

By: Creighton, et al.

S.B. No. 2565

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 class
21 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 lesson
2 plan that outlines, in a brief and general manner, the information
3 to be presented during each period at the secondary level or in each
4 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 to
19 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 disability

1 under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section
2 794), and how a condition covered by that section can affect student
3 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, supports,
13 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 use
5 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 proceeding"
5 has the meaning assigned by Section 22.0512.

6 (b) A classroom teacher employed by a school district may not
7 be subject to disciplinary proceedings for an allegation that the
8 teacher violated Section 28.0022, the Establishment Clause of the
9 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 tests
21 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 in-person
10 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 to
27 make the request;

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

1 curriculum under Subsection (a)(1).

2 (c-5) The State Board of Education shall initiate the process
3 to incorporate the requirements under Subsection (c-4) no later
4 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, is
10 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 conveys

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

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

2 (c) Money in the state instructional materials and technology
3 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, ~~[or]~~
13 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 instructional~~
24 ~~materials web portal developed under Section 31.081.]~~

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

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

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

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

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

25 (d) ~~[(c) The commissioner shall adopt rules as necessary~~
26 ~~to implement this section. The rules must include a requirement~~
27 ~~that a] A school district must provide the title and publication~~

1 information for any instructional materials requisitioned or
2 purchased by the district with the district's instructional
3 materials and technology allotment to the agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (1) purchase:

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

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

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

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

27 (D) ~~[(E)]~~ instructional materials for use in

1 college preparatory courses under Section 28.014, as provided by
2 Section 31.031;

3 (E) [~~(F)~~] supplemental instructional materials [~~7~~
4 ~~as provided by Section 31.035~~];

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

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

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

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

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

21 (2) pay:

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

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

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

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

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

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

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

16 (2) consider:

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

18 (B) flexibility for innovation.

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

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

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

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

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

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

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

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

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

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

24 (a) The State Board of Education shall ~~adopt a review and~~
25 ~~adoption cycle for~~ instructional material recommended to the board
26 by the agency under Section 31.023 for approval or rejection
27 ~~materials for elementary grade levels, including prekindergarten,~~

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

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

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

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

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

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

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

27 ~~(b) The board shall organize the cycle for subjects in the~~

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

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

12 (2) electronic samples of the material; and

13 (3) certain physical specifications.

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

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

26 (d) For material reviewed under Subsection (a), the State
27 Board of Education shall designate whether each instructional

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

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

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

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

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

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

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

23 (i) a school district;

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

26 (iii) a publisher of instructional material;

27 and

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

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

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

8 (B) open education resource instructional
9 material;

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

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

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

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

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

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

1 ~~least half of the elements of the essential knowledge and skills of~~
2 ~~the subject and grade level in the student version of the~~
3 ~~instructional material, as well as in the teacher version of the~~
4 ~~instructional material, as determined by the State Board of~~
5 ~~Education under Section 28.002 and adopted under Section 31.024.]~~

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

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

13 (2) the quality of the material; and

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

17 (A) each essential knowledge and skill covered by
18 the material;

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

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

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

27 ~~(2) suitable for the subject and grade level for~~

1 ~~which the instructional material was submitted, and~~

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

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

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

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

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

20 Sec. 31. 025. WEBSITE FOR REVIEWED INSTRUCTIONAL MATERIAL.

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

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

26 (1) the price of the material;

27 (2) the technological requirements needed to use the

1 material;

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

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

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

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

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

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

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

26 Sec. 31.0252. LOCAL REVIEW OF CLASSROOM INSTRUCTIONAL
27 MATERIAL. (a) The agency shall provide grants and develop

1 standards for conducting a review of instructional materials used
2 by a classroom teacher in a foundation curriculum course under
3 Section 28.002 (a)(1) to determine the degree to which the
4 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 skills
8 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 (a):

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (1) purchase a license authorizing the use of [~~shall~~
27 ~~purchase any state-developed~~] open education resource

1 instructional materials [~~through a competitive process~~];
2 (2) acquire ownership in open education resource
3 instructional materials;
4 (3) develop open education resource instructional
5 materials;
6 (4) adopt open education resource instructional
7 materials; or
8 (5) use any combination of the methods described by
9 Subdivisions (1), (2), (3) and (4) to acquire open education
10 resource instructional materials.

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

15 (b-2) The commissioner shall:

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

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

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

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

26 (i) in an integrated manner; and

27 (ii) for approximately 240 minutes of

1 instructional time per day, including time needed each day for
2 accelerated instruction under Section 28.0211; and

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

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

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

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

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

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

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

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

5 (1) is irrevocable and perpetual;

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

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

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

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

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

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

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

26 (1) is in the public domain;

27 (2) may be used under a limitation or exception to

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

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

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

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

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

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

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

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

25 (1) of the highest quality;

26 (2) aligned with the essential knowledge and skills
27 adopted by the State Board of Education under Section 28.002 for the

- 1 applicable subject and grade level;
- 2 (3) suitable for the age of students at the grade level
- 3 for which the materials are developed;
- 4 (4) free from bias and factual errors; and
- 5 (5) in compliance with Section 28.0022.

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

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

11 [~~(1)~~] be evaluated by:
12 (1) teachers or other experts, as determined by the
13 commissioner [~~, before purchase~~]; and

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

17 (b) Based on feedback received by the agency from teachers,
18 parents, and other experts regarding open education resource
19 instructional materials made available under this subchapter, the
20 [Following a curriculum revision by the State Board of Education,
21 the commissioner shall require the revision of state-developed open
22 education resource instructional material relating to that
23 curriculum. The] commissioner may, at any time, require an
24 additional revision of the [~~state-developed open education~~
25 ~~resource instructional]~~ material [~~or contract for ongoing~~
26 ~~revisions of state-developed open education resource instructional~~
27 ~~material for a period not to exceed the period under Section 31.022~~

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

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

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

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

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

27 (2) the district provides evidence to the agency

1 showing that classroom teachers support the use of the material.

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

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

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

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

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

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

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

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

1 an open education resource instructional material.

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

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

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

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

25 (c) The agency is not required to comply with Subchapters C
26 and D, Chapter 2052, Government Code, with regard to the printing or
27 reproduction of an open education resource instructional material

1 made available under this subchapter.

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

4 Sec. 31.075. STATE OWNERSHIP; LICENSING.

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

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

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

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

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

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

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

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

27 (D) may not assert or imply any connection with

1 or sponsorship or endorsement by the agency or this state, unless
2 authorized by the commissioner; and

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

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

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

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

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

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

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

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

26 Sec. 31.0751. OPEN EDUCATION RESOURCE INSTRUCTIONAL
27 MATERIAL TRANSITION PLAN. (a) In order to be eligible for the

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

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

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

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

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

23 (2) schedule instructional periods in a manner that
24 allows classroom teachers sufficient time to effectively prepare
25 and present instructional material within the teacher's normal work
26 day as provided by the teacher's contract for employment.

27 Sec. 31.0753. TEACHER CANDIDATE ACCESS AND SUPPORT

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

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

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

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

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

17 (1) [~~7~~] for each subject in the required curriculum
18 under Section 28.002, other than physical education, and each grade
19 level, the district:

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

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

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

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

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

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

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

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

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

19 (3) [(6)] open education resource instructional
20 materials and other electronic instructional materials included in
21 the repository under Section 31.0722 [~~31.083~~].

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

24 Sec. 31.1012. REPORT TO AGENCY. Each school district shall
25 annually report to the agency information regarding the
26 instructional materials used by the district during the previous
27 school year, including the cost of each material, to assist the

1 agency in ensuring compliance with Section 31.151(a).

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

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

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

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

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

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

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

22 (a) A publisher or manufacturer of instructional materials:

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

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

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

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

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

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

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

25 (8) shall guarantee delivery of instructional
26 materials at least 10 business days before the opening day of school
27 of the year for which the instructional materials are ordered if the

1 instructional materials are ordered by a date specified in the
2 sales contract; ~~and~~

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

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

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

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

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

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

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

27 (2) organize the instructional material

1 chronologically by the order in which the material is designed to be
2 used;

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

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

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

13 (1) enter a password;

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

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

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

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

26 (b) Each school, before implementing a comprehensive school
27 counseling program under Section 33.005, shall annually conduct a

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

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

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

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

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

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

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

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

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

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

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

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

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

1 31.

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

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

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

27 SECTION 51. A contract under Sections 31.026 or 31.151,

1 Education Code, entered into before the effective date of this Act
2 is governed by the law in effect on the date the contract was
3 entered into, and the former law is continued in effect for that
4 purpose.

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

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

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