By:  Buckley H.B. No. 1605

A BILL TO BE ENTITLED

AN ACT

relating to instructional material and technology, the adoption and revision of essential knowledge and skills of the public school foundation curriculum, and creating allotments for the procurement of certain instructional materials under the Foundation School Program; authorizing a fee.

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

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

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

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

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

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

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

(5)  a report on instructional materials;

(6)  subject to Subsection (a-1), a unit or weekly lesson plan that outlines, 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;

(7)  an attendance report;

(8)  any report required for accreditation review;

(9)  any information required by a school district that relates to a complaint, grievance, or actual or potential litigation and that requires the classroom teacher's involvement; or

(10)  any information specifically required by law, rule, or regulation.

(a-1)  A classroom teacher of a foundation curriculum course may only be required to prepare written information described by Subsection (a)(6) if the teacher's contract requires the teacher to prepare the information as part of the teacher's planning and noninstructional duties in accordance with Section 21.4045.

SECTION 2.  Section 21.044(a-1), Education Code, is amended to read as follows:

(a-1)  Any training requirements for a certificate specified under Subsection (a) must require that the person demonstrate:

(1)  basic knowledge of:

(A)  each disability category under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and how each category can affect student learning and development; and

(B)  conditions that may be considered a disability under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and how a condition covered by that section can affect student learning and development;

(2)  competence in the use of proactive instructional planning techniques that:

(A)  provide flexibility in the ways:

(i)  information is presented;

(ii)  students respond or demonstrate knowledge and skills; and

(iii)  students are engaged;

(B)  reduce barriers in instruction;

(C)  provide appropriate accommodations, supports, and challenges; and

(D)  maintain high achievement expectations for all students, including students with disabilities and students of limited English proficiency; [~~and~~]

(3)  competence in the use of evidence-based inclusive instructional practices, including:

(A)  general and special education collaborative and co-teaching models and approaches;

(B)  multitiered systems of support, including response to intervention strategies, classroom and school level data-based collaborative structures, and evidence-based strategies for intervention and progress monitoring systems in academic areas;

(C)  classroom management techniques using evidence-based behavioral intervention strategies and supports; and

(D)  appropriate adaptation strategies, including accommodations, modifications, and instruction in the use of assistive technology for instruction; and

(4)  thorough understanding of and competence in the use of open education resource instructional materials approved and included on the list maintained by the State Board of Education under Section 31.022 in each subject area and grade level covered by the person's certificate.

SECTION 3.  Subchapter I, Chapter 21, Education Code, is amended by adding Section 21.4045 to read as follows:

Sec. 21.4045.  PLANNING AND NONINSTRUCTIONAL DUTIES OF TEACHERS. (a) With respect to planning and preparation time to which the teacher is entitled under Section 21.404, a school district may authorize but not require a classroom teacher for a foundation curriculum course to spend time creating or selecting instructional materials for initial coverage of the applicable essential knowledge and skills for the course unless the contract under which the teacher is employed explicitly states that the teacher is responsible for duties relating to lesson plan design or instructional material selection.

(b)  A contract between a school district and a classroom teacher under which a teacher is assigned responsibility for duties unrelated to providing instruction and that requires the teacher to work a greater number of hours than the number of hours worked by other full-time teachers of the same grade level in the district must explicitly state each of the teacher's duties unrelated to providing instruction.

SECTION 4.  Subchapter B, Chapter 22, Education Code, is amended by adding Section 22.05125 to read as follows:

Sec. 22.05125.  IMMUNITY FROM DISCIPLINARY PROCEEDINGS FOR CLASSROOM TEACHERS. (a) In this section, "disciplinary proceeding" has the meaning assigned by Section 22.0512.

(b)  A classroom teacher employed by a school district may not be subject to disciplinary proceedings for an allegation that the teacher violated Section 28.0022, 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 approved and included on the list maintained by the State Board of Education 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.

SECTION 5.  Section 26.006, Education Code, is amended by amending Subsection (b) and adding Subsection (b-1), (f) and (g) to read as follows:

(b)  A school district shall make teaching materials and tests readily available for review by parents both in person and, if applicable, through an instructional materials parent portal established under Section 31.154. In providing access to instructional materials to a student's parent under this section, the district shall:

(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)  The district may specify reasonable hours for in-person review.

(f)  A parent's access to an instructional materials parent portal under Section 31.154 may be denied if the parent fails or refuses to comply with a restriction under Section 31.154(c).

(g)  A school district must permit a parent denied access under Subsection (f) to appeal the denial to the board of trustees of the school district.

SECTION 6.  Chapter 26, Education Code, is amended by adding Section 26.0061 to read as follows:

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

(b)  A process established under Subsection (a):

(1)  may not require more than one parent of a student to make the request;

(2)  must provide for the board of trustees of the school district to determine if the request will be granted, either originally or through an appeal process; and

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

(c)  If the parents of at least 25 percent of the students enrolled at a campus present to the board of trustees of the school district in which the campus is located a petition for the board to conduct an instructional material review under Section 31.0252, the board shall conduct the review, unless, by a majority vote, the board denies the request. A review conducted under this subsection shall include a review of instructional materials for each subject area or grade level specified in the petition.

(d)  A school district must conduct a review under this section of a grade or subject at a particular campus only once per school year.

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

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

(c-4)  In adopting essential knowledge and skills for English language arts under Subsection (a)(1)(A), the State Board of Education shall specify a list of required vocabulary and at least one literary work to be taught in each grade level. The vocabulary specified by the board must support the essential knowledge and skills adopted for other courses offered under the foundation curriculum under Subsection (a)(1).

(c-5)  The State Board of Education shall initiate the process to incorporate the requirements under Subsection (c-4) no later than February 2024. The board shall request preliminary recommendations from the agency. A request for preliminary recommendations from the agency satisfies the requirements under this subsection to initiate the process. This subsection expires September 1, 2025.

SECTION 8.  The heading to Section 28.007, Education Code, is amended to read as follows:

Sec. 28.0027.  DISTRICT CURRICULUM SCOPE AND SEQUENCE AND INSTRUCTIONAL MATERIALS.

SECTION 9.  Section 28.007, Education Code, is amended by adding subsection (d) to read as follows:

(d)  A school district must supply a classroom teacher teaching a foundation curriculum course with full subject tier one instructional materials unless the contract under which the teacher is employed explicitly states that the teacher is responsible for duties relating to lesson plan design or instructional material selection.

SECTION 10.  The heading to Chapter 31, Education Code, is amended to read as follows:

CHAPTER 31. INSTRUCTIONAL MATERIALS AND TECHNOLOGY

SECTION 11.  Section 31.002, Education Code, is amended by amending Subdivisions (1) and (1-a) and adding Subdivisions (3), (5), and (6) to read as follows:

(1)  "Instructional material" means content that conveys the essential knowledge and skills of a subject in the public school curriculum through a medium or a combination of media for conveying information to a student. The term includes:

(A)  material used by a teacher, including a lesson plan, answer key, grading rubric, or unit plan;

(B)  material used by a principal or campus instructional leader to support instruction; and

(C)  material used by a student, including a book, supplementary materials, a combination of a book, workbook, and supplementary materials, computer software, magnetic media, DVD, CD-ROM, computer courseware, on-line services, or an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means, including open education resource instructional material.

(1-a)  "Open education resource instructional material" means teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that allows for free use, reuse, modification, and sharing with others as described by Section 31.0711, including full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge. [~~The term includes state-developed open education resource instructional material purchased under Subchapter B-1.~~]

(3)  "Full subject tier one instructional material" means instructional material, including lesson plans, designed so that, when implemented with fidelity, students will attain mastery of the essential knowledge and skills adopted by the State Board of Education for a certain subject and grade level in the required curriculum under Section 28.002 or for prekindergarten, without the need for supplementation.

(5)  "Partial subject tier one instructional material" means instructional material, including lesson plans, designed so that, when implemented with fidelity, students will attain mastery in a portion of the essential knowledge and skills adopted by the State Board of Education for a certain subject and grade level in the required curriculum under Section 28.002 or for prekindergarten, without the need for supplementation in those essential knowledge and skills.

(6)  "Supplemental instructional material" means instructional material designed to assist in the instruction of one or more of the essential knowledge and skills adopted by the State Board of Education for a subject in the required curriculum under Section 28.002 or for prekindergarten.

SECTION 12.  Section 31.003, Education Code, is amended to read as follows:

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

(b)  The commissioner may adopt rules, consistent with this chapter, to implement requirements under this chapter.

SECTION 13.  Subchapter A, Chapter 31, Education Code, is amended by adding Section 31.006 to read as follows:

Sec. 31.006.  ADVISORY COMMITTEE. An advisory committee established under this chapter is not subject to Chapter 2110, Government Code.

SECTION 14.  Chapter 31, Education Code, is amended by adding Subchapter A-1, and a heading is added to that subchapter to read as follows:

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

SECTION 15.  Section 31.005, Education Code, is transferred to Subchapter A-1, Chapter 31, Education Code, as added by this Act, and redesignated as Section 31.0205 to read as follows:

Sec. 31.0205  [~~31.005~~]. FUNDING FOR OPEN-ENROLLMENT CHARTER SCHOOLS. An open-enrollment charter school is entitled to the instructional materials and technology allotment under this chapter and is subject to this chapter as if the school were a school district.

SECTION 16.  Sections 31.021, 31.0212, 31.0214, and 31.0215, Education Code, are transferred to Subchapter A-1, Chapter 31, Education Code, as added by this Act, and amended to read as follows:

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

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

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

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

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

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

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

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

(5)  pay the expenses associated with the purchase of instructional material, including freight and shipping and the insurance expenses associated with freight and shipping;

(6)  fund the technology lending grant program established under Section 32.301; and

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

[~~(8)  pay the expenses associated with the instructional materials web portal developed under Section 31.081.~~]

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

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

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

(c)  [~~A school district may also use funds in the district's account to purchase electronic instructional materials or technological equipment. The district shall submit to the commissioner a request for funds for this purpose from the district's account. The commissioner shall adopt rules regarding the documentation a school district must submit to receive funds under this subsection.~~]

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

(d)  [~~(e) The commissioner shall adopt rules as necessary to implement this section. The rules must include a requirement that a~~] A school district must 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 to the agency.

(e)  The agency shall 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. ~~(a)~~ Each year the commissioner shall adjust the instructional materials and technology allotment of school districts experiencing high enrollment growth. The commissioner shall establish a procedure for determining high enrollment growth districts eligible to receive an adjustment under this section and the amount of the instructional materials and technology allotment those districts will receive.

Sec. 31.0215.  INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT PURCHASES. (a) The commissioner shall, as early as practicable during each biennium, notify each school district and open-enrollment charter school of the estimated amount to which the district or charter school will be entitled under Section 31.0211 during the next fiscal biennium.

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

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

(d)  The commissioner shall ensure that publishers of instructional materials are informed of any potential delay in payment and that payment is subject to the availability of appropriated funds. A publisher may decline to accept an order placed under this section.

(e)  Chapter 2251, Government Code, does not apply to purchases of instructional materials under this section.

SECTION 17.  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, is transferred to Subchapter A-1, Chapter 31, Education Code, as added by this Act, reenacted, and amended to read as follows:

Sec. 31.0211.  INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT. (a) A school district is entitled to an allotment each biennium from the state instructional materials and technology fund for each student enrolled in the district on a date during the last year of the preceding biennium specified by the commissioner. The commissioner shall determine the amount of the allotment per student each biennium on the basis of the amount of money available in the state instructional materials and technology fund to fund the allotment. An allotment under this section shall be transferred from the state instructional materials and technology fund to the credit of the district's instructional materials and technology account as provided by Section 31.0212.

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

(c)  Funds allotted under this section may be used to:

(1) purchase:

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

[~~(B)~~]  instructional materials, regardless of whether the instructional materials are on the list maintained by the State Board of Education under Section 31.022 [~~adopted under Section 31.024~~];

(B) [~~(C)~~]  consumable instructional materials, including workbooks;

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

(D) [~~(E)~~]  instructional materials for use in college preparatory courses under Section 28.014, as provided by Section 31.031;

(E) [~~(F)~~]  supplemental instructional materials [~~, as provided by Section 31.035~~];

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

(G) [~~(H)~~]  instructional materials and technological equipment under any continuing contracts of the district in effect on September 1, 2011;

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

(I) [~~(J)~~]  inventory software or systems for storing, managing, and accessing instructional materials and analyzing the usage and effectiveness of the instructional materials; and

(J) [~~(K)~~]  services, equipment, and technology infrastructure necessary to ensure Internet connectivity and adequate bandwidth; and

(2)  pay:

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

(B)  for training personnel in the electronic administration of assessment instruments; [~~and~~]

(C)  the salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning; and

(D) [~~(C)~~]  for costs associated with distance learning, including Wi-Fi, Internet access hotspots, wireless network service, broadband service, and other services and technological equipment necessary to facilitate Internet access.

(d)  [~~Each biennium the commissioner shall assess the technology needs for all school districts and provide an estimate of the cost for these resources to the State Board of Education.~~

[~~(d-1)~~]  In purchasing technological equipment, a school district shall:

(1)  secure technological solutions that meet the varying and unique needs of students and teachers in the district; and

(2)  consider:

(A)  the long-term cost of ownership; and

(B)  flexibility for innovation.

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

SECTION 18.  Subchapter A-1, Chapter 31, Education Code, as added by this Act, is amended by adding Section 31.0216 to read as follows:

Sec. 31.0216.  AGENCY PURCHASE OF INSTRUCTIONAL MATERIALS AND TECHNOLOGY. (a) The agency may contract directly, including by extending a contract, for the purchase of instructional materials and technology for use by school districts.

(b)  The requirements of Chapter 2157, Government Code, do not apply to a contract entered into under this section. The agency may participate in programs authorized by Chapter 2157, Government Code.

SECTION 19.  The heading to Subchapter B, Chapter 31, Education Code, is amended to read as follows:

SUBCHAPTER B. STATE REVIEW AND [~~FUNDING,~~] ADOPTION [~~, AND PURCHASE~~]

SECTION 20.  The heading to Section 31.022, Education Code, is amended to read as follows:

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

SECTION 21.  Section 31.022, Education Code, subsections (a), (b), (c) and (d) are amended to read as follows:

(a)  The State Board of Education shall ~~adopt a~~ review ~~and adoption cycle for~~ instructional material recommended to the board by the agency under Section 31.023 for approval or rejection ~~materials for elementary grade levels, including prekindergarten, and secondary grade levels, for each subject in the required curriculum under Section 28.002~~. ~~In adopting the cycle,~~ Before approving instructional material, the board must determine that the material is free from factual error and suitable for the subject and grade level for which the material is designed. Each material approved by the board shall be added to a list of approved instructional materials~~:~~

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

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

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

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

~~(C)  foundation curriculum subjects not described by Paragraph (A) or (B), including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n); and~~

~~(D)  enrichment curriculum subjects~~.

(b)  ~~The board shall organize the cycle for subjects in the foundation curriculum so that not more than one-fourth of the instructional materials for subjects in the foundation curriculum are reviewed each biennium.~~ The State Board of Education may ~~board shall~~ adopt criteria ~~rules to provide~~ for approval ~~a full and complete investigation~~ of instructional material under Subsection (a), and may require:

(1)  all instructional material submitted as full subject tier one instructional material to cover a minimum percentage, as determined by the board, 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; and

(3)  certain physical specifications.

[~~materials for each subject in the foundation curriculum every eight years. The adoption of instructional materials for a subject in the foundation curriculum may be extended beyond the eight-year period only if the content of instructional materials for a subject is sufficiently current.~~

(c)  The State Board of Education may remove instructional material from the list maintained under this section if the essential knowledge and skills intended to be covered by the material are revised or the material is revised without approval. ~~The board shall adopt rules to provide for a full and complete investigation of instructional materials for each subject in the enrichment curriculum on a cycle the board considers appropriate.~~

(d)  For material reviewed under Subsection (a), the State Board of Education shall designate whether each instructional material meets the standards established under Section 31.154. ~~At least 12 months before the beginning of the school year for which instructional materials for a particular subject and grade level will be adopted under the review and adoption cycle, the board shall publish notice of the review and adoption cycle for those instructional materials. A request for production must allow submission of open education resource instructional materials that are available for use by the state without charge on the same basis as instructional materials offered for sale.~~

SECTION 22.  The heading to Section 31.023, Education Code, is amended to read as follows:

Sec. 31.023.  INSTRUCTIONAL MATERIAL REVIEW [~~LIST~~].

SECTION 23.  Section 31.023, Education Code, is amended to read as follows:

(a)  The commissioner shall establish an annual process for reviewing instructional materials. The State Board of Education must approve the process prior to implementation of the process. The process adopted under this subsection must:

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

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

(i)  a school district;

(ii)  a majority of the members of the State Board of Education; or

(iii)  a publisher of instructional material; and

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

(2)  describe the types of instructional materials the agency may 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);

(B)  open education resource instructional material;

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

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

(3)  establish procedures for the agency 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 for the agency to review at least 200 individual instructional materials each year. [~~For each subject and grade level, the State Board of Education shall adopt a list of instructional materials. The list includes each instructional material submitted for the subject and grade level that meets applicable physical specifications adopted by the State Board of Education and contains material covering at least half of the elements 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 the State Board of Education under Section 28.002 and adopted under Section 31.024.~~]

(b)  In conducting a review under this section, the agency must use a rubric developed by the agency and approved by the State Board of Education that includes, with respect to the instructional material being reviewed, a determination of:

(1)  whether the material is free from factual error and satisfies suitability standards as defined by criteria of the board under Section 31.022;

(2)  the quality of the material; and

(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. [~~Each instructional material on the list must be:~~

~~(1)  free from factual errors;~~

~~(2)  suitable for the subject and grade level for which the instructional material was submitted; and~~

~~(3)  reviewed by academic experts in the subject and grade level for which the instructional material was submitted.~~]

(c)  After completing a review under this section, the agency shall recommend to the State Board of Education instructional materials the agency determines appropriate for inclusion on the list maintained by the State Board of Education under Section 31.022.

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

(e)  Items requiring approval by the State Board of Education under this section are approved unless rejected by the board within 90 days of submission to the board.

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

Sec. 31.025.  WEBSITE FOR REVIEWED INSTRUCTIONAL MATERIAL. (a) The agency shall develop and maintain an instructional material website to assist school districts in locating and selecting instructional material.

(b)  For each instructional material included, the website developed and maintained under this section shall provide:

(1)  the price of the material;

(2)  the technological requirements needed to use the material;

(3)  the results of an agency review of the material conducted under Section 31.023;

(4)  a statement of whether the material is approved by and included on the list of instructional materials maintained by the State Board of Education under Section 31.022 or rejected by the board; and

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

(c)  The website developed and maintained under this section shall include the repository of open education resources under Section 31.0722.

(d)  The agency shall use funds appropriated to the agency 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) On request of a school district, the agency shall provide the district assistance in evaluating, adopting, or using instructional materials.

(b)  Except as otherwise provided, the agency may not require a school district to adopt or otherwise use instructional material reviewed by the agency under Section 31.023 or included on the list maintained by the State Board of Education under Section 31.022.

Sec. 31.0252.  LOCAL REVIEW OF CLASSROOM INSTRUCTIONAL MATERIAL. (a) The agency shall provide grants and develop standards for conducting 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 grade level rigor of the knowledge and skills of the foundation curriculum under Section 28.002.

(b)  A rubric developed by the agency to implement reviews under Subsection (a)(2) must be approved by the State Board of Education.

(c)  The agency, in developing standards under Subsection (a):

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

(2)  may not, unless unavoidable, require a teacher to spend more than 30 minutes on a single review conducted under this section.

(d)  The agency shall provide to regional education service centers and other private educational service providers approved by the agency training relating to appropriately conducting a review under this section.

SECTION 25.  Section 31.026, Education Code, is amended by amending Subsections (a) and (b) to read as follows:

(a)  The State Board of Education may [~~shall~~] execute a contract for the purchase or licensing of each adopted instructional material.

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

SECTION 26.  The heading to Subchapter B-1, Chapter 31, Education Code, is amended to read as follows:

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

SECTION 27.  Subchapter B-1, Chapter 31, Education Code, is amended by adding Sections 31.0701 to read as follows:

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

SECTION 28.  Section 31.071, Education Code, is amended to read as follows:

Sec. 31.071.  AVAILABILITY OF OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL [~~PURCHASE AUTHORITY~~]. (a) The commissioner shall ensure that [~~may purchase state-developed~~] open education resource instructional materials are available for use by school districts in accordance with this subchapter.

(b)  To ensure the availability of open education resource instructional materials under Subsection (a), the [~~The~~] commissioner may:

(1)  purchase a license authorizing the use of [~~shall purchase any state-developed~~] open education resource instructional materials [~~through a competitive process~~];

(2)  acquire ownership in 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.

(b-1)  The commissioner [~~and~~

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

(b-2)  The commissioner shall:

(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 grades kindergarten through 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; 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)  Except as provided by Section 31.0712, an [~~a state-developed~~] open education resource instructional material must 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 31.0711 [~~irrevocably owned by the state. The state must have unlimited authority to modify, delete, combine, or add content to the instructional material after purchase~~].

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

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

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

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

SECTION 29.  Subchapter B-1, Chapter 31, Education Code, is amended by adding Section 31.0712 to read as follows

Sec. 31.0711.  FREE USE, REUSE, MODIFICATION, OR SHARING LICENSE. (a) 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 original license terms;

(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, if permitted by the original license terms.

(b)  Instructional material may be licensed to this state under an intellectual property license that allows for free use, reuse, modification, or sharing with others and conforms to the requirements for open education resource instructional materials even it is limited to noncommercial or educational use.

SECTION 30.  Section 31.0712, Education Code, is amended to read as follows:

Sec. ~~31.0711~~ 31.0712.  CONTENT NOT OWNED BY STATE. Open education resource instructional [~~Instructional~~] material made available [~~purchased~~] under this subchapter may include content not owned by the state and for which preexisting rights may exist if the content:

(1)  is in the public domain;

(2)  may be used under a limitation or exception to copyright law, including a limitation under Section 107, Copyright Act of 1976 (17 U.S.C. Section 107); [~~or~~]

(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 31.0711; or

(4)  is licensed to the state under another [~~a~~] license that:

(A)  grants access to and allows for use of the material by students, teachers, educators, and other education professionals [~~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 [~~the free use and repurposing of the material by any person or entity~~]; and

(C)  is for a term of use acceptable to the commissioner to ensure a useful life of the material.

SECTION 31.  Subchapter B-1, Chapter 31, Education Code, is amended by adding Section 31.0713 to read as follows:

Sec. 31.0713.  OPEN EDUCATION RESOURCE ADVISORY BOARD. The agency shall 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 the State Board of Education 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 errors; and

(5)  in compliance with Section 28.0022.

SECTION 32.  Section 31.072, Education Code, is amended to read as follows:

Sec. 31.072.  CONTENT REQUIREMENTS. (a) Before being made available under this subchapter, [~~State-developed~~] open education resource instructional material must [~~:~~

[~~(1)~~]  be evaluated by:

(1)  teachers or other experts, as determined by the commissioner[~~, before purchase~~]; and

(2)  parents of students in this state [~~meet the requirements for inclusion on the instructional material list adopted under Section 31.023~~].

(b)  Based on feedback received by the agency from teachers, parents, and other experts regarding open education resource instructional materials made available under this subchapter, the [~~Following a curriculum revision by the State Board of Education, the commissioner shall require the revision of state-developed open education resource instructional material relating to that curriculum. The~~] commissioner may, at any time, require an additional revision of the [~~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 may be adopted. The commissioner shall use a competitive process to request proposals to revise state-developed open education resource instructional material under this subsection~~].

SECTION 33.  Subchapter B-1, Chapter 31, Education Code, is amended by adding Section 31.0721 to read as follows:

Sec. 31.0721.  REVIEW AND RELEASE OF OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL. (a) Except as provided by Subsection (b), open education resource instructional material may not be made available under this chapter to students, teachers, educators, or other education professionals before being reviewed by the agency under Section 31.023 and approved and included on the list maintained by the State Board of Education under Section 31.022.

(b)  The agency may make open education resource instructional material available to a limited number of classroom teachers for a limited time before the material is reviewed by the agency under Section 31.023 and approved and included on the list maintained by the State Board of Education under Section 31.022 to assist in developing or testing the quality of the material. For materials that have not yet been reviewed by the State Board of Education, a school district may use materials developed under this subchapter not previously in use by the school district at particular grade level only if:

(1)  the board of trustees of a school district has approved the use of materials being developed under this subchapter; and

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

SECTION 34.  Section 31.083, Education Code, is transferred to Subchapter B-1, Chapter 31, Education Code, redesignated as Section 31.0722, Education Code, and amended to read as follows:

Sec. 31.0722 [~~31.083~~].  OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIALS REPOSITORY. (a) The commissioner shall include in the website [~~web portal~~] developed under Section 31.025 [~~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 may access at no cost.

(b)  The repository under Subsection (a) must:

(1)  meet the standards under Section 31.154 for viewing instructional materials; and

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

(c)  The agency shall ensure that a person may order a print copy of any open education resource instructional material included in the repository that is reducible to print. [~~A publisher may submit instructional materials for inclusion in the repository.~~]

SECTION 35.  Sections 31.073 and 31.074, Education Code, are amended to read as follows:

Sec. 31.073.  SELECTION BY SCHOOL DISTRICT. (a) Except as otherwise provided by this code, the commissioner may not require a school district or open-enrollment charter school to adopt or use an open education resource instructional material.

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

(d)  A school district or open-enrollment charter school may not be charged for a cost associated with the selection of an [~~state-developed~~] open education resource instructional material, except for the cost of printing copies of the material [~~in addition to instructional material adopted under Subchapter B~~].

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

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

(c)  The agency is not required to comply with Subchapters C and D, 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.  The heading to Section 31.075, Education Code, is amended to read as follows:

Sec. 31.075.  STATE OWNERSHIP; LICENSING.

SECTION 37.  Sections 31.075(a), (b), (c), (d), and (e), Education Code, are amended to read as follows:

(a)  Except as provided otherwise under this subchapter, open [~~State-developed open~~] education resource instructional material is the property of the state.

(b)  To encourage the use of instructional material purchased by the state under this subchapter by school districts and open-enrollment charter schools, the commissioner may [~~shall~~] 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.~~

[~~(c)  The terms of a license provided by the commissioner under this section~~]:

(1)  requires [~~shall require~~] that a user who reproduces the instructional material in any manner:

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

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

(C)  must indicate if the user has modified the material;

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

(E)  to the extent reasonably practicable, must provide in any product or derivative material a uniform resource identifier or hyperlink through which a person may obtain the material free of charge;

(2)  provides [~~must provide~~] that:

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

(B)  the rights granted under the license to a user are automatically terminated if the user fails to comply with the terms of the license; and

(3)  includes [~~may include~~] any additional terms determined by the commissioner.

(d)  The commissioner may exempt a license under this section from including one or more of the requirements under Subsection (b)(1) [~~(c)(1)~~].

(e)  The commissioner shall determine what is considered reasonably practicable for purposes of Subsections (b)(1)(E) [~~(c)(1)(E)~~] and (b)(2)(A) [~~(c)(2)(A)~~].

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

Sec. 31.0751.  OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL TRANSITION PLAN. (a) In order to be eligible for the allotment under Section 48.158, except as provided by Subsection (c), a school district shall 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)  A plan adopted under this section must 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)  A school district that participates in the program developed and maintained by the agency 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. The agency shall 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 as provided by the teacher's contract for employment.

Sec. 31.0753.  TEACHER CANDIDATE ACCESS AND SUPPORT PROGRAM. The agency shall develop and maintain a program to assist educator preparation programs with implementing Section 21.044(a-1)(4).

SECTION 39.  Section 31.076(b), Education Code, is amended to read as follows:

(b)  A decision made by the commissioner under this subchapter [~~regarding the purchase, revision, cost, licensing, or distribution of state-developed open education resource instructional material~~] is final and may not be appealed.

SECTION 40.  Section 31.004, Education Code, is transferred to Subchapter C, Chapter 31, Education Code, redesignated as Section 31.1011, Education Code, and amended to read as follows:

Sec. 31.1011 [~~31.004~~].  CERTIFICATION OF PROVISION OF INSTRUCTIONAL MATERIALS. (a) Each school district and open-enrollment charter school shall annually certify to the State Board of Education 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:

(A)  provides each student with instructional materials that cover all elements of the essential knowledge and skills adopted by the State Board of Education for that subject and grade level; and

(B)  in the provision of instructional materials, protects students from obscene or harmful content as necessary for compliance with the Children's Internet Protection Act (Pub. L. No. 106-554); and

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

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

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

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

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

[~~(4)  open education resource instructional materials made available by other public schools;~~

[~~(5)~~]  instructional materials developed or purchased by the school district or open-enrollment charter school; and

(3) [~~(6)~~]  open education resource instructional materials and other electronic instructional materials included in the repository under Section 31.0722 [~~31.083~~].

SECTION 41.  Subchapter C, Chapter 31, Education Code, is amended by adding Section 31.1012 to read as follows:

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

SECTION 42.  The heading to Section 31.102, Education Code, is amended to read as follows:

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

SECTION 43.  Section 31.102, Education Code, is amended by adding Subsection (d) to read as follows:

(d)  A school district is not required to use a method provided by Section 44.031(a) to purchase instructional materials that have been reviewed by the agency under Section 31.023 and approved and included on the list maintained by the State Board of Education under Section 31.022.

SECTION 44.  Section 31.103(c), Education Code, is amended to read as follows:

(c)  In making a requisition under this section, a school district or open-enrollment charter school may requisition instructional materials on the list adopted under Section 31.022 [~~31.023~~] for grades above the grade level in which a student is enrolled.

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

(a)  A publisher or manufacturer of instructional materials:

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

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

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

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

(5)  may not become associated or connected with, directly or indirectly, any combination in restraint of trade in instructional materials or enter into any understanding or combination to control prices or restrict competition in the sale of instructional materials for use in this state;

(6)  shall deliver instructional materials to a school district or open-enrollment charter school;

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

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

(9)  shall submit to the State Board of Education an affidavit certifying any instructional material the publisher or manufacturer offers in this state to be free of factual errors at the time the publisher executes the contract required by Section 31.026; and

(10)  shall comply with all other standard terms and conditions adopted by the State Board of Education for use in contracts for the procurement of instructional materials under Subsection (a-1).

(a-1)  The State Board of Education shall adopt standard terms and conditions for use in contracts for the procurement of instructional materials from publishers and manufacturers under this section.

SECTION 46.  Subchapter D, Chapter 31, Education Code, is amended by adding Section 31.154 to read as follows:

Sec. 31.154.  INSTRUCTIONAL MATERIALS PARENT PORTAL. (a) The agency shall adopt standards for entities that supply instructional materials that are reviewed under this chapter for the maintenance of instructional materials on a parent portal to satisfy the requirement under Section 31.022(d).

(b)  The agency under Subsection (a) must require the instructional materials parent portal to:

(1)  provide to each parent of a student enrolled in the district access to the instructional material;

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

(3)  be capable of being searched by key word and indexed by unit; 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)  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, standards may require parents, before accessing the portal, to:

(1)  enter a password;

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

(3)  accept user terms and conditions, including a condition that the instructional material cannot be shared.

(d)  A parent's access to an instructional materials parent portal under this section may be temporarily denied if the parent fails or refuses to comply with a restriction under Subsection (c). The entity must work in conjunction with the school district regarding permanent denial in accordance with Section 26.006(f) and (g).

SECTION 47.  Section 33.004(b), Education Code, is amended to read as follows:

(b)  Each school, before implementing a comprehensive school counseling program under Section 33.005, shall annually conduct a preview of the program for parents and guardians. 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, must be available for a parent or guardian to preview during school hours. Materials or curriculum not included in the materials on the instructional materials parent portal or available on the campus for preview may not be used.

SECTION 48.  Subchapter D, Chapter 48, Education Code, is amended by adding Sections 48.157 and 48.158 to read as follows:

Sec. 48.157. ALLOTMENT FOR STATE-APPROVED INSTRUCTIONAL MATERIALS. (a) A school district is entitled to an allotment equal to $40, or a greater amount provided by appropriation, for each student enrolled in the district for costs incurred by the district to procure instructional material that has been:

(1)  reviewed by the agency under Section 31.023;

(2)  approved and placed on the list maintained by the State Board of Education under Section 31.022;

(3)  determined by the State Board of Education under Section 31.022 to be designated as a material included or capable of being included in an instructional materials parent portal under Section 31.154; and

(4)  acquired from a publisher or manufacturer or other entity which has not been found to be out of compliance with Section 31.151.

(b)  Funds allotted under this section shall be deposited to the credit of the district's instructional materials and technology account maintained by the commissioner under Section 31.0212.

(c)  The agency shall adopt a process to allow a district subject to Section 48.257 to deposit the funding the district receives under this allotment in the state instructional materials and technology fund under Section 31.0212 for use by the school district. Funding under this section retained by a school district subject to Section 48.257 is subject to all spending restrictions that apply to the instructional materials and technology allotment under Chapter 31.

Sec. 48.158.  ALLOTMENT FOR OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL. (a) For each school year, a school district is entitled to an allotment per student for the costs incurred during that year associated with printing and shipping open education resource instructional material made available under Subchapter B-1, Chapter 31, that may not exceed $20 per student.

(b)  A school district is not eligible for an allotment under this section unless the district has complied with Section 31.0751

(c)  Funds allotted under this section shall be deposited to the credit of the district's instructional materials and technology account maintained by the commissioner under Section 31.0212.

(d)  The agency shall adopt a process to allow a district subject to Section 48.257 to deposit the funding the district retains under this allotment in the state instructional materials and technology fund under Section 31.0212 for use by the school district. Funding under this section received by a school district subject to Section 48.257 is subject to all spending restrictions that apply to the instructional materials allotment under Chapter 31.

SECTION 49.  The following provisions of the Education Code are repealed:

(1)  Section 31.0211(f);

(2)  Section 31.0213;

(3)  Section 31.0214(b);

(4)  Section 31.0215(f);

(5)  Section 31.022(d-1), (e), (f), (g), (h) and (i);

(6)  Section 31.0221;

(7)  Section 31.023(a-1);

(8)  Section 31.0231;

(9)  Section 31.024;

(10)  Section 31.0241;

(11)  Section 31.0242;

(12)  Section 31.0261;

(13)  Section 31.035;

(14)  the heading to Subchapter B-2, Chapter 31;

(15)  Section 31.081;

(16)  Section 31.082;

(17)  Section 31.084;

(18)  Section 31.101; and

(19)  Section 31.151(e).

SECTION 50.  To the extent of any conflict, this Act prevails over another Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 51.  A contract under Sections 31.026 or 31.151, Education Code, 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 52.  This Act applies beginning with the 2023-2024 school year.

SECTION 53.  (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.

(b)  Sections 48.157 and 48.158, Education Code, as added by this Act, take effect September 1, 2023.