

AN ACT

relating to instructional materials and technology for public schools.

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

SECTION 1. Section 31.001, Education Code, is amended to read as follows:

Sec. 31.001. FREE INSTRUCTIONAL MATERIALS. Instructional materials 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 technology and instructional materials allotment.

SECTION 2. Section 31.004(b), Education Code, is amended to read as follows:

(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

1 eligible institutions and adopted by the State Board of Education  
2 under Section 31.0241;

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

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

7 (6) open educational resources and other electronic  
8 instructional materials included in the repository under Section  
9 31.083.

10 SECTION 3. Section 31.005, Education Code, is amended to  
11 read as follows:

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

16 SECTION 4. Section 31.021, Education Code, is amended to  
17 read as follows:

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

21 (1) an amount set aside by the State Board of Education  
22 from the available school fund, in accordance with Section  
23 43.001(d); and

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

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

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

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

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

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

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

14 (6) fund the technology lending grant program  
15 established under Section 32.301 [~~32.201~~]; [~~and~~]

16 (7) provide funding to the Texas School for the Blind  
17 and Visually Impaired, the Texas School for the Deaf, and the Texas  
18 Juvenile Justice Department; and

19 (8) pay the expenses associated with the instructional  
20 materials web portal developed under Section 31.081.

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

24 SECTION 5. The heading to Section 31.0211, Education Code,  
25 is amended to read as follows:

26 Sec. 31.0211. TECHNOLOGY AND INSTRUCTIONAL MATERIALS  
27 ALLOTMENT.

1 SECTION 6. Sections 31.0211(a) and (b), Education Code, are  
2 amended to read as follows:

3 (a) A school district is entitled to an allotment each  
4 biennium from the state technology and instructional materials fund  
5 for each student enrolled in the district on a date during the last  
6 year of the preceding biennium specified by the commissioner. The  
7 commissioner shall determine the amount of the allotment per  
8 student each biennium on the basis of the amount of money available  
9 in the state technology and instructional materials fund to fund  
10 the allotment. An allotment under this section shall be  
11 transferred from the state technology and instructional materials  
12 fund to the credit of the district's technology and instructional  
13 materials account as provided by Section 31.0212.

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

21 SECTION 7. The heading to Section 31.0212, Education Code,  
22 is amended to read as follows:

23 Sec. 31.0212. TECHNOLOGY AND INSTRUCTIONAL MATERIALS  
24 ACCOUNT.

25 SECTION 8. Sections 31.0212(a), (b), (d), and (e),  
26 Education Code, are amended to read as follows:

27 (a) The commissioner shall maintain a technology and [~~an~~]

1 instructional materials account for each school district. In the  
2 first year of each biennium, the commissioner shall deposit in the  
3 account for each district the amount of the district's technology  
4 and instructional materials allotment under Section 31.0211.

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

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

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

21 SECTION 9. Section 31.0213, Education Code, is amended to  
22 read as follows:

23 Sec. 31.0213. CERTIFICATION OF USE OF TECHNOLOGY AND  
24 INSTRUCTIONAL MATERIALS ALLOTMENT. Each school district shall  
25 annually certify to the commissioner that the district's technology  
26 and instructional materials allotment has been used only for  
27 expenses allowed by Section 31.0211.

1 SECTION 10. Section 31.0214(a), Education Code, is amended  
2 to read as follows:

3 (a) Each year the commissioner shall adjust the technology  
4 and instructional materials allotment of school districts  
5 experiencing high enrollment growth. The commissioner shall  
6 establish a procedure for determining high enrollment growth  
7 districts eligible to receive an adjustment under this section and  
8 the amount of the technology and instructional materials allotment  
9 those districts will receive.

10 SECTION 11. The heading to Section 31.0215, Education Code,  
11 is amended to read as follows:

12 Sec. 31.0215. TECHNOLOGY AND INSTRUCTIONAL MATERIALS  
13 [~~MATERIAL~~] ALLOTMENT PURCHASES.

14 SECTION 12. Sections 31.0215(b) and (c), Education Code,  
15 are amended to read as follows:

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

26 (c) The commissioner shall make payments for orders placed  
27 under this section as funds become available to the technology and

1 instructional materials fund and shall prioritize payment of orders  
2 placed under this section over reimbursement of purchases made  
3 directly by a school district or open-enrollment charter school.

4 SECTION 13. Section 31.0231(b), Education Code, is amended  
5 to read as follows:

6 (b) A school district may select material on the list  
7 adopted under Subsection (a) to be funded by the district's  
8 technology and instructional materials allotment under Section  
9 31.0211.

10 SECTION 14. Section 31.029(a), Education Code, is amended  
11 to read as follows:

12 (a) A school district shall purchase with the district's  
13 technology and instructional materials allotment or otherwise  
14 acquire instructional materials for use in bilingual education  
15 classes.

16 SECTION 15. Section 31.031(a), Education Code, is amended  
17 to read as follows:

18 (a) A school district may purchase with the district's  
19 technology and instructional materials allotment or otherwise  
20 acquire instructional materials for use in college preparatory  
21 courses under Section 28.014.

22 SECTION 16. Section 31.071(e), Education Code, is amended  
23 to read as follows:

24 (e) The costs of administering this subchapter and  
25 purchasing state-developed open-source instructional materials  
26 shall be paid from the state technology and instructional materials  
27 fund, as determined by the commissioner.

1 SECTION 17. Chapter 31, Education Code, is amended by  
2 adding Subchapter B-2 to read as follows:

3 SUBCHAPTER B-2. INSTRUCTIONAL MATERIALS WEB PORTAL

4 Sec. 31.081. INSTRUCTIONAL MATERIALS WEB PORTAL. (a) The  
5 commissioner shall develop and maintain a web portal to assist  
6 school districts and open-enrollment charter schools in selecting  
7 instructional materials under Section 31.101.

8 (b) The web portal must include general information such as  
9 price, computer system requirements, and any other relevant  
10 specifications for each instructional material:

11 (1) on the instructional materials list, including the  
12 list adopted under Section 31.0231; or

13 (2) submitted by a publisher for inclusion in the web  
14 portal.

15 (c) The commissioner by rule shall establish the procedure  
16 by which a publisher may submit instructional materials for  
17 inclusion in the web portal.

18 (d) The commissioner shall use a competitive process to  
19 contract for the development of the web portal.

20 (e) The commissioner shall use money in the state technology  
21 and instructional materials fund to pay any expenses associated  
22 with the web portal.

23 Sec. 31.082. QUALITY OF INSTRUCTIONAL MATERIALS SUBMITTED  
24 BY PUBLISHER. (a) The commissioner shall contract with a private  
25 entity to conduct an independent analysis of each instructional  
26 material submitted by a publisher for inclusion in the web portal  
27 developed under Section 31.081. The analysis must:



1           (1) evaluate the quality of the material; and

2           (2) determine the extent to which the material covers  
3 the essential knowledge and skills identified under Section 28.002  
4 for the subject and grade level for which the material is intended  
5 to be used, including an identification of:

6                   (A) each of the essential knowledge and skills  
7 for the subject and grade level or levels covered by the material;  
8 and

9                   (B) the percentage of the essential knowledge and  
10 skills for the subject and grade level or levels covered by the  
11 material.

12           (b) The commissioner shall include in the web portal  
13 developed under Section 31.081 the results of each analysis  
14 conducted under Subsection (a).

15           Sec. 31.083. INSTRUCTIONAL MATERIALS REPOSITORY. (a) In  
16 this section, "open educational resource" means a teaching,  
17 learning, or research resource that is in the public domain or has  
18 been released under an intellectual property license that permits  
19 the free use and repurposing of the resource by any person. The  
20 term may include full course curricula, course materials, modules,  
21 textbooks, streaming videos, tests, software, and any other tools,  
22 materials, or techniques used to support access to knowledge.

23           (b) The commissioner shall include in the web portal  
24 developed under Section 31.081 a repository of open educational  
25 resources and other electronic instructional materials that school  
26 districts and open-enrollment charter schools may access at no  
27 cost, including state-developed open-source instructional

1 materials purchased under Subchapter B-1.

2 (c) A publisher may submit instructional materials for  
3 inclusion in the repository.

4 Sec. 31.084. RULES. The commissioner may adopt rules as  
5 necessary to implement this subchapter.

6 SECTION 18. Section 31.101(f), Education Code, is amended  
7 to read as follows:

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

12 SECTION 19. Section 31.151(d), Education Code, is amended  
13 to read as follows:

14 (d) A penalty collected under this section shall be  
15 deposited to the credit of the state technology and instructional  
16 materials fund.

17 SECTION 20. Chapter 32, Education Code, is amended by  
18 adding Subchapter G to read as follows:

19 SUBCHAPTER G. TECHNOLOGY LENDING PROGRAM GRANTS

20 Sec. 32.301. ESTABLISHMENT OF PROGRAM. (a) The  
21 commissioner may establish a grant program under which grants are  
22 awarded to school districts and open-enrollment charter schools to  
23 implement a technology lending program to provide students access  
24 to equipment necessary to access and use electronic instructional  
25 materials.

26 (b) A school district or an open-enrollment charter school  
27 may apply to the commissioner to participate in the grant program.

1 In awarding grants under this subchapter for each school year, the  
2 commissioner shall consider:

3 (1) the availability of existing equipment to students  
4 in the district or school;

5 (2) other funding available to the district or school;  
6 and

7 (3) the district's or school's technology plan.

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

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

15 Sec. 32.302. FUNDING. (a) The commissioner may use not  
16 more than \$25 million from the state technology and instructional  
17 materials fund under Section 31.021 each state fiscal biennium or a  
18 different amount determined by appropriation to administer a grant  
19 program established under this subchapter.

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

22 Sec. 32.303. USE OF GRANT FUNDS. (a) A school district or  
23 open-enrollment charter school may use a grant awarded under  
24 Section 32.301 or other local funds to purchase, maintain, and  
25 insure equipment for a technology lending program.

26 (b) Equipment purchased by a school district or  
27 open-enrollment charter school with a grant awarded under Section

1 32.301 is the property of the district or school.

2 Sec. 32.304. REVIEW OF PROGRAM. Not later than January 1,  
3 2019, the commissioner shall review the grant program established  
4 under this subchapter and submit a report to the governor, the  
5 lieutenant governor, the speaker of the house of representatives,  
6 and the presiding officers of the standing committees in the senate  
7 and house primarily responsible for public education. This section  
8 expires September 1, 2019.

9 SECTION 21. Section 41.124(c), Education Code, is amended  
10 to read as follows:

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

16 SECTION 22. Section 43.001(d), Education Code, is amended  
17 to read as follows:

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

25 SECTION 23. Section 403.093(d), Government Code, is amended  
26 to read as follows:

27 (d) The comptroller shall transfer from the general revenue

1 fund to the foundation school fund an amount of money necessary to  
2 fund the foundation school program as provided by Chapter 42,  
3 Education Code. The comptroller shall make the transfers in  
4 installments as necessary to comply with Section 42.259, Education  
5 Code, and permit the Texas Education Agency, to the extent  
6 authorized by the General Appropriations Act, to make temporary  
7 transfers from the foundation school fund for payment of the  
8 technology and instructional materials allotment under Section  
9 31.0211, Education Code. Unless an earlier date is necessary for  
10 purposes of temporary transfers for payment of the technology and  
11 instructional materials allotment, an installment must be made not  
12 earlier than two days before the date an installment to school  
13 districts is required by Section 42.259, Education Code, and must  
14 not exceed the amount necessary for that payment and any temporary  
15 transfers for payment of the technology and instructional materials  
16 allotment.

17 SECTION 24. Not later than September 1, 2018, the  
18 commissioner of education shall develop the web portal required  
19 under Subchapter B-2, Chapter 31, Education Code, as added by this  
20 Act.

21 SECTION 25. This Act takes effect immediately if it  
22 receives a vote of two-thirds of all the members elected to each  
23 house, as provided by Section 39, Article III, Texas Constitution.  
24 If this Act does not receive the vote necessary for immediate  
25 effect, this Act takes effect September 1, 2017.

---

President of the Senate

---

Speaker of the House

I certify that H.B. No. 3526 was passed by the House on May 9, 2017, by the following vote: Yeas 145, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3526 on May 26, 2017, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3526 on May 28, 2017, by the following vote: Yeas 147, Nays 0, 2 present, not voting.

---

Chief Clerk of the House

H.B. No. 3526

I certify that H.B. No. 3526 was passed by the Senate, with amendments, on May 23, 2017, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3526 on May 28, 2017, by the following vote: Yeas 31, Nays 0.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor