

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — FIRST CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

EIGHTH DAY

(Continued)

(Friday, June 24, 2011)

AFTER RECESS

The Senate met at 1:48 p.m. and was called to order by Senator Wentworth.

MOTION IN WRITING

Senator Nelson offered the following Motion In Writing:

Mr. President:

I request permission of the Senate to withdraw the Conference Committee Report on **SB 7** that was filed on June 15, 2011.

NELSON

The Motion In Writing was read and was adopted without objection.

MOTION TO RECESS

On motion of Senator Ellis and by unanimous consent, the Senate at 1:49 p.m. agreed to recess, upon completion of the introduction of bills and resolutions on first reading, the receipt of messages, and the receipt of committee reports, until 12:00 p.m. Monday, June 27, 2011.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 2

Senator Ogden submitted the following Conference Committee Report:

Austin, Texas
June 22, 2011

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 2** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

OGDEN
DUNCAN
HINOJOSA
NELSON
WILLIAMS

On the part of the Senate

PITTS
AYCOCK
CROWNOVER
DARBY

On the part of the House

A BILL TO BE ENTITLED
AN ACT

appropriating money for the support of state government for the period beginning September 1, 2011, and ending August 31, 2013; and authorizing and prescribing conditions, limitations, rules, and procedures for allocating and expending the appropriated funds; and declaring an emergency.

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

SECTION 1. The several sums of money herein specified, or so much thereby as may be necessary, are appropriated out of any funds in the State Treasury not otherwise appropriated, or out of special funds as indicated, for the support, maintenance, or improvement of the designated agencies.

SECTION 2. LECOS Retirement Fund. In addition to amounts appropriated in House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011, in Strategy A.1.2, Law Enforcement and Custodial Officer Supplemental Retirement Fund, the Employees Retirement System is hereby appropriated the following estimated amounts in fiscal year 2013 for a state contribution of 0.5 percent to the Law Enforcement and Custodial Officer Supplemental Retirement Program in fiscal year 2013:

General Revenue	\$6,698,395
General Revenue-Dedicated	96,261
Federal Funds	29,330
Fund 006	<u>696,386</u>
All Funds	<u>\$7,520,372</u>

SECTION 3. Contingency: Expand Physician and Nurse Trauma Care Fellowship Slots. Contingent on the passage by the 82nd Legislature, 1st Called Session, and becoming law of legislation to fund the expansion of the number of physician and nurse trauma care fellowships by the Department of State Health Services or similar legislation, \$2,250,000 in fiscal year 2012 and \$2,250,000 in fiscal year 2013 is appropriated to the department for the state fiscal biennium ending August 31, 2013, from general revenue dedicated account number 5111, Designated Trauma Facility and EMS Account, for the purposes of the legislation. Any unexpended balances remaining as of August 31, 2012 are hereby appropriated for the same purpose for the fiscal year beginning September 1, 2012.

SECTION 4. Contingency for Senate Bill 1: Debt Service on Cancer Prevention and Research Bonds. The appropriations listed in Rider 2, Informational Listing of Appropriated Funds and in Bond Debt Service Payments of Article I, General Government, in House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011, to the Texas Public Finance Authority for General Obligation Bond Debt Service are subject to the following provision. Appropriations out of the Permanent Fund for Health & Tobacco Education & Enforcement Account No. 5044; Permanent Fund for

Children & Public Health Account No. 5045; and Permanent Fund for EMS & Trauma Care Account No. 5046, are contingent on the enactment of Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, or similar legislation related to the use of certain Tobacco Settlement Funds for debt service on Cancer Prevention and Research Institute debt, by the 82nd Legislature, 1st Called Session, 2011. The Legislative Budget Board shall adjust the informational listing of bond debt service pursuant to this provision.

SECTION 5. Appropriations to the Foundation School Program. (a) Texas Education Agency, Article III, House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), is amended by adding the following appropriations and riders and, to the extent necessary, by giving all riders under the bill pattern of the agency full force and effect:

A.1.1., FSP Equalized Operations	2012	2013
Available School Fund	\$1,099,948,815	\$1,726,989,252
Foundation School Fund	13,412,514,119	12,656,939,681
Property Tax Relief Fund	2,198,994,000	2,338,574,000
Appropriated Receipts	906,500,000	835,600,000
Lottery Proceeds	1,002,457,000	1,006,111,000
Total, A.1.1	<u>\$18,620,413,934</u>	<u>\$18,564,213,933</u>

A.1.2, FSP Equalized Facilities

Foundation School Fund	\$650,000,000	\$716,100,000
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(b) Foundation School Program Funding. Out of the funds appropriated above in subsection (a) and elsewhere in House Bill 1, 82nd Legislature, Regular Session, 2011, a total of \$19,287,500,000 in fiscal year 2012 and \$19,297,400,000 in fiscal year 2013 shall represent the sum-certain appropriation to the Foundation School Program. The total appropriation may not exceed the sum-certain amount. This appropriation includes allocations under Chapters 41, 42, and 46 of the Texas Education Code.

Formula Funding: The Commissioner shall make allocations to local school districts under Chapters 41, 42, and 46 of the Texas Education Code based on the March 2011 estimates of average daily attendance and local district tax rates as determined by the Legislative Budget Board and the final tax year 2010 property values.

For purposes of distributing the Foundation School Program basic tier state aid appropriated above and in accordance with Section 42.101 of the Texas Education Code, the Basic Allotment is projected to be \$4,765 in fiscal year 2012 and \$4,765 in fiscal year 2013.

For purposes of distributing the Foundation School Program enrichment tier state aid appropriated above and in accordance with Section 41.002(a)(2) and Section 42.302(a-1)(1) of the Texas Education Code, the Guaranteed Yield is \$59.97 in fiscal year 2012 and \$59.97 in fiscal year 2013.

Out of amounts appropriated above and allocated by this rider to the Foundation School Program, no funds are appropriated for the New Instructional Facilities Allotment under Section 42.158 of the Texas Education Code.

Notwithstanding any other provision of this Act, the Texas Education Agency may make transfers as appropriate between Strategy A.1.1, FSP-Equalized Operations, and Strategy A.1.2, FSP-Equalized Facilities. The Texas Education Agency shall notify the Legislative Budget Board and the Governor of any such transfers at least 45 days prior to the transfer.

The Texas Education Agency shall submit reports on the prior month's expenditures on programs described by this rider no later than the 20th day of each month to the Legislative Budget Board and the Governor's Office in a format determined by the Legislative Budget Board in cooperation with the agency.

(c) Foundation School Program Adjustments. Appropriations from the Foundation School Fund No. 193 identified in subsection (a) above are hereby reduced by \$438,900,000 in fiscal year 2012 and \$361,100,000 in fiscal year 2013. These adjustments reflect a lower estimate of the state cost of the Foundation School Program in the 2012-2013 biennium due to updated pupil projections and projections of district property values.

Property values, and the estimates of local tax collections on which they are based, shall be decreased by 0.97 percent for tax year 2011, then increased by 0.52 percent for tax year 2012.

The sum-certain appropriation for the Foundation School Program as identified in subsection (b) above shall be decreased commensurately to reflect these adjustments.

(d) Contingency for Senate Bill 1: Foundation School Program Deferral. Contingent on enactment of Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, or similar legislation providing the legal basis for deferring the August 2013 Foundation School Program payment to school districts, appropriations made in subsection (a) above from the Foundation School Fund 193 to the Texas Education Agency for the Foundation School Program are hereby reduced by \$2,300,000,000 in fiscal year 2013. It is the intent of the legislature that this payment be made in September 2013 pursuant to the provisions of the bill. The sum-certain appropriation for the Foundation School Program as identified in subsection (b) above shall be decreased commensurately.

(e) Contingency for H.J.R. No. 109. Appropriations from the Foundation School Fund (Fund 193) made in subsection (a) above, Texas Education Agency Strategy A.1.1, FSP - Operations, for the Foundation School Program, are hereby reduced by \$150,000,000 in each fiscal year of the 2012-2013 biennium. The Texas Education Agency is hereby appropriated from the Available School Fund (General Revenue) to the Foundation School Program in Strategy A.1.1, FSP - Operations an amount estimated to be \$150,000,000 in each fiscal year of the 2012-2013 biennium, pursuant to all of the following:

a. passage and enactment of H.J.R. No. 109, S.J.R. No. 5, 82nd Legislature, Regular Session, 2011, or similar legislation relating to proposing a constitutional amendment to clarify references to the Permanent School Fund and to allow the General Land Office or other entity to distribute revenue derived from Permanent School Fund land or other properties to the Available School Fund;

b. voter approval of the associated constitutional amendment; and

c. the distribution of funds from the General Land Office to the Available School Fund pursuant to the provisions of the legislation.

(f) Contingency for Senate Bill 1: Foundation School Program Funding Contingency. The All Funds appropriations made for the Foundation School Program (FSP), Texas Education Agency Strategies A.1.1 and A.1.2, in subsection (a) above, and as adjusted by other subsections in this section, are contingent on enactment of Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, or similar legislation by the 82nd Legislature, 2011, relating to certain state fiscal matters and that amends Chapter 42 of the Texas Education Code to adjust state aid payments to the level of FSP appropriations made in subsection (a) above as adjusted for other subsections in this section. Should this legislation fail to pass and be enacted, the All Funds appropriations for the FSP made herein are hereby reduced to zero for each year of the 2012-2013 biennium, including the sum-certain appropriation identified in subsection (b) above.

(g) The Legislative Budget Board is directed to make all necessary adjustments to the Texas Education Agency's bill pattern pursuant to the provisions above, including adjustments to strategies, methods of finance, measures and riders contained in House Bill 1, 82nd Legislature, Regular Session, 2011.

SECTION 6. Contingency for Senate Bill 1: Legislation Relating to Certain Office of Court Administration License Fees. Contingent upon the enactment of Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, relating to license fees and the allowable use of such fees for process servers, guardians, and court reporters by the 82nd Legislature, the Office of Court Administration is appropriated \$119,603 in fiscal year 2012 and \$119,714 in fiscal year 2013 to implement the provisions of the legislation. The number of "Full-Time-Equivalent Positions" indicated in the agency's bill pattern is increased by 2.0 each fiscal year. Fees, fines, and other miscellaneous revenues as authorized by the Process Servers Review Board, the Guardianship Certification Board, and the Court Reporters Certification Board shall cover, at a minimum, the cost of appropriations made in this provision, as well as an amount sufficient to cover "Other Direct and Indirect Costs Appropriated Elsewhere in this Act" (estimated to be \$27,783 in fiscal year 2012 and \$29,175 in fiscal year 2013). In the event that actual and/or projected revenues are insufficient to offset the costs identified by this provision, the Legislative Budget Board may direct that the Comptroller of Public Accounts reduce the appropriation authority provided above to be within the amount of revenue expected to be available.

SECTION 7. Contingency for Senate Bill 1: Railroad Commission. Contingent on enactment of Senate Bill 1, or similar legislation relating to the Railroad Commission by the 82nd Legislature, 1st Called Session, 2011:

(a) Oil and Gas Related Fees. In addition to amounts appropriated in House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011, to the Railroad Commission, and contingent on Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, or similar legislation creating an account to cover costs of the agency's oil- and gas-related activities, by the 82nd Legislature, appropriations out of the General Revenue Fund are hereby reduced by \$16,766,209 in fiscal year 2012 and by \$16,716,472 in fiscal

year 2013, and, to replace these appropriations, there is hereby appropriated \$16,766,209 in fiscal year 2012 and \$16,716,472 in fiscal year 2013 out of the Oil and Gas Regulation and Cleanup (OGRC) Fund created by the bill.

The following amounts of General Revenue funding would be replaced with funding out of the OGRC Fund in the following strategies:

	2012	2013
Strategy A.1.1, Energy Resource Development	\$4,099,221	\$4,070,349
Strategy C.1.1, Oil and Gas Monitoring and Inspections	\$10,314,041	\$10,350,753
Strategy C.2.1, Oil and Gas Remediation	\$496,396	\$461,550
Strategy C.2.2, Oil and Gas Well Plugging	\$935,444	\$919,808
Strategy D.1.2, Public Information and Services	\$921,107	\$914,012
TOTAL	\$16,766,209	\$16,716,472

In addition, appropriations out of the Oil Field Cleanup Account No. 145 are hereby reduced by \$20,581,780 in fiscal year 2012 and by \$20,581,779 in fiscal year 2013, and, to replace these appropriations, there is hereby appropriated \$20,581,780 in fiscal year 2012 and \$20,581,779 in fiscal year 2013 out of the OGRC Fund created by the bill. The following amounts out of the General Revenue-Dedicated Oil Field Cleanup Account No. 145 would be replaced with funding out of the OGRC Fund in the following strategies:

	2012	2013
Strategy A.1.1, Energy Resource Development	\$1,114,744	\$1,114,744
Strategy C.1.1, Oil and Gas Monitoring and Inspections	\$851,800	\$851,800
Strategy C.2.1, Oil and Gas Remediation	\$3,786,565	\$3,786,565
Strategy C.2.2, Oil and Gas Well Plugging	\$14,690,620	\$14,690,620
Strategy D.1.2, Public Information and Services	\$138,051	\$138,050
TOTAL	\$20,581,780	\$20,581,779

(b) Expansion of Pipeline Safety Fee Use to Include Gas Utility Regulation. Contingent upon enactment of Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, or similar legislation allowing for the use of pipeline safety fees for gas utility regulatory functions, by the 82nd Legislature, the Railroad Commission is hereby appropriated in each fiscal year of the 2012-2013 biennium an amount not to exceed \$233,000 in Strategy A.2.1, Gas Utility Compliance. This appropriation is contingent upon the Railroad Commission increasing Pipeline Safety Fees and shall be limited to revenues deposited to the credit of Revenue Object Code 3553 in excess of the Comptroller's Biennial Revenue Estimate for 2012-2013.

The Railroad Commission, upon completion of necessary actions to assess or increase the Pipeline Safety Fee, shall furnish copies of the minutes and other information supporting the estimated revenues to be generated for the 2012-2013 biennium under the revised fee structure to the Comptroller of Public Accounts. If the Comptroller finds the information sufficient to support the projection of increased

revenues in excess of those estimated in the Biennial Revenue Estimate for 2012-2013, a finding of fact to that effect shall be issued and the contingent appropriation shall be made available for the intended purpose.

SECTION 8. Contingency for Senate Bill 1: Voter Registration. Contingent on enactment of Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, or similar legislation relating to transferring voter registration payments from the Fiscal Programs - Comptroller of Public Accounts to the Secretary of State, amounts appropriated elsewhere in House Bill 1, 82nd Legislature, Regular Session, 2011, to the Fiscal Programs Comptroller of Public Accounts in Strategy A.1.1, Voter Registration, shall be transferred to the Secretary of State.

SECTION 9. Contingency for Senate Bill 1: Back to Work and Homeless Housing. (a) Contingent on enactment of Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, or similar legislation by the 82nd Legislature, relating to the transfer of General Revenue-Dedicated Texas Enterprise Fund Account No. 5107 appropriations to other state agencies, the Trusteed Programs within the Office of the Governor may transfer \$10,000,000 from the General Revenue-Dedicated Texas Enterprise Fund Account No. 5107 to the Texas Workforce Commission for the Texas Back to Work Program, and \$10,000,000 from the General Revenue-Dedicated Texas Enterprise Fund Account No. 5107 to the Texas Department of Housing and Community Affairs for the Homeless Housing Program.

(b) If Senate Bill 1, or similar legislation by the 82nd Legislature, 1st Called Session, 2011, relating to the transfer of General Revenue-Dedicated Texas Enterprise Fund Account No. 5107 appropriations to other state agencies is not enacted, it is the intent of the Legislature that the Trusteed Programs within the Office of the Governor award grants totaling \$20,000,000 in the 2012-2013 biennium out of the General Revenue-Dedicated Texas Enterprise Fund Account No. 5107 to the Texas Workforce Commission for the Texas Back to Work Program (\$10,000,000), and to the Texas Department of Housing and Community Affairs for the Homeless Housing Program (\$10,000,000).

(c) It is the intent of the Legislature that the Governor may transfer appropriations from the Trusteed Programs within the Office of the Governor to the Texas Workforce Commission for the purposes of back to work programs, and to the Texas Department of Housing and Community Affairs for programs for the homeless authorized by legislation of the 82nd Legislature, Regular Session, 2011, or 1st Called Session, 2011. Further, notwithstanding other provisions of this Act, it is expressly provided that the Governor, to the extent permitted under federal law and regulations, may use any unexpended federal American Recovery and Reinvestment Act, State Fiscal Stabilization Fund- Government Services funds (Section 14002(b) of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)), originally appropriated in Article XII, Chapter 1424 (Senate Bill 1), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act) and reappropriated in Section 8.02(a), Article IX, H.B. No. 1, for back to work programs or the programs for the homeless identified in subsections (a) and (b).

(d) Each state agency that received federal American Recovery and Reinvestment Act, State Fiscal Stabilization Fund - Government Services funds (Section 14002(b) of the American Recovery and Reinvestment Act of 2009 (Public

Law 111-5)) as identified in subsection (c), and has an amount of these federal funds unobligated and available for use, may direct the Comptroller of Public Accounts to transfer an amount of these federal funds to the Governor for the purpose of transferring appropriations for back to work programs or programs for the homeless.

(e) Rider 18, Transfer Prohibition, on page I-55 in the bill pattern for the Trusteed Programs within the Office of the Governor, House Bill 1, Eighty-second Legislature, Regular Session, is amended as follows:

18. Transfer Prohibition. Except as provided by other Acts of the Eighty-second Legislature, First Called Session, 2011, and notwithstanding other provisions of this Act, without the written permission of the Legislative Budget Board, the Trusteed Programs within the Office of the Governor may not transfer amounts appropriated to the Emerging Technology Fund Account No. 5124 or appropriated to the Texas Enterprise Fund Account No. 5107.

(f) Article IX, Section 18.112 on page IX-96 of House Bill 1, Eighty-second Legislature, Regular Session, 2011, has no effect.

SECTION 10. Contingency for Senate Bill 7: Managed Care Expansion. Contingent on the enactment of Senate Bill 7 or similar legislation by the 82nd Legislature, 1st Called Session, 2011, authorizing the use of managed care in the South Texas counties of Cameron, Hidalgo, and Maverick, the following actions shall take place:

a. The Health and Human Services Commission (HHSC) is appropriated \$57,370,186 in General Revenue Funds and \$87,670,192 in Federal Funds in fiscal year 2012 and \$121,680,697 in General Revenue and \$185,809,691 in Federal Funds in fiscal year 2013 for Goal B, Medicaid (a biennial total of \$179,050,883 in General Revenue Funds and \$273,479,883 in Federal Funds); and

b. General Revenue appropriations to HHSC are increased by \$143,139,236 in fiscal year 2012 and \$297,625,734 in fiscal year 2013 and General Revenue appropriations to the Department of Aging and Disability Services (DADS) are reduced by \$143,139,236 in fiscal year 2012 and \$297,625,734 in fiscal year 2013; therefore, appropriations at HHSC and DADS for the expansion of the managed care model for the provision of services is assumed to be identical to the strategy funding levels of both agencies in House Bill 1, 82nd Legislature, Regular Session, 2011.

The Commission shall provide a report detailing the cost savings in General Revenue Funds and All Funds realized by the expansion of managed care in the biennium. The report shall be submitted to the Legislative Budget Board and the Governor by December 1, 2012.

SECTION 11. Contingency for Senate Bill 7: Institute of Health Care Quality and Efficiency. Contingent on the enactment of Senate Bill 7, 82nd Legislature, 1st Called Session, 2011, or similar legislation relating to creation of an Institute of Health Care Quality and Efficiency and repeal of the Texas Health Care Policy Council, the Health and Human Services Commission is appropriated \$228,800 in fiscal year 2012 and \$228,800 in fiscal year 2013 in interagency contracts. The number of "Full-Time Equivalent (FTE)" is increased by 2.0 FTEs in fiscal year 2012 and 2.0 FTEs in fiscal year 2013.

SECTION 12. Contingency for Senate Bill 7; Health Care Collaborative. Contingent on enactment of Senate Bill 7, 82nd Legislature, 1st Called Session, 2011, or similar legislation relating to creation of health care collaboratives, out of the fees and assessments collected by the Department of Insurance, the Department is appropriated:

a. \$169,408 for fiscal year 2012 and \$461,901 for fiscal year 2013 from General Revenue Insurance Companies Maintenance Tax and Insurance Department Fees, and

b. \$254,112 for fiscal year 2012 and \$692,851 for fiscal year 2013 from General Revenue Dedicated Fund 36, the Texas Department of Insurance operating account, to implement the provisions of the legislation.

The number of "Full-Time Equivalents (FTE)" is increased by 8.0 FTEs in fiscal year 2012 and 16.0 FTEs in fiscal year 2013.

SECTION 13. Basic Civil Legal Services and Indigent Defense. In addition to amounts appropriated in House Bill 1, 82nd Legislature, Regular Session, 2011:

(a) The Supreme Court of Texas in Strategy B.1.1, Basic Civil Legal Services, is hereby appropriated \$8,783,784 in fiscal year 2012 and \$8,783,783 in fiscal year 2013 in General Revenue for Basic Civil Legal Services; and

(b) The Office of Court Administration in Strategy A.2.1, Indigent Defense, is hereby appropriated \$2,437,944 in fiscal year 2012 and \$5,175,887 in fiscal year 2013 from the General Revenue-Dedicated Fair Defense Account No. 5073 to restore grants to counties (\$2,350,894 in fiscal year 2012 and \$5,088,837 in fiscal year 2013) and grant administration (\$87,050 each fiscal year). The agency's FTE cap shall be increased by 1.0 FTE for grant administration in each year of the biennium.

SECTION 14. Trusteed Programs within the Office of the Governor: Disaster Funding. (a) In addition to amounts appropriated in House Bill 1, 82nd Legislature, Regular Session, 2011, the Trusteed Programs within the Office of the Governor is hereby appropriated \$39,000,000 in General Revenue in fiscal year 2012 in lapsed appropriations made in House Bill 4586, 81st Legislature, Regular Session, 2009, for the purpose of providing disaster relief.

(b) If any state agency or institution of higher education receives reimbursement from the federal government, an insurer, or another source for an expenditure paid for or reimbursed under subsection (a) above, the agency or institution shall reimburse the state by depositing the amount of the reimbursement to the credit of the Trusteed Programs within the Office of the Governor. Amounts deposited under this subsection are reappropriated to the Trusteed Programs within the Office of the Governor for disaster preparedness and recovery costs for the two-year period beginning on the effective date of this Act.

(c) Any unexpended balance as of August 31, 2012, may be carried forward to the fiscal year starting September 1, 2012, for the same purpose.

SECTION 15. Commission on State Emergency Communications. (a) Rider 10 on page I-31 of House Bill 1, 82nd Legislature, Regular Session, 2011, in the bill pattern of the Commission on State Emergency Communications has no effect.

(b) Contingent on the collection of fees in the General Revenue-Dedicated 9-1-1 Services Fees Account No. 5050 in excess of \$112,968,000 contained in the Comptroller of Public Accounts' Biennial Revenue Estimate for the 2012-2013

biennium, the Commission on State Emergency Communications is hereby appropriated the excess revenue, not to exceed \$11,722,424 for the 2012-2013 biennium, in Strategy A.1.1, 9-1-1 Network Operations and Equipment Replacement for 9-1-1 Network Operations and for 9-1-1 equipment replacement per the established 10-year equipment replacement schedule. If the Comptroller finds the information sufficient to support the projection of increased revenues, a finding of fact to that effect shall be issued and the contingent appropriation shall be made available for the intended purposes.

SECTION 16. Texas State Technical College - Waco Institutional Operations. Contingent on Section 13 of House Bill 4, 82nd Legislature, Regular Session, 2011, not taking effect, in addition to amounts appropriated to the Texas State Technical College - Waco in House Bill 1, 82nd Legislature, Regular Session, 2011, \$2,000,000 is hereby appropriated for the 2012-13 biennium out of General Revenue Fund 0001 to the Texas State Technical College - Waco for institutional operations.

SECTION 17. Lamar Institute of Technology Institutional Operations. Contingent on Section 34 of House Bill 4, 82nd Legislature, Regular Session, 2011, not taking effect, in addition to amounts appropriated to the Lamar Institute of Technology in House Bill 1, 82nd Legislature, Regular Session, 2011, \$5,000,000 is hereby appropriated for the 2012-13 biennium from General Revenue Fund 0001 to the Lamar Institute of Technology for institutional operations.

SECTION 18. Health and Human Services Commission: Umbilical Cord Blood Bank. If House Bill 4, Acts of the 82nd Legislature, Regular Session, 2011, becomes law, Section 32 of that Act is amended to read as follows:

Sec. 32. The amount of \$2,000,000 is appropriated from General Revenue Fund 0001 to the Health and Human Services Commission for Strategy A.1.1, Enterprise Oversight and Policy, as designated by page II-73, House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), for the purpose of entering into a contract with a public cord blood bank in this state for gathering from live births umbilical cord blood and retaining the blood at an unrelated cord blood bank for the primary purpose of making umbilical cord blood available for transplantation purposes. The contracting blood bank must be accredited by the American Association of Blood Banks and the International Organization of Standardization. ~~[THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT SAN ANTONIO: UMBILICAL CORD BLOOD BANK. The amount of \$2,000,000 is appropriated from General Revenue Fund 0001 to The University of Texas Health Science Center at San Antonio for the state fiscal biennium ending August 31, 2013, for the umbilical cord blood bank.]~~

SECTION 19. Sul Ross State University Institutional Operations. Contingent on Section 33, House Bill 4, Acts of the 82nd Legislature, Regular Session, 2011, not becoming law, in addition to amounts appropriated to Sul Ross State University in House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011, \$7,000,000 is appropriated for the 2012-13 biennium from General Revenue Fund 0001 to Sul Ross State University for the purpose of institutional operations.

SECTION 20. Contingency for House Bill 3. Contingent on House Bill 3, Acts of the 82nd Legislature, 1st Called Session, 2011, or similar legislation relating to the operation of the Texas Windstorm Insurance Association and to the resolution of certain disputes concerning claims made to that association, becoming law:

(1) the Texas Department of Insurance is appropriated \$131,370 for the state fiscal year beginning September 1, 2011, and \$121,767 for the state fiscal year beginning September 1, 2012, from General Revenue Insurance Companies Maintenance Tax and Insurance Department Fees to implement the provisions of that legislation;

(2) the Number of Full-Time Equivalents (FTE) in the Texas Department of Insurance's bill pattern, as provided by page VIII-16, House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), is increased by 2.0 FTEs for the state fiscal year beginning September 1, 2011, and 2.0 FTEs for the state fiscal year beginning September 1, 2012;

(3) the Texas Public Finance Authority is appropriated \$750,000 out of appropriated receipts from the Texas Windstorm Insurance Association for the state fiscal year beginning September 1, 2011, to implement the provisions of that legislation; and

(4) the unexpended and unobligated balance of the amount appropriated under Subdivision (3) of this section remaining on August 31, 2012, is appropriated to the Texas Public Finance Authority for the same purposes for the state fiscal year beginning September 1, 2012.

SECTION 21. University of Texas at El Paso. It is the intent of the legislature that any decrease in appropriations from the permanent endowment fund account No. 817 to The University of Texas at El Paso for the state fiscal biennium ending August 31, 2013, from the preceding state fiscal biennium not be replaced with an increase in general revenue appropriations.

SECTION 22. Contingency for House Bill 26: Inmate Fee for Health Care. Contingent on the enactment of House Bill 26, 82nd Legislature, 1st Called Session, 2011, or similar legislation relating to the containment of costs incurred in the correctional health care system, the Department of Criminal Justice is appropriated from the general revenue fund an amount not to exceed \$7,705,800 in the state fiscal year ending August 31, 2012, and \$5,779,350 in the state fiscal year ending August 31, 2013, out of health care services fees deposited to the general revenue fund from inmate trust funds not to exceed \$100 per inmate per year for the purpose of providing correctional managed health care to inmates. Unexpended and unobligated balances of the appropriated amounts as of August 31, 2012, and August 31, 2013, are transferred to the undedicated portion of the general revenue fund.

SECTION 23. Texas Armed Services Scholarship Program. Contingent on legislation of the 82nd Legislature, 1st Called Session, 2011, becoming law that is substantively similar to provisions of House Bill 2403, Acts of the 82nd Legislature, Regular Session, 2011, relating to retailers engaged in business in this state for purposes of sales and use taxes, in addition to the amounts appropriated by House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), there is appropriated to the Higher Education Coordinating Board, the amount of \$2,685,000 in general revenue funds for each year of the state fiscal biennium ending

August 31, 2013, for the purpose of providing additional funding for the biennium in the amount of \$5,370,000 for Strategy B.1.13, Texas Armed Services Scholarship Program, as designated by House Bill 1 in the appropriations to the coordinating board.

SECTION 24. Specialty License Plate Revenue. If Section 13.07, Article IX, House Bill 1, 82nd Legislature, Regular Session, 2011, becomes law, Section 13.07(a) of that Article is amended to read as follows:

(a) Except as provided by Subsection (c) of this Section, for the fiscal biennium beginning September 1, 2011, the amounts appropriated to an agency under Articles I-VIII of this Act include, regardless of whether or not the amounts may be shown under or limited by the bill pattern or riders of the agency or the special provisions applicable to the Article of this Act

under which the agency's appropriation might be located, [~~fifty percent of~~] all revenue collected by an agency on or after September 1, 2011, that are associated with the sale of a Texas

specialty license plate, as authorized by Subchapter G, Chapter 504, Transportation Code, or other applicable statute, during the 2012-13 biennium, including any new license plates that may be authorized or issued after September 1, 2011.

SECTION 25. Texas State University System: System Operations Reimbursement. In addition to amounts appropriated to the Texas State University System in House Bill 1, 82nd Legislature, Regular Session, 2011, there is hereby appropriated for the 2012-13 biennium \$1,600,000 in General Revenue to the Texas State University System for one-time costs at the system office. It is the intent of the legislature that this appropriation is one-time for the 2012-13 biennium and shall not be included in the base funding for the 2014-15 biennium.

SECTION 26. Appropriation: Jobs and Education for Texans. There is hereby appropriated all remaining unexpended and unobligated balances as of August 31, 2011 (estimated to be \$5,000,000) out of the General Revenue-Dedicated Jobs and Education for Texans Account No. 5143 to the Comptroller of Public Accounts - Fiscal Programs for the purposes of providing grants in accordance with Government Code, Chapter 403, Subchapter O and Education Code, Chapter 134. Any unexpended and unobligated balances remaining as of August 31, 2012 are hereby appropriated for the same purpose for the fiscal year beginning September 1, 2012.

SECTION 27. Contingency for SB 1: Charter School Bonds. Contingent on enactment of SB 1, or similar legislation relating to the guarantee of open-enrollment charter school bonds by the Permanent School Fund, by the Eighty-second Legislature, First Called Session, 2011, the Texas Education Agency (TEA) is hereby appropriated from the General Revenue Fund \$550,000 in each fiscal year of the 2012-13 biennium. These appropriations are contingent upon the TEA assessing fees sufficient to generate, during the 2012-13 biennium, revenue to cover the appropriations for implementation of the legislation as well as associated "other direct and indirect costs" appropriated elsewhere in this Act. In the event that actual and/or projected revenue collections are insufficient to offset the costs identified by this provision, the Comptroller of Public Accounts may reduce the appropriation authority provided herein to be within the amount of revenue expected to be available.

SECTION 28. University of Texas at Austin. Out of funds appropriated to the University of Texas at Austin in Strategy C.4.1, Institutional Enhancement, in House Bill 1, 82nd Legislature, Regular Session, 2011, \$500,000 in general revenue in fiscal year 2012 and \$500,000 in general revenue in fiscal year 2013 is for a program at the College of Fine Arts developed in partnership with the Texas Cultural Trust to extend the fine arts digital literacy curriculum to 10th grade fine arts instruction, and the development of teacher certification curriculum in digital literacy for the fine arts.

SECTION 29. Texas Forest Service. In addition to amounts appropriated to the Texas Forest Service in House Bill 1, 82nd Legislature, Regular Session, 2011, there is hereby appropriated \$40,000,000 in General Revenue in fiscal year 2012 to the agency for combating wildfire. Any unexpended balances as of August 31, 2012 are hereby appropriated to the Texas Forest Service for the fiscal year beginning September 1, 2012 for the same purpose.

SECTION 30. Department of Public Safety: Border Security. In addition to amounts appropriated in House Bill 1, 82nd Legislature, Regular Session, 2011, and in addition to capital purchases authorized in Rider 2 of the bill pattern for the Department of Public Safety: The Texas Department of Public Safety is hereby appropriated \$1,200,000 in General Revenue for the 2012-13 biennium to be allocated as follows:

(a) \$1,066,667 shall be used to purchase the following:

- 1) \$800,000 for tactical vessels; and
- 2) \$266,667 for weaponry.

(b) \$133,333 shall be used by the agency for operations costs, not including training costs, associated with the equipment identified above.

The Legislative Budget Board shall make all necessary and corresponding adjustments to the bill pattern of the Department of Public Safety, including adjustments to Rider 2, Capital Budget, as necessary to implement the appropriation authority provided by this section.

SECTION 31. Parks and Wildlife Department: Border Security. In addition to amounts appropriated in House Bill 1, 82nd Legislature, Regular Session, 2011, and in addition to capital purchases authorized in Rider 2 of the bill pattern for the Parks and Wildlife Department: The Texas Parks and Wildlife Department is hereby appropriated \$909,759 in General Revenue for the 2012-13 biennium to be allocated as follows:

(a) \$578,959 shall be used to purchase the following:

- 1) \$501,359 for SAFEBOATS; and
- 2) \$77,600 for weaponry and ammunition.

(b) \$330,800 shall be used by the agency for operations costs, not including training costs, associated with the equipment identified above.

The Legislative Budget Board shall make all necessary and corresponding adjustments to the bill pattern of the Parks and Wildlife Department, including adjustments to Rider 2, Capital Budget, as necessary to implement the appropriation authority provided by this section.

SECTION 32. Texas Department of Rural Affairs: Transfer of Functions. Contingent on enactment of SB 1, 82nd Legislature, First called Session, 2011, or similar legislation providing for the transfer of all functions of the Texas Department of Rural Affairs:

(a) All appropriations, FTEs, riders and measures for TDRA in HB 1, 82nd Legislature, Regular Session, 2011, for all non-disaster relief funding purposes, including Community Development Block Grant planning grant funds, are hereby transferred and appropriated to the Texas Department of Agriculture.

(b) The Legislative Budget Board shall work with the affected agencies on an agreement for the proper amount and allocation of appropriations, FTEs, measures and riders. The LBB shall approve the allocation agreement by August 31, 2011, and will resolve any allocation issues that arise thereafter.

(c) The Legislative Budget Board shall make all necessary adjustments as a result of this section to the bill patterns of the affected agencies.

SECTION 33. Community Development Block Grant: Disaster Relief Funding. Pursuant to the Governor designating the General Land Office as the state agency responsible for administration of the Community Development Blocks Grant (CDBG) disaster recovery funding for Texas, as allowed under the Consolidated Security, Disaster Assistance, and continuing Appropriations Act and other related Federal provisions:

(a) All appropriations, FTEs, riders, and measures for the Texas Department of Housing and Community Affairs related to CDBG disaster recovery funding and assistance in House Bill 1, 82nd Legislature, Regular Session, 2011, are hereby transferred and appropriated to the General Land Office.

(b) All appropriations, FTEs, riders and measures for the Texas Department of Rural Affairs, or its successor agency, related to disaster recovery funding in HB 1, 82nd Legislature, Regular Session, 2011, are hereby transferred and appropriated to the General land Office.

(c) The Legislative Budget Board shall work with the affected agencies on an agreement for the proper amount and allocation of appropriations, FTEs, measures and riders. The LBB shall approve the allocation agreement by August 31, 2011, and will resolve any allocation issues that arise thereafter.

(d) The Legislative Budget Board shall make all necessary adjustments as a result of this section to the bill patterns of the affected agencies.

SECTION 34. SAVING CLAUSE. If any section, sentence, clause or part of this Act shall for any reason be held to be invalid, such decision shall not affect the remaining portions of this Act; and it is hereby declared to be the intention of the Legislature to have passed each sentence, section, clause, or part thereof irrespective of the fact that any other sentence, section, clause, or part thereof may be declared invalid.

SECTION 35. This Act takes effect immediately. Except as otherwise provided by this Act, the appropriations made by this Act are effective for the two-year period starting September 1, 2011.

The revised Conference Committee Report on **SB 2** was filed with the Secretary of the Senate on Friday, June 24, 2011.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 6**

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas
June 24, 2011

Honorable David Dewhurst
President of the Senate
Honorable Joe Straus
Speaker of the House of Representatives
Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 6** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SHAPIRO
HARRIS
PATRICK
NELSON

VAN DE PUTTE
On the part of the Senate

EISSLER
AYCOCK
BRANCH
HOCHBERG

STRAMA
On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the foundation curriculum, the establishment of the instructional materials allotment, and the adoption, review, and purchase of instructional materials and technological equipment for public schools; providing penalties.

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

SECTION 1. Chapter 5, Education Code, is amended by adding Section 5.002 to read as follows:

Sec. 5.002. REFERENCES TO TEXTBOOK. In this title, a reference to a textbook means instructional material, as defined by Section 31.002.

SECTION 2. Subdivision (28), Subsection (b), Section 7.055, Education Code, is amended to read as follows:

(28) The commissioner shall perform duties relating to the funding, adoption, and purchase of instructional materials [textbooks] under Chapter 31.

SECTION 3. Subsection (f), Section 7.056, Education Code, is amended to read as follows:

(f) A school district or campus that is required to develop and implement a student achievement improvement plan under Section 39.102 or 39.103 may receive an exemption or waiver under this section from any law or rule other than:

- (1) a prohibition on conduct that constitutes a criminal offense;
- (2) a requirement imposed by federal law or rule;
- (3) a requirement, restriction, or prohibition imposed by state law or rule

relating to:

(A) public school accountability as provided by Subchapters B, C, D, E, and J, Chapter 39; or

(B) educator rights and benefits under Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter A, Chapter 22; or

(4) ~~[textbook]~~ selection of instructional materials under Chapter 31.

SECTION 4. Subdivision (23), Subsection (c), Section 7.102, Education Code, is amended to read as follows:

(23) The board shall adopt and purchase or license instructional materials ~~[textbooks]~~ as provided by Chapter 31 and adopt rules required by that chapter.

SECTION 5. Subsections (a) and (c), Section 7.108, Education Code, are amended to read as follows:

(a) A person interested in selling bonds of any type or a person engaged in manufacturing, shipping, selling, or advertising instructional materials ~~[textbooks or otherwise connected with the textbook business]~~ commits an offense if the person makes or authorizes a political contribution to or takes part in, directly or indirectly, the campaign of any person seeking election to or serving on the board.

(c) In this section:

(1) "Instructional material" has the meaning assigned by Section 31.002.

(2) "Political contribution" has the meaning assigned by Section 251.001, Election Code.

~~[(2) "Textbook" has the meaning assigned by Section 31.002.]~~

SECTION 6. The heading to Section 7.112, Education Code, is amended to read as follows:

Sec. 7.112. REPRESENTATION OF ~~[TEXTBOOK]~~ PUBLISHER OF INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

SECTION 7. Subsection (a), Section 7.112, Education Code, is amended to read as follows:

(a) A former member of the State Board of Education who is employed by or otherwise receives compensation from a ~~[textbook]~~ publisher of instructional materials may not, before the second anniversary of the date on which the person last served as a member of the State Board of Education:

(1) confer with a member of the board of trustees of a school district concerning instructional materials ~~[a textbook]~~ published by that ~~[textbook]~~ publisher; or

(2) appear at a meeting of the board of trustees on behalf of the ~~[textbook]~~ publisher.

SECTION 8. Subdivision (2), Subsection (c), Section 7.112, Education Code, is amended to read as follows:

(2) "Instructional material" and "publisher" ~~["Publisher" and "textbook"]~~ have the meanings assigned by Section 31.002.

SECTION 9. Subsection (b), Section 11.158, Education Code, is amended to read as follows:

(b) The board may not charge fees for:

(1) instructional materials ~~[textbooks]~~, workbooks, laboratory supplies, or other supplies necessary for participation in any instructional course except as authorized under this code;

- (2) field trips required as a part of a basic education program or course;
- (3) any specific form of dress necessary for any required educational program or diplomas;
- (4) the payment of instructional costs for necessary school personnel employed in any course or educational program required for graduation;
- (5) library materials [~~books~~] required to be used for any educational course or program, other than fines for lost, damaged, or overdue materials [~~books~~];
- (6) admission to any activity the student is required to attend as a prerequisite to graduation;
- (7) admission to or examination in any required educational course or program; or
- (8) lockers.

SECTION 10. Subsection (a), Section 11.164, Education Code, is amended to read as follows:

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

- (1) any report concerning the health, safety, or welfare of a student;
- (2) a report of a student's grade on an assignment or examination;
- (3) a report of a student's academic progress in a class or course;
- (4) a report of a student's grades at the end of each grade reporting period;
- (5) a [~~textbook~~] report on instructional materials;
- (6) a unit or weekly lesson plan that outlines, in a brief and general manner, the information to be presented during each period at the secondary level or in each subject or topic at the elementary level;
- (7) an attendance report;
- (8) any report required for accreditation review;
- (9) any information required by a school district that relates to a complaint, grievance, or actual or potential litigation and that requires the classroom teacher's involvement; or
- (10) any information specifically required by law, rule, or regulation.

SECTION 11. Subsection (e), Section 19.007, Education Code, is amended to read as follows:

(e) The district may participate in the instructional materials [~~textbook~~] program under Chapter 31.

SECTION 12. Subsections (a) and (c), Section 26.006, Education Code, are amended to read as follows:

- (a) A parent is entitled to:
- (1) review all teaching materials, instructional materials [~~textbooks~~], and other teaching aids used in the classroom of the parent's child; and
 - (2) review each test administered to the parent's child after the test is administered.

(c) A student's parent is entitled to request that the school district or open-enrollment charter school the student attends allow the student to take home any instructional materials [~~textbook~~] used by the student. Subject to the availability of the

instructional materials [~~a textbook~~], the district or school shall honor the request. A student who takes home instructional materials [~~a textbook~~] must return the instructional materials [~~textbook~~] to school at the beginning of the next school day if requested to do so by the student's teacher. In this subsection, "instructional material" [~~"textbook"~~] has the meaning assigned by Section 31.002.

SECTION 13. Subsections (a), (c), (h), and (n), Section 28.002, Education Code, are amended to read as follows:

(a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:

(1) a foundation curriculum that includes:

(A) English language arts;

(B) mathematics;

(C) science; and

(D) social studies, consisting of Texas, United States, and world history, government, economics, with emphasis on the free enterprise system and its benefits, and geography; and

(2) an enrichment curriculum that includes:

(A) to the extent possible, languages other than English;

(B) health, with emphasis on the importance of proper nutrition and exercise;

(C) physical education;

(D) fine arts;

(E) [~~economics, with emphasis on the free enterprise system and its benefits;~~

[~~F~~] career and technology education;

(F) [~~G~~] technology applications; and

(G) [~~H~~] religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature.

(c) The State Board of Education, with the direct participation of educators, parents, business and industry representatives, and employers shall by rule identify the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials [~~textbooks~~] under Chapter 31 and addressed on the assessment instruments required under Subchapter B, Chapter 39. As a condition of accreditation, the board shall require each district to provide instruction in the essential knowledge and skills at appropriate grade levels.

(h) The State Board of Education and each school district shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter and in reading courses and in the adoption of instructional materials [~~textbooks~~]. A primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage.

(n) The State Board of Education may by rule develop and implement a plan designed to incorporate foundation curriculum requirements into the career and technology education curriculum under Subsection (a)(2)(E) [~~(a)(2)(F)~~].

SECTION 14. Subsections (a) and (d), Section 28.002, Education Code, are amended to read as follows:

(a) Not later than November 1, 2007, the agency shall establish a panel under this section to:

(1) review and recommend revisions to the career and technical education curriculum under Section 28.002(a)(2)(E) [~~28.002(a)(2)(F)~~]; and

(2) review and recommend revisions for the program in which high schools and articulated postsecondary institutions allow high school students to take advanced technical credit courses.

(d) Not later than November 1, 2008, the panel shall:

(1) complete the review as required by this section of:

(A) the career and technical education curriculum; and

(B) the program under which high schools and articulated postsecondary institutions allow high school students to take advanced technical credit courses; and

(2) make recommendations to the State Board of Education as necessary to:

(A) increase the academic rigor of the career and technical education curriculum under Section 28.002(a)(2)(E) [~~28.002(a)(2)(F)~~]; and

(B) improve and increase participation in the program under which high schools and articulated postsecondary institutions allow high school students to take advanced technical credit courses.

SECTION 15. Subsection (b), Section 28.003, Education Code, is amended to read as follows:

(b) In this section, "educational program" means a course or series of courses in the required curriculum under Section 28.002, other than a fine arts course under Section 28.002(a)(2)(D) or a career and technology course under Section 28.002(a)(2)(E) [~~28.002(a)(2)(F)~~].

SECTION 16. Subsection (c), Section 28.011, Education Code, is amended to read as follows:

(c) A student may not be required to use a specific translation as the sole text of the Hebrew Scriptures or New Testament and may use as the basic instructional material [~~textbook~~] a different translation of the Hebrew Scriptures or New Testament from that chosen by the board of trustees of the student's school district or the student's teacher.

SECTION 17. The heading to Chapter 31, Education Code, is amended to read as follows:

CHAPTER 31. INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

SECTION 18. Section 31.001, Education Code, is amended to read as follows:

Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

Instructional materials [~~Textbooks~~] selected for use in the public schools shall be furnished without cost to the students attending those schools. Except as provided by Section 31.104(d), a school district may not charge a student for instructional material or technological equipment purchased by the district with the district's instructional materials allotment.

SECTION 19. Subdivisions (1), (1-a), (2), and (4), Section 31.002, Education Code, are amended to read as follows:

(1) "Instructional material" [~~"Electronic textbook"~~] means content that conveys the essential knowledge and skills of a subject in the public school curriculum through a medium or a combination of media for conveying information to a student. The term includes a book, supplementary materials, a combination of a book, workbook, and supplementary materials, computer software, [~~interactive videodisc,~~] magnetic media, DVD, CD-ROM, computer courseware, on-line services, or an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means, including [~~an~~] open-source instructional material [~~textbook~~].

(1-a) "Open-source instructional material" [~~textbook~~] means [~~an~~] electronic instructional material [~~textbook~~] that is available for downloading from the Internet at no charge to a student and without requiring the purchase of an unlock code, membership, or other access or use charge, except for a charge to order an optional printed copy of all or part of the instructional material [~~textbook~~]. The term includes [~~a~~] state-developed open-source instructional material [~~textbook~~] purchased under Subchapter B-1.

(2) "Publisher" includes an on-line service or a developer or distributor of [~~an~~] electronic instructional materials [~~textbook~~].

(4) "Technological equipment" means hardware, a device, or equipment necessary for:

(A) instructional use in the classroom, including to gain access to or enhance the use of [~~an~~] electronic instructional materials [~~textbook~~]; or

(B) professional use by a classroom teacher.

SECTION 20. Subchapter A, Chapter 31, Education Code, is amended by amending Sections 31.003 and 31.004 and adding Section 31.005 to read as follows:

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

Sec. 31.004. CERTIFICATION OF PROVISION OF [~~TEXTBOOKS, ELECTRONIC TEXTBOOKS, AND~~] INSTRUCTIONAL MATERIALS. (a) Each school district and open-enrollment charter school shall annually certify to the State Board of Education and the commissioner that, for each subject in the required curriculum under Section 28.002, other than physical education, and each grade level, the district provides each student with [~~textbooks, electronic textbooks, or~~] instructional materials that cover all elements of the essential knowledge and skills adopted by the State Board of Education for that subject and grade level.

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

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

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

(3) open-source instructional materials submitted by eligible institutions and adopted by the State Board of Education under Section 31.0241;

(4) open-source instructional materials made available by other public schools; and

(5) instructional materials developed or purchased by the school district or open-enrollment charter school.

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

SECTION 21. The heading to Section 31.021, Education Code, is amended to read as follows:

Sec. 31.021. STATE INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~] FUND.

SECTION 22. Section 31.021, Education Code, is amended by amending Subsections (a) and (d) and adding Subsection (c) to read as follows:

(a) The state instructional materials [~~textbook~~] fund consists of:

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

(2) [~~all funds accruing from the state's sale of disused textbooks; and~~
(~~3~~) all amounts lawfully paid into the fund from any other source.

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

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

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

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

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

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

(6) fund the technology lending grant program established under Section 32.201; and

(7) provide funding to the Texas School for the Blind and Visually Impaired, the Texas School for the Deaf, and the Texas Youth Commission.

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

SECTION 23. Subchapter B, Chapter 31, Education Code, is amended by adding Sections 31.0211, 31.0212, 31.0213, and 31.0214 to read as follows:

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

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

(c) Subject to Subsection (d), funds allotted under this section may be used to:

(1) purchase:

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

(B) instructional materials, regardless of whether the instructional materials are on the list adopted under Section 31.024;

(C) consumable instructional materials, including workbooks;

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

(E) supplemental instructional materials, as provided by Section 31.035;

(F) state-developed open-source instructional materials, as provided by Subchapter B-1;

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

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

(2) pay:

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

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

(d) Each year a school district shall use the district's allotment under this section to purchase, in the following order:

(1) instructional materials necessary to permit the district to certify that the district has instructional materials that cover all elements of the essential knowledge and skills of the required curriculum, other than physical education, for each grade level as required by Section 28.002; and

(2) any other instructional materials or technological equipment as determined by the district.

(d-1) Notwithstanding Subsection (d), for the state fiscal biennium beginning September 1, 2011, a school district shall use an allotment received under this section to purchase instructional materials that will assist the district in satisfying performance standards under Section 39.0241, as added by Chapter 895 (H.B. 3), Acts of the 81st Legislature, Regular Session, 2009, on assessment instruments adopted under Sections 39.023(a) and (c).

(d-2) Subsection (d-1) and this subsection expire August 31, 2013.

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

(f) The commissioner may adopt rules as necessary to implement this section.

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

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

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

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

(e) The commissioner shall adopt rules as necessary to implement this section. The rules must include a requirement that a school district provide the title and publication information for any instructional materials requisitioned or purchased by the district with the district's instructional materials allotment.

Sec. 31.0213. CERTIFICATION OF USE OF INSTRUCTIONAL MATERIALS ALLOTMENT. Each school district shall annually certify to the commissioner that the district's instructional materials allotment has been used only for expenses allowed by Section 31.0211.

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

(b) The commissioner may adopt rules as necessary to implement this section.

SECTION 24. Section 31.022, Education Code, is amended to read as follows:

Sec. 31.022. INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~] REVIEW AND ADOPTION. (a) The State Board of Education shall adopt a review and adoption cycle for instructional materials [~~textbooks~~] for elementary grade levels, including prekindergarten, and secondary grade levels, for each subject in the required curriculum under Section 28.002. In adopting the cycle, the board:

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

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

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

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

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

(D) enrichment curriculum subjects.

(b) The board shall organize the cycle for subjects in the foundation curriculum so that not more than one-fourth [~~one-sixth~~] of the instructional materials [~~textbooks~~] for subjects in the foundation curriculum are reviewed each biennium [~~year~~]. The board shall adopt rules to provide for a full and complete investigation of instructional materials [~~textbooks~~] for each subject in the foundation curriculum [~~at least~~] every eight [~~six~~] years. The adoption of instructional materials [~~textbooks~~] for a subject in the foundation curriculum may be extended beyond the eight-year [~~six-year~~] period only if the content of instructional materials [~~textbooks~~] for a subject is sufficiently current.

(b-1) For purposes of the cycle described by Subsection (b), the State Board of Education is considered to have adopted instructional materials for English language arts, English as a second language, and prekindergarten, as included in Proclamation 2011, for the biennium beginning September 1, 2011. This subsection expires September 1, 2013.

(c) The board shall adopt rules to provide for a full and complete investigation of instructional materials [~~textbooks~~] for each subject in the enrichment curriculum on a cycle the board considers appropriate.

(d) At least 12 [~~24~~] months before the beginning of the school year for which instructional materials [~~textbooks~~] for a particular subject and grade level will be adopted [~~purchased~~] under the review and adoption cycle [~~adopted by the board~~], the board shall publish notice of the review and adoption cycle for those instructional materials [~~textbooks~~]. A request for production must allow submission of open-source instructional materials that are available for use by the state without charge on the same basis as instructional materials offered for sale.

(d-1) A notice published under Subsection (d) must state that a publisher of adopted instructional materials for a grade level other than prekindergarten must submit an electronic sample of the instructional materials as required by Sections 31.027(a) and (b) and may not submit a print sample copy.

(e) The board shall designate a request for production of instructional materials [textbooks] in a subject area and grade level by the school year in which the instructional materials [textbooks] are intended to be made available in classrooms and not by the school year in which the board makes the request for production.

(f) The board shall amend any request for production issued for the purchase of instructional materials [textbooks] to conform to the instructional materials [textbook] funding levels provided by the General Appropriations Act for the year of implementation.

SECTION 25. Section 31.0221, Education Code, is amended to read as follows:

Sec. 31.0221. MIDCYCLE REVIEW AND ADOPTION OF INSTRUCTIONAL MATERIALS [TEXTBOOKS]. (a) The State Board of Education shall adopt rules for the midcycle review and adoption of instructional material [a textbook] for a subject for which instructional materials [textbooks] are not currently under review by the board under Section 31.022. The rules must require:

(1) the publisher of the instructional material [textbook] to pay a fee to the board to cover the cost of the midcycle review and adoption of the instructional material [textbook];

(2) the publisher of the instructional material [textbook] to enter into a contract with the board concerning the instructional material [textbook] for a term that ends at the same time as any contract entered into by the board for other instructional materials [another textbook] for the same subject and grade level; and

(3) a commitment from the publisher to provide the instructional material [textbook] to school districts in the manner specified by the publisher, which may include:

(A) providing the instructional material [textbook] to any district in a regional education service center area identified by the publisher; or

(B) providing a certain maximum number of instructional materials [textbooks] specified by the publisher.

(b) Sections 31.023 and 31.024 apply to instructional material [a textbook] adopted under this section. Section 31.027 does not apply to instructional material [a textbook] adopted under this section.

SECTION 26. Section 31.023, Education Code, is amended to read as follows:

Sec. 31.023. INSTRUCTIONAL MATERIAL LIST [TEXTBOOK LISTS].

(a) For each subject and grade level, the State Board of Education shall adopt a list [two lists] of instructional materials [textbooks]. The [conforming] list includes each instructional material [textbook] submitted for the subject and grade level that meets applicable physical specifications adopted by the State Board of Education and contains material covering at least half of the elements [each element] of the essential knowledge and skills of the subject and grade level in the student version of the instructional material [textbook], as well as in the teacher version of the instructional

material [~~textbook~~], as determined by the State Board of Education under Section 28.002 and adopted under Section 31.024[~~—The nonconforming list includes each textbook submitted for the subject and grade level that:~~

~~[(1) meets applicable physical specifications adopted by the State Board of Education;~~

~~[(2) contains material covering at least half, but not all, of the elements of the essential knowledge and skills of the subject and grade level in the student version of the textbook, as well as in the teacher version of the textbook; and~~

~~[(3) is adopted under Section 31.024].~~

(a-1) The State Board of Education shall determine the percentage of the elements of the essential knowledge and skills of the subject and grade level covered by each instructional material submitted. The board's determination under this subsection is final.

(b) Each instructional material [~~textbook~~] on the [~~a conforming or nonconforming~~] list must be free from factual errors.

SECTION 27. Section 31.0231, Education Code, is amended to read as follows:

Sec. 31.0231. COMMISSIONER'S [~~ELECTRONIC TEXTBOOK AND INSTRUCTIONAL MATERIAL~~] LIST. (a) The commissioner shall adopt a list of:

(1) electronic instructional material [~~textbooks~~]; and

(2) [~~instructional~~] material that conveys information to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for:

(A) science in kindergarten through grade five; and

(B) personal financial literacy in kindergarten through grade eight.

(b) A school district may select [~~an electronic textbook or instructional~~] material on the list adopted under Subsection (a) to be funded by the district's instructional materials allotment [~~state textbook fund~~] under Section 31.0211 [~~31.021~~].

(c) Before the commissioner places [~~an electronic textbook or instructional~~] material on the list adopted under Subsection (a), the State Board of Education must be given an opportunity to comment on the [~~electronic textbook or instructional~~] material. If the commissioner places material on the list adopted under Subsection (a), the State Board of Education may, not later than the 90th day after the date the material is placed on the list, require the commissioner to remove the material from the list. Material [~~An electronic textbook or instructional material~~] placed on the list adopted under Subsection (a):

(1) must be reviewed and recommended to the commissioner by a panel of recognized experts in the subject area of the [~~electronic textbook or instructional~~] material and experts in education technology;

(2) must satisfy criteria adopted for the purpose by commissioner rule; and

(3) must meet the National Instructional Materials Accessibility Standard, to the extent practicable as determined by the commissioner.

(d) The criteria adopted under Subsection (c)(2) must:

(1) include evidence of alignment with current research in the subject for which the [~~electronic textbook or instructional~~] material is intended to be used;

(2) include coverage of the essential knowledge and skills identified under Section 28.002 for the subject for which the ~~[electronic textbook or instructional]~~ material is intended to be used and identify:

(A) each of the essential knowledge and skills for the subject and grade level or levels covered by the ~~[electronic textbook or instructional]~~ material; and

(B) the percentage of the essential knowledge and skills for the subject and grade level or levels covered by the ~~[electronic textbook or instructional]~~ material; and

(3) include appropriate training for teachers.

(e) The commissioner shall update, as necessary, the list adopted under Subsection (a). Before the commissioner places ~~[an electronic textbook or instructional]~~ material on the updated list, the requirements of Subsection (c) must be met. ~~[Before the commissioner removes an electronic textbook or instructional material from the updated list, the removal must be recommended by a panel of recognized experts in the subject area of the electronic textbook or instructional material and experts in education technology.]~~

(f) After notice to the commissioner explaining in detail the changes, the provider of ~~[an electronic textbook or instructional]~~ material on the list adopted under Subsection (a) may update the navigational features or management system related to the ~~[electronic textbook or instructional]~~ material.

(g) After notice to the commissioner and a review by the commissioner, the provider of ~~[an electronic textbook or instructional]~~ material on the list adopted under Subsection (a) may update the content of the ~~[electronic textbook or instructional]~~ material if needed to accurately reflect current knowledge or information.

(h) The commissioner shall adopt rules as necessary to implement this section. The rules must:

(1) be consistent with Section 31.151 regarding the duties of publishers and manufacturers, as appropriate, and the imposition of a reasonable administrative penalty; and

(2) require public notice of an opportunity for the submission of ~~[an electronic textbook or instructional]~~ material.

SECTION 28. Section 31.024, Education Code, is amended to read as follows:

Sec. 31.024. ADOPTION BY STATE BOARD OF EDUCATION. (a) By majority vote, the State Board of Education shall:

(1) place each submitted instructional material on the ~~[textbook on a conforming or nonconforming]~~ list adopted under Section 31.023; or

(2) reject instructional material ~~[a textbook]~~ submitted for placement on that ~~[a conforming or nonconforming]~~ list.

(b) Not later than December 1 of the year preceding the school year for which the instructional materials ~~[textbooks]~~ for a particular subject and grade level will be purchased under the cycle adopted by the board under Section 31.022, the board shall provide the list ~~[lists]~~ of adopted instructional materials ~~[textbooks]~~ to each school district. ~~[Each nonconforming list must include the reasons an adopted textbook is not eligible for the conforming list.]~~

SECTION 29. The heading to Section 31.0241, Education Code, is amended to read as follows:

Sec. 31.0241. ADOPTION OF OPEN-SOURCE INSTRUCTIONAL MATERIALS [TEXTBOOKS].

SECTION 30. Subsections (b) and (c), Section 31.0241, Education Code, are amended to read as follows:

(b) The State Board of Education shall place ~~an~~ open-source instructional material [textbook] for a secondary-level course submitted for adoption by an eligible institution on the [a conforming or nonconforming] list adopted under Section 31.023 if:

(1) the instructional material [textbook] is written, compiled, or edited primarily by faculty of the eligible institution who specialize in the subject area of the instructional material [textbook];

(2) the eligible institution identifies each contributing author;

(3) the appropriate department of the eligible institution certifies the instructional material [textbook] for accuracy; and

(4) the eligible institution determines that the instructional material [textbook] qualifies for placement on the [conforming or nonconforming] list based on the extent to which the instructional material [textbook] covers the essential knowledge and skills identified under Section 28.002 for the subject for which the instructional material [textbook] is written and certifies that:

(A) for instructional material [a textbook] for a senior-level course, a student who successfully completes a course based on the instructional material [textbook] will be prepared, without remediation, for entry into the eligible institution's freshman-level course in that subject; or

(B) for instructional material [a textbook] for a junior-level and senior-level course, a student who successfully completes the junior-level course based on the instructional material [textbook] will be prepared for entry into the senior-level course.

(c) This section does not prohibit an eligible institution from submitting instructional material [a textbook] for placement on the [a conforming or nonconforming] list adopted under Section 31.023 through any other adoption process provided by this chapter.

SECTION 31. Subchapter B, Chapter 31, Education Code, is amended by adding Section 31.0242 to read as follows:

Sec. 31.0242. REVIEW OF OPEN-SOURCE INSTRUCTIONAL MATERIAL. Not later than the 90th day after the date open-source instructional material is submitted as provided by Section 31.0241, the State Board of Education may review the instructional material. The board shall:

(1) post with the list adopted under Section 31.023 comments made by the board regarding the open-source instructional material placed on the list; and

(2) distribute board comments to school districts.

SECTION 32. Section 31.026, Education Code, is amended to read as follows:

Sec. 31.026. CONTRACT; PRICE. (a) The State Board of Education shall execute a contract~~±~~

~~[(±)] for the purchase [of each adopted textbook other than an electronic textbook; and~~

~~[(2) for the purchase]~~ or licensing of each adopted instructional material ~~[electronic textbook]~~.

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

(c) As applicable, a contract must provide for the purchase or licensing of instructional material ~~[a textbook]~~ at a specific price, which may not exceed the lowest price paid by any other state or any school or school district. The price must be fixed for the term of the contract.

(d) ~~[(e)]~~ This section does not apply to ~~[an]~~ open-source instructional material ~~[textbook]~~.

SECTION 33. Section 31.0261, Education Code, is amended to read as follows:

Sec. 31.0261. CONTRACTS FOR PRINTING OF OPEN-SOURCE INSTRUCTIONAL MATERIALS ~~[TEXTBOOKS]~~. The State Board of Education may execute a contract for the printing of ~~[an]~~ open-source instructional materials placed ~~[textbook listed]~~ on the ~~[conforming or nonconforming]~~ list adopted under Section 31.023. The contract must allow a school district to requisition printed copies of ~~[an]~~ open-source instructional materials ~~[textbook]~~ as provided by Section 31.103.

SECTION 34. (a) If this Act takes effect immediately, Section 31.027, Education Code, is amended to read as follows:

Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; ELECTRONIC SAMPLE ~~[COPIES]~~. (a) A publisher shall provide each school district and open-enrollment charter school with information that fully describes each of the publisher's submitted instructional materials ~~[adopted textbooks]~~. On request of a school district, a publisher shall provide an electronic ~~[e]~~ sample ~~[copy]~~ of submitted instructional material ~~[an adopted textbook]~~.

(b) A publisher shall provide an electronic ~~[at least two]~~ sample ~~[copies]~~ of each submitted instructional material ~~[adopted textbook]~~ to be maintained at each regional education service center.

(c) ~~[(d)]~~ This section does not apply to ~~[an]~~ open-source instructional material ~~[textbook]~~.

(b) If this Act does not take effect immediately, Section 31.027, Education Code, as effective September 1, 2011, is amended to read as follows:

Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; ELECTRONIC SAMPLE. (a) A publisher shall provide each school district and open-enrollment charter school with information that fully describes each of the publisher's submitted instructional materials ~~[adopted textbooks]~~. On request of a school district, a publisher shall provide an electronic sample of submitted instructional material ~~[an adopted textbook]~~.

(b) A publisher shall provide an electronic sample of each submitted instructional material ~~[adopted textbook]~~ to be maintained at each regional education service center.

(c) ~~[(d)]~~ This section does not apply to ~~[an]~~ open-source instructional material ~~[textbook]~~.

(c) If this Act takes effect immediately, Sections 2 and 3, S.B. No. 391, Acts of the 82nd Legislature, Regular Session, 2011, have no effect.

SECTION 35. Section 31.028, Education Code, is amended to read as follows:

Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

(a) The commissioner [~~State Board of Education~~] may purchase special instructional materials [~~textbooks~~] for the education of blind and visually impaired students in public schools. In addition, for a teacher who is blind or visually impaired, the commissioner [~~board~~] shall provide a teacher's edition in Braille or large type, as requested by the teacher, for each instructional material [~~textbook~~] the teacher uses in the instruction of students. The teacher edition must be available at the same time the student instructional materials [~~textbooks~~] become available.

(b) The publisher of [~~an~~] adopted instructional material [~~textbook~~] shall provide the agency with computerized instructional material [~~textbook~~] files for the production of Braille instructional materials [~~textbooks~~] or other versions of instructional materials [~~textbooks~~] to be used by students with disabilities, on request of the commissioner [~~State Board of Education~~]. A publisher shall arrange computerized instructional material [~~textbook~~] files in one of several optional formats specified by the commissioner [~~State Board of Education~~].

(c) The commissioner [~~board~~] may also enter into agreements providing for the acceptance, requisition, and distribution of special instructional materials [~~textbooks~~] and instructional aids pursuant to 20 U.S.C. Section 101 et seq. for use by students enrolled in:

(1) public schools; or

(2) private nonprofit schools, if state funds, other than for administrative costs, are not involved.

(d) In this section:

(1) "Blind or visually impaired student" includes any student whose visual acuity is impaired to the extent that the student is unable to read the text [~~print~~] in [~~a~~] regularly adopted instructional material [~~textbook~~] used in the student's class.

(2) "Special instructional material [~~textbook~~]" means instructional material [~~a textbook~~] in Braille, large type or any other medium or any apparatus that conveys information to a student or otherwise contributes to the learning process.

SECTION 36. Section 31.029, Education Code, is amended to read as follows:

Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

(a) A school district [~~The board~~] shall purchase with the district's instructional materials allotment or otherwise acquire instructional materials [~~textbooks~~] for use in bilingual education classes.

(b) The commissioner shall adopt rules regarding the purchase of instructional materials under this section.

SECTION 37. Section 31.030, Education Code, is amended to read as follows:

Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The State Board of Education shall adopt rules to ensure that used instructional materials [~~textbooks~~] sold to school districts and open-enrollment charter schools are not sample copies that contain factual errors. The rules may provide for the imposition of an administrative penalty in accordance with Section 31.151 against a seller of used instructional materials [~~textbooks~~] who knowingly violates this section.

SECTION 38. The heading to Section 31.035, Education Code, is amended to read as follows:

Sec. 31.035. SUPPLEMENTAL INSTRUCTIONAL MATERIALS
[TEXTBOOKS].

SECTION 39. Subsections (a) through (d) and (f), Section 31.035, Education Code, are amended to read as follows:

(a) Notwithstanding any other provision of this subchapter, the State Board of Education may adopt supplemental instructional materials [~~textbooks~~] that are not on the [~~conforming or nonconforming~~] list adopted under Section 31.023. The State Board of Education may adopt [~~a~~] supplemental instructional material [~~textbook~~] under this section only if the instructional material [~~textbook~~]:

(1) contains material covering one or more primary focal points or primary topics of a subject in the required curriculum under Section 28.002, as determined by the State Board of Education;

(2) is not designed to serve as the sole instructional material [~~textbook~~] for a full course;

(3) meets applicable physical specifications adopted by the State Board of Education; and

(4) is free from factual errors.

(b) The State Board of Education shall identify the essential knowledge and skills identified under Section 28.002 that are covered by [~~a~~] supplemental instructional material [~~textbook~~] adopted by the board under this section.

(c) Supplemental instructional material [~~A supplemental textbook~~] is subject to the review and adoption cycle provisions, including the midcycle review and adoption cycle provisions, of this subchapter.

(d) A school district or open-enrollment charter school may requisition [~~a~~] supplemental instructional material [~~textbook~~] adopted under this section only if the district or school~~[-~~

~~[(1) uses textbook credits received under Section 31.1011 to purchase the supplemental textbook; or~~

~~[(2) instead of requisitioning a textbook on the conforming list under Section 31.023 for a course in the foundation curriculum under Section 28.002,] requisitions the supplemental instructional material [~~textbook~~] along with other supplemental instructional materials [~~textbooks~~] or instructional materials [~~textbooks~~] on the [~~nonconforming~~] list adopted under Section 31.023 that in combination cover each element of the essential knowledge and skills for the course for which the district or school is requisitioning the supplemental instructional materials [~~textbooks~~].~~

(f) A school district or open-enrollment charter school that requisitions supplemental instructional materials [~~textbooks under Subsection (d)(2)] shall certify to the agency that the supplemental instructional materials [~~textbooks~~], in combination with any other instructional materials [~~textbooks~~] or supplemental instructional materials [~~textbooks~~] used by the district or school, cover the essential knowledge and skills identified under Section 28.002 by the State Board of Education for the subject and grade level for which the district or school is requisitioning the supplemental instructional materials [~~textbooks~~].~~

SECTION 40. The heading to Subchapter B-1, Chapter 31, Education Code, is amended to read as follows:

SUBCHAPTER B-1. STATE-DEVELOPED OPEN-SOURCE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

SECTION 41. Section 31.071, Education Code, is amended to read as follows:

Sec. 31.071. PURCHASE AUTHORITY. (a) The commissioner may purchase state-developed open-source instructional materials [~~textbooks~~] in accordance with this subchapter.

(b) The commissioner:

(1) shall purchase any state-developed open-source instructional materials [~~textbooks~~] through a competitive process; and

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

(c) State-developed [~~A state-developed~~] open-source instructional material [~~textbook~~] must be irrevocably owned by or licensed to the state for use in the applicable subject or grade level. The state must have unlimited authority to modify, delete, combine, or add content to the instructional material [~~textbook~~] after purchase.

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

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

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

(e) The costs of administering this subchapter and purchasing state-developed open-source instructional materials [~~textbooks~~] shall be paid from the state instructional materials [~~textbook~~] fund, as determined by the commissioner.

SECTION 42. Subsections (a) and (b), Section 31.072, Education Code, are amended to read as follows:

(a) State-developed [~~A state-developed~~] open-source instructional material [~~textbook~~] must:

(1) be evaluated by teachers or other experts, as determined by the commissioner, before purchase; and

(2) meet the requirements for inclusion on the instructional material [~~a conforming or nonconforming textbook~~] list adopted under Section 31.023.

(b) Following a curriculum revision by the State Board of Education, the commissioner shall require the revision of [~~a~~] state-developed open-source instructional material [~~textbook~~] relating to that curriculum. The commissioner may, at any time, require an additional revision of [~~a~~] state-developed open-source instructional material [~~textbook~~] or contract for ongoing revisions of state-developed open-source instructional material [~~a textbook~~] for a period not to exceed the period under Section 31.022 for which instructional material [~~a textbook~~] for that subject and grade level may be adopted. The commissioner shall use a competitive process to request proposals to revise [~~a~~] state-developed open-source instructional material [~~textbook~~] under this subsection.

SECTION 43. The heading to Section 31.073, Education Code, is amended to read as follows:

Sec. 31.073. SELECTION BY SCHOOL DISTRICT [~~COST~~].

SECTION 44. Subsections (c) and (d), Section 31.073, Education Code, are amended to read as follows:

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

(d) A school district or open-enrollment charter school may not be charged for selection of [a] state-developed open-source instructional material [textbook] in addition to instructional material [a-textbook] adopted under Subchapter B.

SECTION 45. Section 31.074, Education Code, is amended to read as follows:

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

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

SECTION 46. Section 31.075, Education Code, is amended to read as follows:

Sec. 31.075. OWNERSHIP; LICENSING. (a) State-developed [~~A state-developed~~] open-source instructional material [textbook] is the property of the state.

(b) The commissioner shall provide a license to each public school in the state, including a school district, an open-enrollment charter school, and a state or local agency educating students in any grade from prekindergarten through high school, to use and reproduce [a] state-developed open-source instructional material [textbook].

(c) The commissioner may provide a license to use [a] state-developed open-source instructional material [textbook] to an entity not listed in Subsection (b). In determining the cost of a license under this subsection, the commissioner shall seek, to the extent feasible, to recover the costs of developing, revising, and distributing state-developed open-source instructional materials [textbooks].

SECTION 47. Subsection (b), Section 31.076, Education Code, is amended to read as follows:

(b) A decision by the commissioner regarding the purchase, revision, cost, or distribution of [a] state-developed open-source instructional material [textbook] is final and may not be appealed.

SECTION 48. Section 31.077, Education Code, is amended to read as follows:

Sec. 31.077. ADOPTION SCHEDULE. The commissioner shall develop a schedule for the adoption of state-developed open-source instructional materials [textbooks] under this subchapter. In developing the adoption schedule under this section, the commissioner shall consider:

(1) the availability of funds;

(2) the existing instructional material [textbook] adoption cycles under Subchapter B; and

(3) the availability of instructional materials [~~textbooks~~] for development or purchase by the state.

SECTION 49. The heading to Section 31.101, Education Code, is amended to read as follows:

Sec. 31.101. SELECTION AND PURCHASE OF INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~] BY SCHOOL DISTRICTS.

SECTION 50. Section 31.101, Education Code, is amended by amending Subsections (a), (d), and (e) and adding Subsection (f) to read as follows:

(a) Each year, during a period established by the State Board of Education, the board of trustees of each school district and the governing body of each open-enrollment charter school shall:

(1) for a subject in the foundation curriculum, notify the State Board of Education of the instructional materials [~~textbooks~~] selected by the board of trustees or governing body for the following school year from [~~among~~] the instructional materials [~~textbooks on the appropriate conforming or nonconforming~~] list, including the list adopted under Section 31.0231; or

(2) for a subject in the enrichment curriculum:

(A) notify the State Board of Education of each instructional material [~~textbook~~] selected by the board of trustees or governing body for the following school year from [~~among~~] the instructional materials [~~textbooks on the appropriate conforming or nonconforming~~] list, including the list adopted under Section 31.0231; or

(B) notify the State Board of Education that the board of trustees or governing body has selected instructional material [~~a textbook~~] that is not on the [~~conforming or nonconforming~~] list.

(d) For instructional material [~~a textbook~~] that is not on the [~~conforming or nonconforming~~] list, a school district or open-enrollment charter school must use the instructional material [~~textbook~~] for the period of the review and adoption cycle the State Board of Education has established for the subject and grade level for which the instructional material [~~textbook~~] is used.

(e) A school district or open-enrollment charter school that selects [~~a~~] subscription-based [~~electronic textbook or~~] instructional material on the [~~conforming~~] list adopted under Section 31.023 or electronic instructional material on the list adopted by the commissioner under Section 31.0231 may cancel the subscription and subscribe to [~~a~~] new [~~electronic textbook or~~] instructional material on the [~~conforming~~] list adopted under Section 31.023 or electronic instructional material on the list adopted by the commissioner under Section 31.0231 before the end of the state contract period under Section 31.026 if:

(1) the district or school has used the [~~electronic textbook or~~] instructional material for at least one school year; and

(2) the agency approves the change based on a written request to the agency by the district or school that specifies the reasons for changing the [~~electronic textbook or~~] instructional material used by the district or school.

(f) The commissioner shall maintain an online requisition system for school districts to requisition instructional materials to be purchased with the district's instructional materials allotment.

SECTION 51. Section 31.102, Education Code, is amended to read as follows:

Sec. 31.102. TITLE AND CUSTODY. (a) Each instructional material [~~textbook~~] purchased as provided by this chapter for a school district or an open-enrollment charter school is the property of the district or school [~~this state~~].

(b) Subsection (a) applies to [~~an~~] electronic instructional material [~~textbook~~] only to the extent of any applicable licensing agreement.

(c) The board of trustees of a school district or the governing body of an open-enrollment charter school [~~is the legal custodian of textbooks purchased as provided by this chapter for the district or school. The board of trustees~~] shall distribute printed instructional material [~~textbooks~~] to students in the manner that the board or governing body determines is most effective and economical.

SECTION 52. The heading to Section 31.103, Education Code, is amended to read as follows:

Sec. 31.103. INSTRUCTIONAL MATERIAL [~~TEXTBOOK~~] REQUISITIONS.

SECTION 53. Subsections (b), (c), and (d), Section 31.103, Education Code, are amended to read as follows:

(b) [~~A requisition for textbooks for the following school year shall be based on the maximum attendance reports under Subsection (a), plus an additional 10 percent, except as otherwise provided.~~] A school district or open-enrollment charter school shall make a requisition for instructional material using the online requisition program maintained by [~~a textbook on the conforming or nonconforming list through~~] the commissioner [~~to the state depository designated by the publisher or as provided by State Board of Education rule, as applicable.~~] not later than June 1 of each year. The [~~designated state depository or, if the publisher or manufacturer does not have a designated textbook depository in this state under Section 31.151(a)(6)(B), the~~] publisher or manufacturer shall fill a requisition approved by the agency [~~at any other time in the case of an emergency~~]. [~~As made necessary by available funds, the commissioner shall reduce the additional percentage of attendance for which a district or school may requisition textbooks. The commissioner may, on application of a district or school that is experiencing high enrollment growth, increase the additional percentage of attendance for which the district or school may requisition textbooks.~~]

(c) In making a requisition under this section, a school district or open-enrollment charter school may requisition instructional materials [~~textbooks~~] on the [~~conforming or nonconforming~~] list adopted under Section 31.023 for grades above the grade level in which a student is enrolled[, ~~except that the total quantity of textbooks requisitioned under this section may not exceed the limit prescribed by Subsection (b)~~].

(d) A school district or open-enrollment charter school that selects [~~an~~] open-source instructional material [~~textbook~~] shall requisition a sufficient number of printed copies for use by students unable to access the instructional material [~~textbook~~] electronically unless the district or school provides to each student:

(1) electronic access to the instructional material [~~textbook~~] at no cost to the student; or

(2) printed copies of the portion of the instructional material [~~textbook~~] that will be used in the course.

SECTION 54. Section 31.104, Education Code, is amended to read as follows:

Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of trustees of a school district or the governing body of an open-enrollment charter school may delegate to an employee the authority to requisition, distribute, and manage the inventory of instructional materials [~~textbooks~~] in a manner consistent with this chapter and rules adopted under this chapter.

(b) A school district or open-enrollment charter school may order replacements for instructional materials [~~textbooks~~] that have been lost or damaged directly from[-

~~(1) the textbook depository;~~

~~(2) the [textbook] publisher of the instructional materials or [manufacturer if the textbook publisher or manufacturer does not have a designated textbook depository in this state under Section 31.151(a)(6)(B); or~~

~~(3) any source for a printed copy of [an] open-source instructional material [~~textbook~~].~~

(c) ~~[Each textbook must state that the textbook is the property of or is licensed to this state, as appropriate. Each textbook, other than an electronic textbook or a printed copy of an open source textbook, must be covered by the student under the direction of the teacher.]~~ Except as provided by Subsection (g), a student must return all instructional materials [~~textbooks~~] to the teacher at the end of the school year or when the student withdraws from school.

(d) Each student, or the student's parent or guardian, is responsible for all instructional materials [~~each textbook, including an electronic textbook,~~] and [~~all~~] technological equipment not returned in an acceptable condition by the student. A student who fails to return in an acceptable condition all instructional materials [~~textbooks, including electronic textbooks,~~] and technological equipment forfeits the right to free instructional materials [~~textbooks, including electronic textbooks,~~] and technological equipment until all instructional materials [~~each textbook, including an electronic textbook,~~] and [~~all~~] technological equipment previously issued but not returned in an acceptable condition are [~~is~~] paid for by the student, parent, or guardian. As provided by policy of the board of trustees or governing body, a school district or open-enrollment charter school may waive or reduce the payment requirement if the student is from a low-income family. The district or school shall allow the student to use instructional materials [~~textbooks, including electronic textbooks,~~] and technological equipment at school during each school day. If instructional materials [~~a textbook, including an electronic textbook,~~] or technological equipment is not returned in an acceptable condition or paid for, the district or school may withhold the student's records. A district or school may not, under this subsection, prevent a student from graduating, participating in a graduation ceremony, or receiving a diploma. The commissioner by rule shall adopt criteria for determining whether instructional materials [~~a textbook, including an electronic textbook,~~] and technological equipment are returned in an acceptable condition.

(e) The board of trustees of a school district may not require an employee of the district who acts in good faith to pay for instructional materials [~~a textbook, electronic textbook,~~] or technological equipment that is damaged, stolen, misplaced, or not returned. A school district employee may not waive this provision by contract or any other means, except that a district may enter into a written agreement with a school employee whereby the employee assumes financial responsibility for electronic

instructional material ~~[textbook]~~ or technological equipment usage off school property or outside of a school-sponsored event in consideration for the ability of the school employee to use the electronic instructional material ~~[textbook]~~ or technological equipment for personal business. Such a written agreement shall be separate from the employee's contract of employment, if applicable, and shall clearly inform the employee of the amount of the financial responsibility and advise the employee to consider obtaining appropriate insurance. An employee may not be required to agree to such an agreement as a condition of employment.

(g) At the end of the school year for which ~~[an]~~ open-source instructional material ~~[textbook]~~ that a school district or open-enrollment charter school does not intend to use for another student is distributed, the printed copy of the open-source instructional material ~~[textbook]~~ becomes the property of the student to whom it is distributed.

(h) This section does not apply to an electronic copy of ~~[an]~~ open-source instructional material ~~[textbook]~~.

SECTION 55. Section 31.105, Education Code, is amended to read as follows:

Sec. 31.105. SALE OR DISPOSAL OF INSTRUCTIONAL MATERIALS AND TECHNOLOGICAL EQUIPMENT ~~[TEXTBOOKS]~~. (a) The board of trustees of a school district or governing body of an open-enrollment charter school may sell printed instructional materials on the date the instructional material is discontinued for use in the public schools by the State Board of Education or the commissioner. The board of trustees or governing body may also sell electronic instructional materials and technological equipment owned by the district or school. Any funds received by a district or school from a sale authorized by this subsection must be used to purchase instructional materials and technological equipment allowed under Section 31.0211 ~~[textbooks, other than electronic textbooks, to a student or another school at the state contract price. The district shall send money from the sale of textbooks to the commissioner as required by the commissioner. The commissioner shall deposit the money in the state textbook fund].~~

(b) The board of trustees of a school district or governing body of an open-enrollment charter school shall determine how the district or school will dispose of discontinued printed instructional materials, electronic instructional materials, and technological equipment.

(c) The board of trustees of a school district or governing body of an open-enrollment charter school may dispose of printed instructional material before the date the instructional material is discontinued for use in the public schools by the State Board of Education if the board of trustees or governing body determines that the instructional material is not needed by the district or school and the board of trustees or governing body does not reasonably expect that the instructional material will be needed. A district or school must notify the commissioner of any instructional material the district or school disposes of under this subsection.

SECTION 56. Section 31.106, Education Code, is amended to read as follows:

Sec. 31.106. USE OF LOCAL FUNDS. In addition to any instructional material ~~[textbook]~~ selected under this chapter, a school district or open-enrollment charter school may use local funds to purchase any instructional materials ~~[textbooks]~~.

SECTION 57. Section 31.151, Education Code, is amended by amending Subsections (a) and (d) and adding Subsection (e) to read as follows:

(a) A publisher or manufacturer of instructional materials [~~textbooks~~]:

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

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

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

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

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

(6) shall[~~;~~

~~[(A) maintain a depository in this state or arrange with a depository in this state to receive and fill orders for textbooks, other than open-source textbooks, on-line textbooks, or on-line textbook components, consistent with State Board of Education rules; or~~

~~[(B) deliver instructional materials [~~textbooks~~] to a school district or open-enrollment charter school [~~without a delivery charge to the school district, open-enrollment charter school, or state, if:~~~~

~~[(i) the publisher or manufacturer does not maintain or arrange with a depository in this state under Paragraph (A) and the publisher's or manufacturer's textbooks and related products are warehoused or otherwise stored less than 300 miles from a border of this state; or~~

~~[(ii) the textbooks are open source textbooks, on-line textbooks, or on-line textbook components];~~

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

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

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

(d) A penalty collected under this section shall be deposited to the credit of the state instructional materials ~~[textbook]~~ fund.

(e) An eligible institution, as defined by Section 31.0241(a), that offers open-source instructional materials under Section 31.0241 is not a publisher or manufacturer for purposes of this section.

SECTION 58. The heading to Section 31.152, Education Code, is amended to read as follows:

Sec. 31.152. ACCEPTING REBATE ON ~~[TEXTBOOKS, ELECTRONIC TEXTBOOKS,]~~ INSTRUCTIONAL MATERIALS~~[,]~~ OR TECHNOLOGICAL EQUIPMENT.

SECTION 59. Subsections (a), (b), and (d), Section 31.152, Education Code, are amended to read as follows:

(a) A school trustee, administrator, or teacher commits an offense if that person receives any commission or rebate on any ~~[textbooks, electronic textbooks,]~~ instructional materials~~[,]~~ or technological equipment used in the schools with which the person is associated as a trustee, administrator, or teacher.

(b) A school trustee, administrator, or teacher commits an offense if the person accepts a gift, favor, or service that:

(1) is given to the person or the person's school;

(2) might reasonably tend to influence a trustee, administrator, or teacher in the selection of ~~[a textbook, electronic textbook,]~~ instructional material~~[,]~~ or technological equipment; and

(3) could not be lawfully purchased with state instructional materials funds ~~[from the state textbook fund]~~.

(d) In this section, "gift, favor, or service" does not include:

(1) staff development, in-service, or teacher training; or

(2) ancillary ~~[instructional]~~ materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

SECTION 60. The heading to Section 31.153, Education Code, is amended to read as follows:

Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS ~~[TEXTBOOK]~~ LAW.

SECTION 61. Subsection (a), Section 31.153, Education Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly violates any law providing for the purchase or distribution of free instructional materials ~~[textbooks]~~ for the public schools.

SECTION 62. Chapter 32, Education Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. TECHNOLOGY LENDING PROGRAM GRANTS

Sec. 32.201. ESTABLISHMENT OF PROGRAM. (a) The commissioner may establish a grant program under which grants are awarded to school districts and open-enrollment charter schools to implement a technology lending program to loan students equipment necessary to access and use electronic instructional materials.

(b) A school district or an open-enrollment charter school may apply to the commissioner to participate in the grant program. In awarding grants under this subchapter for each school year, the commissioner shall consider:

(1) the availability of existing equipment to students in the district or charter school; and

(2) other funding available to the district or charter school.

(c) The commissioner may determine the terms of a grant awarded under this section, including limits on the grant amount and approved uses of grant funds.

(d) The commissioner may recover funds not used in accordance with the terms of a grant from any state funds otherwise due to the school district or open-enrollment charter school.

Sec. 32.202. FUNDING. (a) The commissioner may use not more than \$10 million from the state instructional materials fund under Section 31.021 each state fiscal biennium or a different amount determined by appropriation to administer a grant program established under this subchapter.

(b) The cost of administering a grant program under this subchapter must be paid from funds provided under Subsection (a).

Sec. 32.203. USE OF GRANT FUNDS. (a) A school district or open-enrollment charter school may use a grant awarded under Section 32.201 or other local funds to purchase, maintain, and insure equipment for a technology lending program.

(b) Equipment purchased by a school district or open-enrollment charter school with a grant awarded under Section 32.201 is the property of the district or charter school.

Sec. 32.204. REVIEW OF PROGRAM. Not later than January 1, 2013, the commissioner shall review the grant program established under this subchapter and submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a written report regarding the grants awarded under this subchapter.

Sec. 32.205. EXPIRATION. This subchapter expires September 1, 2015.

SECTION 63. Subsection (b), Section 39.303, Education Code, is amended to read as follows:

(b) For a student who failed to perform satisfactorily as determined under either performance standard under Section 39.0241 on an assessment instrument administered under Section 39.023(a), (c), or (l), the school district shall include in the notice specific information relating to access to ~~[online]~~ educational resources at the appropriate assessment instrument content level, including ~~[educational resources described by Section 32.252(b)(2) and]~~ assessment instrument questions and answers released under Section 39.023(e).

SECTION 64. Subsection (c), Section 41.124, Education Code, as effective September 1, 2011, is amended to read as follows:

(c) A school district that receives tuition for a student from a school district with a wealth per student that exceeds the equalized wealth level may not claim attendance for that student for purposes of Chapters 42 and 46 and the instructional materials ~~[technology]~~ allotment under Section 31.0211 ~~[32.005]~~.

SECTION 65. Subsection (b), Section 43.001, Education Code, as amended by Chapters 201 (H.B. 3459) and 328 (S.B. 206), Acts of the 78th Legislature, Regular Session, 2003, is reenacted to read as follows:

(b) The available school fund, which shall be apportioned annually to each county according to its scholastic population, consists of:

(1) the distributions to the fund from the permanent school fund as provided by Section 5(a), Article VII, Texas Constitution;

(2) one-fourth of all revenue derived from all state occupation taxes, exclusive of delinquencies and cost of collection;

(3) one-fourth of revenue derived from state gasoline and special fuels excise taxes as provided by law; and

(4) all other appropriations to the available school fund made by the legislature for public school purposes.

SECTION 66. Section 43.001, Education Code, is amended by adding Subsections (d) through (g) to read as follows:

(d) Each year the State Board of Education shall set aside an amount equal to 50 percent of the annual distribution for that year from the permanent school fund to the available school fund as provided by Section 5(a), Article VII, Texas Constitution, to be placed, subject to the General Appropriations Act, in the state instructional materials fund established under Section 31.021.

(e) Subsection (d) applies beginning with the state fiscal biennium beginning September 1, 2013. For the state fiscal biennium beginning September 1, 2011, each year the State Board of Education shall set aside an amount equal to 40 percent of the annual distribution for that year from the permanent school fund to the available school fund as provided by Section 5(a), Article VII, Texas Constitution, to be placed, subject to the General Appropriations Act, in the state instructional materials fund established under Section 31.021.

(f) In calculating the amounts to be set aside as provided by Subsection (e) for the state fiscal biennium beginning September 1, 2011, the State Board of Education shall consider only the amounts of the annual distribution of the permanent school fund for that biennium. The board shall not consider amounts distributed for the state fiscal biennium beginning September 1, 2009, regardless of the date on which those amounts were approved for distribution.

(g) Subsections (e) and (f) and this subsection expire September 1, 2013.

SECTION 67. The following provisions of the Education Code are repealed:

- (1) Subdivision (3), Section 31.002;
- (2) Subsections (b), (e), and (f), Section 31.021;
- (3) Section 31.0222;
- (4) Section 31.025;
- (5) Subsections (e) and (g), Section 31.035;
- (6) Subsection (c), Section 31.072;
- (7) Subsections (a) and (b), Section 31.073;
- (8) Subsections (b), (b-1), (c), and (c-1), Section 31.101;
- (9) Section 31.1011;
- (10) Subsections (a) and (e), Section 31.103;
- (11) Section 31.1031;

- (12) Subchapter E, Chapter 31;
- (13) Section 32.005;
- (14) Sections 32.251 through 32.257;
- (15) Sections 32.259 through 32.263; and
- (16) Subchapter H, Chapter 32.

SECTION 68. Subsections (a-1) and (b-1), Section 2175.128, Government Code, are repealed.

SECTION 69. The change in law made by this Act to Section 7.108, Education Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 70. (a) If this Act takes effect immediately, Subsection (a), Section 11, H.B. No. 4, Acts of the 82nd Legislature, Regular Session, 2011, has no effect, and the \$184,000,000 described by that subsection is allocated to fund the instructional materials allotment in accordance with the provisions of this Act.

(b) To the extent of any conflict, this Act prevails over the provisions of Subsection (b), Section 11, H.B. No. 4, Acts of the 82nd Legislature, Regular Session, 2011.

(c) If this Act does not take effect immediately, Subsections (a) and (b) of this section have no effect.

SECTION 71. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

The Conference Committee Report on **SB 6** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 8

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas
June 25, 2011

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 8** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SHAPIRO
DUNCAN
PATRICK
NELSON
SELIGER
On the part of the Senate

EISSLER
AYCOCK
HUBERTY
CROWNOVER
HANCOCK
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the flexibility of the board of trustees of a school district in the management and operation of public schools in the district.

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

SECTION 1. Section 21.0031, Education Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) An employee's probationary, continuing, or term contract under this chapter is void if the employee:

(1) does not hold a valid certificate or permit issued by the State Board for Educator Certification; ~~or~~

(2) fails to fulfill the requirements necessary to renew or extend the employee's temporary, probationary, or emergency certificate or any other certificate or permit issued under Subchapter B; or

(3) fails to comply with any requirement under Subchapter C, Chapter 22, if the failure results in suspension or revocation of the employee's certificate under Section 22.0831(f)(2).

(b) If a school district has knowledge that an ~~After an employee receives notice that the~~ employee's contract is void under Subsection (a):

(1) the ~~a school~~ district may, except as provided by Subsection (b-1):

(A) terminate the employee;

(B) suspend the employee with or without pay; or

(C) retain the employee for the remainder of the school year on an at-will employment basis in a position other than a position required to be held by an employee under a contract under Section 21.002 ~~classroom teacher~~ at the employee's existing rate of pay or at a reduced rate; and

(2) the employee is not entitled to the minimum salary prescribed by Section 21.402.

(b-1) A school district may not terminate or suspend under Subsection (b) an employee whose contract is void under Subsection (a)(1) or (2) because the employee failed to renew or extend the employee's certificate or permit if the employee:

(1) requests an extension from the State Board for Educator Certification to renew, extend, or otherwise validate the employee's certificate or permit; and

(2) not later than the 10th day after the date the contract is void, takes necessary measures to renew, extend, or otherwise validate the employee's certificate or permit, as determined by the State Board for Educator Certification.

SECTION 2. Section 21.051, Education Code, is amended to read as follows:

Sec. 21.051. RULES REGARDING FIELD-BASED EXPERIENCE AND OPTIONS FOR FIELD EXPERIENCE AND INTERNSHIPS. (a) In this section, "teacher of record" means a person employed by a school district who teaches the majority of the instructional day in an academic instructional setting and is responsible for evaluating student achievement and assigning grades.

(b) Before a school district may employ a candidate for certification as a teacher of record, the candidate must complete at least 15 hours of field-based experience in which the candidate is actively engaged in instructional or educational activities under supervision at:

(1) a public school campus accredited or approved for the purpose by the agency; or

(2) a private school recognized or approved for the purpose by the agency.

(c) Subsection (b) applies only to an initial certification issued on or after September 1, 2012. Subsection (b) does not affect:

(1) the validity of a certification issued before September 1, 2012; or

(2) the eligibility of a person who holds a certification issued before September 1, 2012, to obtain a subsequent renewal of the certification in accordance with board rule.

(d) Subsection (b) does not affect the period within which an individual must complete field-based experience hours as determined by board rule if the individual is not accepted into an educator preparation program before the deadline prescribed by board rule and is hired for a teaching assignment by a school district after the deadline prescribed by board rule.

(e) The board shall propose rules relating to the field-based experience required by Subsection (b). The commissioner by rule shall adopt procedures and standards for recognizing a private school under Subsection (b)(2).

(f) The board shall propose rules providing flexible options for persons for any field-based ~~field~~ experience or internship required for certification.

SECTION 3. Subsection (a), Section 21.103, Education Code, is amended to read as follows:

(a) The board of trustees of a school district may terminate the employment of a teacher employed under a probationary contract at the end of the contract period if in the board's judgment the best interests of the district will be served by terminating the employment. The board of trustees must give notice of its decision to terminate the employment to the teacher not later than the 10th ~~45th~~ day before the last day of instruction required under the contract. The notice must be delivered personally by hand delivery to the teacher on the campus at which the teacher is employed, except that if the teacher is not present on the campus on the date that hand delivery is attempted, the notice must be mailed by prepaid certified mail or delivered by express delivery service to the teacher's address of record with the district. Notice that is postmarked on or before the 10th day before the last day of instruction is considered timely given under this subsection. The board's decision is final and may not be appealed.

SECTION 4. Subsection (b), Section 21.104, Education Code, is amended to read as follows:

(b) In lieu of discharge or pending discharge, a school district may suspend a teacher without pay for good cause as specified by Subsection (a) for a period not to extend beyond the end of the current school year.

SECTION 5. Subchapter C, Chapter 21, Education Code, is amended by adding Section 21.1041 to read as follows:

Sec. 21.1041. HEARING UNDER PROBATIONARY CONTRACT. A teacher is entitled to:

(1) a hearing as provided by Subchapter F, if the teacher is protesting proposed action under Section 21.104; or

(2) a hearing in a manner provided under Section 21.207 for nonrenewal of a term contract or a hearing provided by Subchapter F, as determined by the board of trustees of the district, if the teacher is protesting proposed action to terminate a probationary contract before the end of the contract period on the basis of a financial exigency declared under Section 44.011 that requires a reduction in personnel.

SECTION 6. Subsection (b), Section 21.156, Education Code, is amended to read as follows:

(b) In lieu of discharge or pending discharge, a school district may suspend a teacher without pay for good cause as specified by Subsection (a) for a period not to extend beyond the end of the current school year.

SECTION 7. Section 21.157, Education Code, is amended to read as follows:

Sec. 21.157. NECESSARY REDUCTION OF PERSONNEL. A teacher employed under a continuing contract may be released at the end of a school year and the teacher's employment with the school district terminated at that time because of a necessary reduction of personnel by the school district, with those reductions made primarily based upon teacher appraisals administered under Section 21.352 [in the reverse order of seniority] in the specific teaching fields and other criteria as determined by the board.

SECTION 8. Subsection (b), Section 21.159, Education Code, is amended to read as follows:

(b) A teacher who notifies the board of trustees within the time prescribed by Subsection (a) is entitled to:

(1) a hearing as provided by Subchapter F, if the teacher is protesting proposed action under Section 21.156; or

(2) a hearing in a manner provided under Section 21.207 for nonrenewal of a term contract or a hearing provided by Subchapter F, as determined by the board, if the teacher is protesting proposed action under Section 21.157 or proposed action to terminate a term contract at any time on the basis of a financial exigency declared under Section 44.011 that requires a reduction in personnel.

SECTION 9. Subsection (a), Section 21.206, Education Code, is amended to read as follows:

(a) Not later than the 10th [45th] day before the last day of instruction in a school year, the board of trustees shall notify in writing each teacher whose contract is about to expire whether the board proposes to renew or not renew the contract. The notice must be delivered personally by hand delivery to the teacher on the campus at which the teacher is employed, except that if the teacher is not present on the campus on the date that hand delivery is attempted, the notice must be mailed by prepaid

certified mail or delivered by express delivery service to the teacher's address of record with the district. Notice that is postmarked on or before the 10th day before the last day of instruction is considered timely given under this subsection.

SECTION 10. Section 21.207, Education Code, is amended by amending Subsections (a) and (c) and adding Subsection (b-1) to read as follows:

(a) If the teacher desires a hearing after receiving notice of the proposed nonrenewal, the teacher shall notify the board of trustees in writing not later than the 15th day after the date the teacher receives hand delivery of the notice of the proposed action, or if the notice is mailed by prepaid certified mail or delivered by express delivery service, not later than the 15th day after the date the notice is delivered to the teacher's address of record with the district. The board shall provide for a hearing to be held not later than the 15th day after the date the board receives the request for a hearing unless the parties agree in writing to a different date. The hearing must be closed unless the teacher requests an open hearing.

(b-1) Notwithstanding any other provision of this code, this subsection applies only to a school district with an enrollment of at least 5,000 students. The board of trustees may designate an attorney licensed to practice law in this state to hold the hearing on behalf of the board, to create a hearing record for the board's consideration and action, and to recommend an action to the board. The attorney serving as the board's designee may not be employed by a school district and neither the designee nor a law firm with which the designee is associated may be serving as an agent or representative of a school district, of a teacher in a dispute between a district and a teacher, or of an organization of school employees, school administrators, or school boards of trustees. Not later than the 15th day after the completion of the hearing under this subsection, the board's designee shall provide to the board a record of the hearing and the designee's recommendation of whether the contract should be renewed or not renewed. The board shall consider the record of the hearing and the designee's recommendation at the first board meeting for which notice can be posted in compliance with Chapter 551, Government Code, following the receipt of the record and recommendation from the board's designee, unless the parties agree in writing to a different date. At the meeting, the board shall consider the hearing record and the designee's recommendation and allow each party to present an oral argument to the board. The board by written policy may limit the amount of time for oral argument. The policy must provide equal time for each party. The board may obtain advice concerning legal matters from an attorney who has not been involved in the proceedings. The board may accept, reject, or modify the designee's recommendation. The board shall notify the teacher in writing of the board's decision not later than the 15th day after the date of the meeting.

(c) At the hearing before the board or the board's designee, the teacher may:

- (1) be represented by a representative of the teacher's choice;
- (2) hear the evidence supporting the reason for nonrenewal;
- (3) cross-examine adverse witnesses; and
- (4) present evidence.

SECTION 11. Section 21.212, Education Code, is amended by adding Subsection (f) to read as follows:

(f) On the basis of a financial exigency declared under Section 44.011 that requires a reduction in personnel, the board of trustees of a school district may choose to amend the terms of the contract of a superintendent employed under a term contract. A superintendent whose contract is amended under this subsection may resign without penalty by providing reasonable notice to the board and may continue employment for that notice period under the prior contract.

SECTION 12. Section 21.251, Education Code, is amended to read as follows:

Sec. 21.251. APPLICABILITY. (a) This subchapter applies if a teacher requests a hearing after receiving notice of the proposed decision to:

(1) terminate the teacher's continuing contract at any time, except as provided by Subsection (b)(3);

(2) terminate the teacher's probationary or term contract before the end of the contract period, except as provided by Subsection (b)(3); or

(3) suspend the teacher without pay.

(b) This subchapter does not apply to:

(1) a decision to terminate a teacher's employment at the end of a probationary contract; ~~[or]~~

(2) a decision not to renew a teacher's term contract, unless the board of trustees of the employing district has decided to use the process prescribed by this subchapter for that purpose; or

(3) a decision, on the basis of a financial exigency declared under Section 44.011 that requires a reduction in personnel, to terminate a probationary or term contract before the end of the contract period or to terminate a continuing contract at any time, unless the board of trustees has decided to use the process prescribed by this subchapter for that purpose.

SECTION 13. Section 21.257, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A determination by the hearing examiner regarding good cause for the suspension of a teacher without pay or the termination of a probationary, continuing, or term contract is a conclusion of law and may be adopted, rejected, or changed by the board of trustees or board subcommittee as provided by Section 21.259(b).

SECTION 14. Subsection (b), Section 21.259, Education Code, is amended to read as follows:

(b) The board of trustees or board subcommittee may adopt, reject, or change the hearing examiner's:

(1) conclusions of law, including a determination regarding good cause for suspension without pay or termination; or

(2) proposal for granting relief.

SECTION 15. Subsection (a), Section 21.402, Education Code, is amended to read as follows:

(a) Except as provided by Subsection ~~[(d);~~ (e)[7] or (f), a school district must pay each classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience in addition to other factors, as determined by commissioner rule, determined by the following formula:

$$MS = SF \times FS$$

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of state and local funds per weighted student, including funds provided under Section 42.2516, available to a district eligible to receive state assistance under Section 42.302 with a maintenance and operations tax rate per \$100 of taxable value equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50, except that the amount of state and local funds per weighted student does not include the amount attributable to the increase in the guaranteed level made by Chapter 1187, Acts of the 77th Legislature, Regular Session, 2001.

SECTION 16. Subchapter I, Chapter 21, Education Code, is amended by adding Sections 21.4021, 21.4022, and 21.4032 to read as follows:

Sec. 21.4021. FURLOUGHS. (a) Notwithstanding Section 21.401 and subject to Section 21.4022, the board of trustees of a school district may, in accordance with district policy, implement a furlough program and reduce the number of days of service otherwise required under Section 21.401 by not more than six days of service during a school year if the commissioner certifies in accordance with Section 42.009 that the district will be provided with less state and local funding for that year than was provided to the district for the 2010-2011 school year.

(b) Notwithstanding Section 21.402, the board of trustees may reduce the salary of an employee who is furloughed in proportion to the number of days by which service is reduced, provided that the furlough program is implemented in compliance with this section.

(b-1) A furlough program must subject all contract personnel to the same number of furlough days.

(c) An educator may not be furloughed on a day that is included in the number of days of instruction required under Section 25.081.

(d) An educator may not use personal, sick, or any other paid leave while the educator is on a furlough.

(e) A furlough imposed under this section does not constitute a break in service for purposes of the Teacher Retirement System of Texas. A furlough day does not constitute a day of service for purposes of the Teacher Retirement System of Texas.

(f) Implementation of a furlough program may not result in an increase in the number of required teacher workdays.

(g) If a board of trustees adopts a furlough program after the date by which a teacher must give notice of resignation under Section 21.105, 21.160, or 21.210, as applicable, a teacher who subsequently resigns is not subject to sanctions imposed by the State Board for Educator Certification as otherwise authorized by those sections.

(h) A decision by the board of trustees to implement a furlough program:

(1) is final and may not be appealed; and

(2) does not create a cause of action or require collective bargaining.

(i) Any reduction under this section in the amount of the annual salary paid to an employee must be equally distributed over the course of the employee's current contract with the school district.

Sec. 21.4022. REQUIRED PROCESS FOR DEVELOPMENT OF FURLOUGH PROGRAM OR OTHER SALARY REDUCTION PROPOSAL.

(a) The board of trustees of a school district may not implement a furlough program under Section 21.4021 or reduce salaries until the district has complied with this section.

(b) A school district must use a process to develop a furlough program or other salary reduction proposal, as applicable, that:

(1) includes the involvement of the district's professional staff; and

(2) provides district employees with the opportunity to express opinions regarding the furlough program or salary reduction proposal, as applicable, at the public meeting required by Subsection (c).

(c) The board of trustees must hold a public meeting at which the board and school district administration present:

(1) information regarding the options considered for managing the district's available resources, including consideration of a tax rate increase and use of the district's available fund balance;

(2) an explanation of how the district intends, through implementation of a furlough program under Section 21.4021 or through other salary reductions, as applicable, to limit the number of district employees who will be discharged or whose contracts will not be renewed; and

(3) information regarding the local option residence homestead exemption.

(d) Any explanation of a furlough program under Subsection (c)(2) must state the specific number of furlough days proposed to be required.

(e) The public and school district employees must be provided with an opportunity to comment at the public meeting required under Subsection (c).

Sec. 21.4032. REDUCTIONS IN SALARIES OF CLASSROOM TEACHERS AND ADMINISTRATORS. (a) This section applies only to a widespread reduction in the amount of the annual salaries paid to school district classroom teachers based primarily on district financial conditions rather than on teacher performance.

(b) For any school year in which a school district has reduced the amount of the annual salaries paid to district classroom teachers from the amount paid for the preceding school year, the district shall reduce the amount of the annual salary paid to each district administrator or other professional employee by a percent or fraction of a percent that is equal to the average percent or fraction of a percent by which teacher salaries have been reduced.

SECTION 17. Subsection (a), Section 38.101, Education Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a school district annually shall assess the physical fitness of students enrolled in grade three or higher in a course that satisfies the curriculum requirements for physical education under Section 28.002(a)(2)(C) [grades 3 through 12].

SECTION 18. Subchapter A, Chapter 42, Education Code, is amended by adding Section 42.009 to read as follows:

Sec. 42.009. DETERMINATION OF FUNDING LEVELS. (a) Not later than July 1 of each year, the commissioner shall determine for each school district whether the estimated amount of state and local funding per student in weighted average daily

attendance to be provided to the district under the Foundation School Program for maintenance and operations for the following school year is less than the amount provided to the district for the 2010-2011 school year. If the amount estimated to be provided is less, the commissioner shall certify the percentage decrease in funding to be provided to the district.

(b) In making the determinations regarding funding levels required by Subsection (a), the commissioner shall:

(1) make adjustments as necessary to reflect changes in a school district's maintenance and operations tax rate;

(2) for a district required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level, base the determinations on the district's net funding levels after deducting any amounts required to be expended by the district to comply with Chapter 41; and

(3) determine a district's weighted average daily attendance in accordance with this chapter as it existed on January 1, 2011.

SECTION 19. Subchapter A, Chapter 44, Education Code, is amended by adding Section 44.011 to read as follows:

Sec. 44.011. FINANCIAL EXIGENCY. (a) The board of trustees of a school district may adopt a resolution declaring a financial exigency for the district. The declaration expires at the end of the fiscal year during which the declaration is made unless the board adopts a resolution before the end of the fiscal year declaring continuation of the financial exigency for the following fiscal year.

(b) The board is not limited in the number of times the board may adopt a resolution declaring continuation of the financial exigency.

(c) A board may terminate a financial exigency declaration at any time if the board considers it appropriate.

(d) Each time the board adopts a resolution under this section, the board must notify the commissioner. The commissioner by rule shall prescribe the time and manner in which notice must be given to the commissioner under this subsection.

(e) The commissioner by rule shall adopt minimum standards concerning school district financial conditions that must exist for declaration of a financial exigency by the board of trustees of the district.

(f) The commissioner may use emergency rulemaking procedures to adopt rules under Subsection (e). This subsection expires September 1, 2013.

SECTION 20. Subchapter F, Chapter 552, Government Code, is amended by adding Section 552.2661 to read as follows:

Sec. 552.2661. CHARGE FOR COPY OF PUBLIC INFORMATION PROVIDED BY SCHOOL DISTRICT. A school district that receives a request to produce public information for inspection or publication or to produce copies of public information in response to a requestor who, within the preceding 180 days, has accepted but failed to pay written itemized statements of estimated charges from the district as provided under Section 552.261(b) may require the requestor to pay the estimated charges for the request before the request is fulfilled.

SECTION 21. The following provisions of the Education Code are repealed:

(1) Section 12.1331;

(2) Subsection (d), Section 21.402; and

(3) Subsections (b) and (c), Section 33.902.

SECTION 22. On or before January 1, 2012, the State Board for Educator Certification shall propose rules relating to educator certification as prescribed by Section 21.051, Education Code, as amended by this Act.

SECTION 23. The changes in law made by this Act apply only to a hearing examiner's determination regarding good cause that is contained in a written recommendation under Section 21.257, Education Code, issued on or after the effective date of this Act.

SECTION 24. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

The Conference Committee Report on **SB 8** was filed with the Secretary of the Senate on Sunday, June 26, 2011.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 93 by Huffman, In memory of Christian Crum of Fort Bend County.

SR 104 by Williams, Paying tribute to the life and legacy of Mildred "Babe" Didrikson Zaharias.

Congratulatory Resolutions

SR 91 by Shapiro, Recognizing Bud McBrayer on the occasion of his installation as a Rotary District Governor.

SR 92 by West, Recognizing Lula B. Jordan on the occasion of her 100th birthday.

SR 94 by Lucio, Commending Aurora Alexandra Villarreal for earning a Girl Scout Gold Award.

SR 95 by Lucio, Recognizing Elizabeth Avitia on the occasion of her retirement from the Brownsville Independent School District.

SR 96 by Lucio, Recognizing the Brownsville chapter of the National Pan American Golf Association for hosting its annual conference and tournament.

SR 97 by Lucio, Recognizing Charles Bryan Isbell of Brownsville on the occasion of his 72nd birthday.

SR 98 by Lucio, Recognizing Presbyterian Pan American School on the occasion of its 100th anniversary.

SR 99 by Ellis, Recognizing Brown Chapel African Methodist Episcopal Church of Houston on the occasion of its 130th anniversary.

SR 100 by Uresti, Recognizing Armando Garcia, Jr., for his service to his country.

SR 101 by Nelson, Commending Emilio Manzano for achieving the rank of Eagle Scout.

SR 102 by West, Recognizing Steve Salazar for his service to the Dallas community.

SR 103 by Williams, Recognizing the Splendora Independent School District for receiving the H-E-B Excellence in Education Award for small school districts.

RECESS

Pursuant to a previously adopted motion, the Senate at 10:00 a.m. Monday, June 27, 2011, recessed until 12:00 p.m. today.

APPENDIX

BILL ENGROSSED

June 22, 2011

SB 22

RESOLUTIONS ENROLLED

June 22, 2011

SCR 3, SR 36, SR 80, SR 81, SR 82, SR 83, SR 84, SR 85, SR 86, SR 87, SR 88, SR 89, SR 90

June 24, 2011

SR 91, SR 92, SR 93, SR 94, SR 95, SR 96, SR 97, SR 98, SR 99, SR 100, SR 101, SR 102, SR 103, SR 104

SENT TO GOVERNOR

June 24, 2011

SB 4