

By: Buckley

H.B. No. 1605

A BILL TO BE ENTITLED

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

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

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

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

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

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

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

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

24 (5) a report on instructional materials;

1 (6) subject to Subsection (a-1), a unit or weekly
2 lesson plan that outlines, in a brief and general manner, the
3 information to be presented during each period at the secondary
4 level or in each subject or topic at the elementary level;

5 (7) an attendance report;

6 (8) any report required for accreditation review;

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

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

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

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

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

22 (1) basic knowledge of:

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

27 (B) conditions that may be considered a

1 disability under Section 504, Rehabilitation Act of 1973 (29 U.S.C.
2 Section 794), and how a condition covered by that section can affect
3 student learning and development;

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

6 (A) provide flexibility in the ways:

7 (i) information is presented;

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

10 (iii) students are engaged;

11 (B) reduce barriers in instruction;

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

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

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

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

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

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

27 and

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

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

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

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

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

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

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

6 (b) A classroom teacher employed by a school district may
7 not be subject to disciplinary proceedings for an allegation that
8 the teacher violated Section 28.0022, the Establishment Clause of
9 the First Amendment of the United States Constitution, or a related
10 state or federal law if:

11 (1) the teacher used only instructional material
12 approved and included on the list maintained by the State Board of
13 Education under Section 31.022 and adopted by the district; and

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

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

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

26 (1) allow access beginning not later than 30 days
27 before the school year begins and concluding not earlier than 30

1 days after the school year ends; and

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

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

8 (B) the student's graded assignments.

9 (b-1) The district may specify reasonable hours for
10 in-person review.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 foundation curriculum under Subsection (a)(1).

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

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

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

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

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

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

23 CHAPTER 31. INSTRUCTIONAL MATERIALS AND TECHNOLOGY

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

27 (1) "Instructional material" means content that

1 conveys the essential knowledge and skills of a subject in the
2 public school curriculum through a medium or a combination of media
3 for conveying information to a student. The term includes:

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

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

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

15 (1-a) "Open education resource instructional
16 material" means teaching, learning, and research resources that
17 reside in the public domain or have been released under an
18 intellectual property license that allows for free use, reuse,
19 modification, and sharing with others as described by Section
20 31.0711, including full courses, course materials, modules,
21 textbooks, streaming videos, tests, software, and any other tools,
22 materials, or techniques used to support access to knowledge. [~~The~~
23 ~~term includes state-developed open education resource~~
24 ~~instructional material purchased under Subchapter B-1.~~]

25 (3) "Full subject tier one instructional material"
26 means instructional material, including lesson plans, designed so
27 that, when implemented with fidelity, students will attain mastery

1 of the essential knowledge and skills adopted by the State Board of
2 Education for a certain subject and grade level in the required
3 curriculum under Section 28.002 or for prekindergarten, without the
4 need for supplementation.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (1) an amount set aside by the State Board of Education
25 from the available school fund, in accordance with Section
26 43.001(d); and

27 (2) all amounts lawfully paid into the fund from any

1 other source.

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

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

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

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

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

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

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

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

23 ~~[(8) pay the expenses associated with the~~
24 ~~instructional materials web portal developed under Section~~
25 ~~31.081.]~~

26 (d) Money transferred to the state instructional materials
27 and technology fund remains in the fund until spent and does not

1 lapse to the state at the end of the fiscal year.

2 Sec. 31.0212. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
3 ACCOUNT. (a) The commissioner shall maintain an instructional
4 materials and technology account for each school district. In the
5 first year of each biennium, the commissioner shall deposit in the
6 account for each district the amount of the district's
7 instructional materials and technology allotment under Section
8 31.0211.

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

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

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

26 (d) ~~[(e) The commissioner shall adopt rules as necessary to~~
27 ~~implement this section. The rules must include a requirement that~~

1 a] A school district must provide the title and publication
2 information for any instructional materials requisitioned or
3 purchased by the district with the district's instructional
4 materials and technology allotment to the agency.

5 (e) The agency shall provide for the development and
6 maintenance of an online requisition and disbursement system for
7 each school district's instructional materials and technology
8 account.

9 Sec. 31.0214. ADJUSTMENT FOR HIGH ENROLLMENT GROWTH
10 DISTRICTS. ~~(a)~~ Each year the commissioner shall adjust the
11 instructional materials and technology allotment of school
12 districts experiencing high enrollment growth. The commissioner
13 shall establish a procedure for determining high enrollment growth
14 districts eligible to receive an adjustment under this section and
15 the amount of the instructional materials and technology allotment
16 those districts will receive.

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

23 (b) The commissioner shall ~~[may]~~ allow a school district or
24 open-enrollment charter school to place an order for instructional
25 materials before the beginning of a fiscal biennium and to receive
26 instructional materials before payment. The commissioner shall
27 limit the cost of an order placed under this section to 80 percent

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

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

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

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

19 SECTION 17. Section [31.0211](#), Education Code, as amended by
20 Chapters 806 (H.B. 1525) and 1003 (H.B. 3261), Acts of the 87th
21 Legislature, Regular Session, 2021, is transferred to Subchapter
22 [A-1](#), Chapter [31](#), Education Code, as added by this Act, reenacted,
23 and amended to read as follows:

24 Sec. 31.0211. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
25 ALLOTMENT. (a) A school district is entitled to an allotment each
26 biennium from the state instructional materials and technology fund
27 for each student enrolled in the district on a date during the last

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

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

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

17 (1) purchase:

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

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

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

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

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

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

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

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

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

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

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

22 (2) pay:

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

27 (B) for training personnel in the electronic

1 administration of assessment instruments; ~~and~~

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

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

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

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

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

17 (2) consider:

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

19 (B) flexibility for innovation.

20 (e) Not later than May 31 of each school year, a school
21 district may request that the commissioner adjust the number of
22 students for which the district is entitled to receive an allotment
23 under Subsection (a) on the grounds that the number of students
24 attending school in the district will increase or decrease during
25 the school year for which the allotment is provided. The
26 commissioner may also adjust the number of students for which a
27 district is entitled to receive an allotment, without a request by

1 the district, if the commissioner determines a different number of
2 students is a more accurate reflection of students who will be
3 attending school in the district. The commissioner's determination
4 under this subsection is final.

5 SECTION 18. Subchapter [A-1](#), Chapter [31](#), Education Code, as
6 added by this Act, is amended by adding Section 31.0216 to read as
7 follows:

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

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

16 SECTION 19. The heading to Subchapter [B](#), Chapter [31](#),
17 Education Code, is amended to read as follows:

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

19 SECTION 20. The heading to Section [31.022](#), Education Code,
20 is amended to read as follows:

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

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

25 (a) The State Board of Education shall ~~adopt a review and~~
26 ~~adoption cycle for~~ instructional material recommended to the board
27 by the agency under Section [31.023](#) for approval or rejection

1 ~~materials for elementary grade levels, including prekindergarten,~~
2 ~~and secondary grade levels, for each subject in the required~~
3 ~~curriculum under Section 28.002. In adopting the cycle, Before~~
4 ~~approving instructional material, the board must determine that the~~
5 ~~material is free from factual error and suitable for the subject and~~
6 ~~grade level for which the material is designed. Each material~~
7 ~~approved by the board shall be added to a list of approved~~
8 ~~instructional materials.~~

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

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

13 ~~(A) foundation curriculum subjects for which the~~
14 ~~essential knowledge and skills have been substantially revised and~~
15 ~~for which assessment instruments are required under Subchapter B,~~
16 ~~Chapter 39, including career and technology courses that satisfy~~
17 ~~foundation curriculum requirements as provided by Section~~
18 ~~28.002(n);~~

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

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

27 ~~(D) enrichment curriculum subjects.~~

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

8 (1) all instructional material submitted as full
9 subject tier one instructional material to cover a minimum
10 percentage, as determined by the board, of the essential knowledge
11 and skills adopted for the subject and grade level for which the
12 material is designed;

13 (2) electronic samples of the material; and

14 (3) certain physical specifications.

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

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

27 (d) For material reviewed under Subsection (a), the State

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

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

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

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

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

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

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

24 (i) a school district;

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

27 (iii) a publisher of instructional

1 material; and

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

4 (2) describe the types of instructional materials the
5 agency may review, including:

6 (A) partial subject tier one instructional
7 material, including those designed for use in the phonics
8 curriculum required under Section 28.0062(a)(1);

9 (B) open education resource instructional
10 material;

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

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

16 (3) establish procedures for the agency to conduct
17 reviews of instructional materials, including:

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

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

23 (4) ensure the procedures for review allow for the
24 agency to review at least 200 individual instructional materials
25 each year. ~~[For each subject and grade level, the State Board of~~
26 ~~Education shall adopt a list of instructional materials. The list~~
27 ~~includes each instructional material submitted for the subject and~~

~~1 grade level that meets applicable physical specifications adopted
2 by the State Board of Education and contains material covering at
3 least half of the elements of the essential knowledge and skills of
4 the subject and grade level in the student version of the
5 instructional material, as well as in the teacher version of the
6 instructional material, as determined by the State Board of
7 Education under Section 28.002 and adopted under Section 31.024.]~~

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

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

15 (2) the quality of the material; and

16 (3) the essential knowledge and skills for the subject
17 and grade level for which the material was developed that are
18 covered by the material, including identification of:

19 (A) each essential knowledge and skill covered by
20 the material;

21 (B) for a full subject tier one instructional
22 material, the percentage of the essential knowledge and skills
23 adopted for the subject and grade level covered by the material; and

24 (C) for a partial subject tier one instructional
25 material, the percentage of the essential knowledge and skills for
26 the relevant portion of the subject and grade level covered by the
27 material. [~~Each instructional material on the list must be:~~

1 ~~(1) free from factual errors;~~

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

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

6 (c) After completing a review under this section, the agency
7 shall recommend to the State Board of Education instructional
8 materials the agency determines appropriate for inclusion on the
9 list maintained by the State Board of Education under Section
10 31.022.

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

15 (e) Items requiring approval by the State Board of Education
16 under this section are approved unless rejected by the board within
17 90 days of submission to the board.

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

21 Sec. 31.025. WEBSITE FOR REVIEWED INSTRUCTIONAL MATERIAL.

22 (a) The agency shall develop and maintain an instructional
23 material website to assist school districts in locating and
24 selecting instructional material.

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

27 (1) the price of the material;

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

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

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

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

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

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

19 Sec. 31.0251. INSTRUCTIONAL MATERIAL SUPPORT. (a) On
20 request of a school district, the agency shall provide the district
21 assistance in evaluating, adopting, or using instructional
22 materials.

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

27 Sec. 31.0252. LOCAL REVIEW OF CLASSROOM INSTRUCTIONAL

1 MATERIAL. (a) The agency shall provide grants and develop
2 standards for conducting a review of instructional materials used
3 by a classroom teacher in a foundation curriculum course under
4 Section 28.002(a)(1) to determine the degree to which the material:

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

7 (2) meets grade level rigor of the knowledge and
8 skills of the foundation curriculum under Section 28.002.

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

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

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

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

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

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

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

1 instructional material.

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

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

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

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

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

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

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

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

27 (1) purchase a license authorizing the use of [~~shall~~

1 ~~purchase any state-developed~~ open education resource
2 instructional materials [~~through a competitive process~~];

3 (2) acquire ownership in open education resource
4 instructional materials;

5 (3) develop open education resource instructional
6 materials;

7 (4) adopt open education resource instructional
8 materials; or

9 (5) use any combination of the methods described by
10 Subdivisions (1), (2), (3) and (4) to acquire open education
11 resource instructional materials.

12 (b-1) The commissioner [~~and~~
13 [~~(2)~~] may make available [~~purchase~~] more than one
14 [~~state-developed~~] open education resource instructional material
15 for a subject or grade level.

16 (b-2) The commissioner shall:

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

20 (A) English language arts and mathematics
21 courses in grades kindergarten through eight;

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

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

27 (i) in an integrated manner; and

1 (ii) for approximately 240 minutes of
2 instructional time per day, including time needed each day for
3 accelerated instruction under Section 28.0211; and

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

8 (c) Except as provided by Section 31.0712, an [~~a~~
9 ~~state-developed~~] open education resource instructional material
10 must be licensed to this state under an intellectual property
11 license that allows for free use, reuse, modification, or sharing
12 with others as described by Section 31.0711 [~~irrevocably owned by~~
13 ~~the state. The state must have unlimited authority to modify,~~
14 ~~delete, combine, or add content to the instructional material after~~
15 ~~purchase~~].

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

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

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

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

27 SECTION 29. Subchapter B-1, Chapter 31, Education Code, is

1 amended by adding Section 31.0712 to read as follows

2 Sec. 31.0711. FREE USE, REUSE, MODIFICATION, OR SHARING
3 LICENSE. (a) Instructional material is licensed to this state
4 under an intellectual property license that allows for free use,
5 reuse, modification, or sharing with others if the license:

6 (1) is irrevocable and perpetual;

7 (2) permits the state to sublicense the material;

8 (3) authorizes the use of the material by any person in
9 any location permitted by the original license terms;

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

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

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

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

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

27 (1) is in the public domain;

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

4 (3) has been made available by the copyright owner
5 under a Creative Commons license or another intellectual property
6 license that allows for free use, reuse, modification, or sharing
7 as described by Section 31.0711; or

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

10 (A) grants access to and allows for use of the
11 material by students, teachers, educators, and other education
12 professionals ~~[the state unlimited authority to modify, delete,~~
13 ~~combine, or add content];~~

14 (B) permits access, use, public display, public
15 performance, public distribution, and copying of the material for
16 noncommercial or educational purposes ~~[the free use and repurposing~~
17 ~~of the material by any person or entity]; and~~

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

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

22 Sec. 31.0713. OPEN EDUCATION RESOURCE ADVISORY BOARD. The
23 agency shall establish an open education resource advisory board to
24 ensure that open education resource instructional materials made
25 available under this subchapter are:

26 (1) of the highest quality;

27 (2) aligned with the essential knowledge and skills

1 adopted by the State Board of Education under Section 28.002 for the
2 applicable subject and grade level;

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

5 (4) free from bias and factual errors; and

6 (5) in compliance with Section 28.0022.

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

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

12 [(-)] be evaluated by:

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

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

18 (b) Based on feedback received by the agency from teachers,
19 parents, and other experts regarding open education resource
20 instructional materials made available under this subchapter, the
21 [Following a curriculum revision by the State Board of Education,
22 the commissioner shall require the revision of state-developed open
23 education resource instructional material relating to that
24 curriculum. The] commissioner may, at any time, require an
25 additional revision of the [state-developed open education
26 resource instructional] material [or contract for ongoing
27 revisions of state-developed open education resource instructional

1 ~~material for a period not to exceed the period under Section 31.022~~
2 ~~for which instructional material for that subject and grade level~~
3 ~~may be adopted. The commissioner shall use a competitive process to~~
4 ~~request proposals to revise state-developed open education~~
5 ~~resource instructional material under this subsection].~~

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

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

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

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

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

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

6 Sec. 31.0722 [~~31.083~~]. OPEN EDUCATION RESOURCE
7 INSTRUCTIONAL MATERIALS REPOSITORY. (a) The commissioner shall
8 include in the website [~~web portal~~] developed under Section 31.025
9 [~~31.081~~] a repository of open education resource instructional
10 materials, including open education resource instructional
11 materials made available under Section 31.0721(b), and other
12 electronic instructional materials that school districts and
13 open-enrollment charter schools may access at no cost.

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

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

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

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

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

27 Sec. 31.073. SELECTION BY SCHOOL DISTRICT. (a) Except as

1 otherwise provided by this code, the commissioner may not require a
2 school district or open-enrollment charter school to adopt or use
3 an open education resource instructional material.

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

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

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

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

27 (c) The agency is not required to comply with Subchapters C

1 and D, Chapter 2052, Government Code, with regard to the printing or
2 reproduction of an open education resource instructional material
3 made available under this subchapter.

4 SECTION 36. The heading to Section 31.075, Education Code,
5 is amended to read as follows:

6 Sec. 31.075. STATE OWNERSHIP; LICENSING.

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

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

12 (b) To encourage the use of instructional material
13 purchased by the state under this subchapter by school districts
14 and open-enrollment charter schools, the commissioner may [~~shall~~]
15 provide a license for the instructional material that [~~allows for~~
16 ~~the free use, reuse, modification, or sharing of the material by any~~
17 ~~person or entity.~~

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

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

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

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

27 (C) must indicate if the user has modified the

1 material;

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

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

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

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

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

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

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

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

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

1 Sec. 31.0751. OPEN EDUCATION RESOURCE INSTRUCTIONAL
2 MATERIAL TRANSITION PLAN. (a) In order to be eligible for the
3 allotment under Section 48.158, except as provided by Subsection
4 (c), a school district shall adopt an open education resource
5 instructional material transition plan to assist classroom
6 teachers in the district who will be using an open education
7 resource instructional material in a specific subject or grade
8 level for which the teacher has not previously used an open
9 education resource instructional material.

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

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

17 Sec. 31.0752. OPEN EDUCATION RESOURCE INSTRUCTIONAL
18 MATERIAL SUPPORT PROGRAM. The agency shall develop and maintain a
19 program to assist school districts and open-enrollment charter
20 schools in adopting and using open education resource instructional
21 material made available under this subchapter, including by
22 assisting districts and schools to:

23 (1) maintain the instructional flexibility of
24 classroom teachers to address the needs of each student; and

25 (2) schedule instructional periods in a manner that
26 allows classroom teachers sufficient time to effectively prepare
27 and present instructional material within the teacher's normal work

1 day as provided by the teacher's contract for employment.

2 Sec. 31.0753. TEACHER CANDIDATE ACCESS AND SUPPORT PROGRAM.

3 The agency shall develop and maintain a program to assist educator
4 preparation programs with implementing Section 21.044(a-1)(4).

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

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

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

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

18 (1) [~~7~~] for each subject in the required curriculum
19 under Section 28.002, other than physical education, and each grade
20 level, the district:

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

25 (B) in the provision of instructional materials,
26 protects students from obscene or harmful content as necessary for
27 compliance with the Children's Internet Protection Act (Pub. L.

1 No. 106-554); and

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

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

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

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

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

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

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

20 (3) [(6)] open education resource instructional
21 materials and other electronic instructional materials included in
22 the repository under Section 31.0722 [31.083].

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

25 Sec. 31.1012. REPORT TO AGENCY. Each school district shall
26 annually report to the agency information regarding the
27 instructional materials used by the district during the previous

1 school year, including the cost of each material, to assist the
2 agency in ensuring compliance with Section 31.151(a).

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

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

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

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

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

15 (c) In making a requisition under this section, a school
16 district or open-enrollment charter school may requisition
17 instructional materials on the list adopted under Section 31.022
18 [~~31.023~~] for grades above the grade level in which a student is
19 enrolled.

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

23 (a) A publisher or manufacturer of instructional materials:
24 (1) shall furnish any instructional material the
25 publisher or manufacturer offers in this state at a price that does
26 not exceed the lowest price at which the publisher offers that
27 instructional material for adoption or sale to any state, public

1 school, or school district in the United States;

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

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

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

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

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

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

26 (8) shall guarantee delivery of instructional
27 materials at least 10 business days before the opening day of school

1 of the year for which the instructional materials are ordered if the
2 instructional materials are ordered by a date specified in the
3 sales contract; ~~and~~

4 (9) shall submit to the State Board of Education an
5 affidavit certifying any instructional material the publisher or
6 manufacturer offers in this state to be free of factual errors at
7 the time the publisher executes the contract required by Section
8 31.026; and

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

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

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

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

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

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

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

4 (3) be capable of being searched by key word and
5 indexed by unit; and

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

9 (c) To comply with an intellectual property license or other
10 restrictions placed on an instructional material and to maintain
11 security of the information contained in an instructional materials
12 parent portal under this section, standards may require parents,
13 before accessing the portal, to:

14 (1) enter a password;

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

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

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

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

27 (b) Each school, before implementing a comprehensive school

1 counseling program under Section 33.005, shall annually conduct a
2 preview of the program for parents and guardians. All materials,
3 including curriculum to be used during the year that is not
4 available digitally through an instructional materials parent
5 portal under Section 31.154, must be available for a parent or
6 guardian to preview during school hours. Materials or curriculum
7 not included in the materials on the instructional materials parent
8 portal or available on the campus for preview may not be used.

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

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

16 (1) reviewed by the agency under Section 31.023;

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

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

23 (4) acquired from a publisher or manufacturer or other
24 entity which has not been found to be out of compliance with Section
25 31.151.

26 (b) Funds allotted under this section shall be deposited to
27 the credit of the district's instructional materials and technology

1 account maintained by the commissioner under Section 31.0212.

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

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

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

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

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

1 that apply to the instructional materials allotment under Chapter
2 31.

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

- 5 (1) Section 31.0211(f);
- 6 (2) Section 31.0213;
- 7 (3) Section 31.0214(b);
- 8 (4) Section 31.0215(f);
- 9 (5) Section 31.022(d-1), (e), (f), (g), (h) and (i);
- 10 (6) Section 31.0221;
- 11 (7) Section 31.023(a-1);
- 12 (8) Section 31.0231;
- 13 (9) Section 31.024;
- 14 (10) Section 31.0241;
- 15 (11) Section 31.0242;
- 16 (12) Section 31.0261;
- 17 (13) Section 31.035;
- 18 (14) the heading to Subchapter B-2, Chapter 31;
- 19 (15) Section 31.081;
- 20 (16) Section 31.082;
- 21 (17) Section 31.084;
- 22 (18) Section 31.101; and
- 23 (19) Section 31.151(e).

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

1 SECTION 51. A contract under Sections 31.026 or 31.151,
2 Education Code, entered into before the effective date of this Act
3 is governed by the law in effect on the date the contract was
4 entered into, and the former law is continued in effect for that
5 purpose.

6 SECTION 52. This Act applies beginning with the 2023-2024
7 school year.

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

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