by SBOE under Section 43.001(d), Education Code, to provide with the budget an explanation of the difference, including the amount of the difference and to what the additional funds have been appropriated.

(c) Requires that an explanation provided under Subsection (b) be included with the documents provided on the Legislative Budget Board's Internet website under Section 322.0081 (Budget Documents Online).

SECTION 51. Repealer: Section 31.0213 (Certification of Use of Instructional Materials and Technology), Education Code.

Repealers: Sections 31.022(d-1) (relating to requiring that a notice state that a publisher of adopted instructional materials for a grade level other than prekindergarten is required to submit an electronic sample of the instructional materials) and (e) (relating to requiring SBOE to designate a request for production of instructional materials in a subject area and grade level by the school year in which the instructional materials are intended to be made available in classrooms), Education Code.

Repealers: Sections 31.022(f) (relating to requiring SBOE to amend any request for production issued for the purchase of instructional materials to conform to the instructional materials funding levels provided by the General Appropriations Act for the year of implementation) and (g) (relating to requiring SBOE to consider the cost of all district technology requirements, as estimated by the commissioner in determining the disbursement of money to the available school fund), Education Code.

Repealers: Sections 31.022(h) (relating to requiring SBOE to include information regarding open education resource instructional materials during the adoption cycle) and (i) (relating to prohibiting the total projected cost of instructional materials under requests for production issued by SBOE from exceeding 75 percent of the total amount used to fund the instructional materials and technology allotment for that biennium), Education Code.

Repealer: Section 31.0221 (Midcycle Review and Adoption of Instructional Materials), Education Code.

Repealers: Sections 31.0231 (Commissioner's List) and 31.024 (Adoption by State Board of Education), Education Code.

Repealers: Sections 31.0241 (Adoption of Open Education Resource Instructional Materials) and 31.0242 (Review of Open Education Resource Instructional Material), Education Code.

Repealers: Sections 31.0261 (Contracts for Printing of Open Education Resource Instructional Materials) and 31.035 (Supplemental Instructional Materials), Education Code.

Repealer: The heading to Subchapter B-2 (Instructional Materials Web Portal), Chapter 31, Education Code.

Repealers: Sections 31.081 (Instructional Materials Web Portal) and 31.082 (Quality of Instructional Materials Submitted by Publisher), Education Code.

Repealers: Sections 31.084 (Rules) and 31.101 (Selection and Purchase of Instructional Materials by School Districts), Education Code.

Repealer: Section 31.151(e) (relating to providing that an eligible institution that offers open education resource instructional materials is not a publisher or manufacturer), Education Code.

SECTION 52. Provides that this Act, to the extent of any conflict, prevails over another Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 53. (a) Provides that a contract entered into under Section 31.026 or 31.151, Education Code, as amended by this Act, before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

(b) Provides that a contract entered into under Section 31.026 or 31.151, Education Code, as amended by this Act, after the effective date of this Act for a program called for by SBOE under Proclamation 2024 is governed by the law in effect on the date the proclamation was issued, and the former law is continued in effect for that purpose.

(c) Provides that Section 31.026, Education Code, as amended by this Act, does not apply to the review of or a contract for the purchase or licensing of instructional materials required by SBOE pursuant to Proclamation 2024. Provides that the review of and contracts for the purchase or licensing of instructional materials required by SBOE pursuant to Proclamation 2024 are governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(d) Provides that Section 21.4045(b), Education Code, as added by this Act, applies only to a contract entered into on or after the effective date of this Act. Provides that a contract entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 54. (a) Provides that, except as provided by Subsection (b) of this section, this Act applies beginning with the 2023–2024 school year.

(b) Provides that Section 21.4045, Education Code, as added by this Act, applies beginning with the 2024–2025 school year.

SECTION 55. (a) Effective date, except as provided by Subsection (b) of this section: upon passage or September 1, 2023.

(b) Effective date, Sections 48.307 and 48.308, Education Code, as added by this Act, and Section 48.277(b), Education Code, as amended by this Act: September 1, 2023.

(c) Effective date, Section 322.0082, Government Code, as added by this Act: September 1, 2025.