

By: Grusendorf, Pitts

H.B. No. 62

Substitute the following for H.B. No. 62:

By: Delisi

C.S.H.B. No. 62

A BILL TO BE ENTITLED

AN ACT

1
2 relating to public school instructional materials and
3 instructional technology; making an appropriation.

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

5 SECTION 1. Subchapter B, Chapter 7, Education Code, is
6 amended by adding Section 7.030 to read as follows:

7 Sec. 7.030. REVIEW OF STATE-FUNDED AND FEDERALLY FUNDED
8 GRANT PROGRAMS. (a) The agency shall conduct a review of
9 state-funded and federally funded grant programs and incentives
10 designed to improve student academic performance and shall actively
11 determine the full extent to which funds awarded under those
12 programs may be used to enhance or expand the use of technology in
13 public schools. For purposes of removing barriers to and
14 encouraging the use of technology in public schools, the
15 commissioner may, as appropriate, issue a waiver to one or more
16 schools.

17 (b) Not later than December 1, 2006, the agency shall submit
18 a report regarding the findings of the review conducted under this
19 section to the legislature. The report must include a summary of
20 promising practices for current grant programs that leverage
21 technology. This section expires January 15, 2007.

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

24 (28) The commissioner shall perform duties relating to

1 the funding, adoption, and purchase of instructional materials
2 [~~textbooks~~] under Chapter 31.

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

5 (f) A school district or campus that is required to develop
6 and implement a student achievement improvement plan under Section
7 39.131 or 39.132 may receive an exemption or waiver under this
8 section from any law or rule other than:

9 (1) a prohibition on conduct that constitutes a
10 criminal offense;

11 (2) a requirement imposed by federal law or rule;

12 (3) a requirement, restriction, or prohibition
13 imposed by state law or rule relating to:

14 (A) public school accountability as provided by
15 Subchapters B, C, D, and G, Chapter 39; or

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

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

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

23 (23) The board shall approve [~~adopt~~] and purchase or
24 license instructional materials [~~textbooks~~] as provided by Chapter
25 31 and adopt rules required by that chapter.

26 SECTION 5. Sections 7.108(a) and (c), Education Code, are
27 amended to read as follows:

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

8 (c) In this section:

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

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

13 [~~(2) "Textbook" has the meaning assigned by Section~~
14 ~~31.002.~~]

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

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

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

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

26 (1) confer with a member of the board of trustees of a
27 school district concerning instructional materials [~~a textbook~~]

1 published by that [~~textbook~~] publisher; or

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

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

6 (2) "Instructional material" and "publisher"
7 [~~"Publisher" and "textbook"~~] have the meanings assigned by Section
8 31.002.

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

11 (b) The board may not charge fees for:

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

15 (2) field trips required as a part of a basic education
16 program or course;

17 (3) any specific form of dress necessary for any
18 required educational program or diplomas;

19 (4) the payment of instructional costs for necessary
20 school personnel employed in any course or educational program
21 required for graduation;

22 (5) library materials [~~books~~] required to be used for
23 any educational course or program, other than fines for lost,
24 damaged, or overdue materials [~~books~~];

25 (6) admission to any activity the student is required
26 to attend as a prerequisite to graduation;

27 (7) admission to or examination in any required

1 educational course or program; or

2 (8) lockers.

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

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

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

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

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

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

18 (5) a [~~textbook~~] report on instructional materials;

19 (6) a unit or weekly lesson plan that outlines, in a
20 brief and general manner, the information to be presented during
21 each period at the secondary level or in each subject or topic at
22 the elementary level;

23 (7) an attendance report;

24 (8) any report required for accreditation review;

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

1 or

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

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

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

8 SECTION 12. Sections 26.006(a) and (c), Education Code, are
9 amended to read as follows:

10 (a) A parent is entitled to:

11 (1) review all teaching materials, instructional
12 materials [~~textbooks~~], and other teaching aids used in the
13 classroom of the parent's child; and

14 (2) review each test administered to the parent's
15 child after the test is administered.

16 (c) A student's parent is entitled to request that the
17 public school [~~district or open-enrollment charter school~~] the
18 student attends allow the student to take home any instructional
19 materials [~~textbook~~] used by the student. Subject to the
20 availability of the instructional materials [~~a textbook~~], the
21 [~~district or~~] school shall honor the request. A student who takes
22 home instructional materials [~~a textbook~~] must return the
23 instructional materials [~~textbook~~] to school at the beginning of
24 the next school day if requested to do so by the student's teacher.
25 In this subsection, "instructional material" [~~"textbook"~~] has the
26 meaning assigned by Section 31.002.

27 SECTION 13. Sections 28.002(c) and (h), Education Code, are

1 amended to read as follows:

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

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

21 SECTION 14. Subchapter A, Chapter 28, Education Code, is
22 amended by adding Section 28.0022 to read as follows:

23 Sec. 28.0022. CURRICULUM REVIEW; ALIGNMENT WITH
24 INSTRUCTIONAL MATERIALS AND ASSESSMENT PROGRAM. (a) The State
25 Board of Education shall adopt a five-year cycle for reviewing the
26 essential knowledge and skills of each subject of the required
27 curriculum under Section 28.002.

1 (b) The State Board of Education may not modify the
2 curriculum in a manner intended to benefit:

3 (1) a specific publisher of instructional materials,
4 as those terms are defined by Section 31.002; or

5 (2) another vendor of educational products or
6 technology.

7 (c) It is the intent of the legislature that the State Board
8 of Education continue to align instructional materials approved
9 under Chapter 31 with the required curriculum. The agency shall
10 develop the state assessment program under Subchapter B, Chapter
11 39, in alignment with the required curriculum.

12 SECTION 15. The heading to Chapter 31, Education Code, is
13 amended to read as follows:

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

15 SECTION 16. Section 31.001, Education Code, is amended to
16 read as follows:

17 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].
18 Instructional materials [~~Textbooks~~] selected for use in the public
19 schools shall be furnished without cost to the students attending
20 those schools in accordance with Section 3(b), Article VII, Texas
21 Constitution.

22 SECTION 17. Sections 31.002(1), (2), and (4), Education
23 Code, are amended to read as follows:

24 (1) "Instructional material" [~~"Electronic textbook"~~]
25 means a medium or a combination of media for conveying information
26 to a student. The term includes a book, supplementary materials, a
27 combination of a book, workbook, supplementary materials, computer

1 software, [~~interactive videodisc,~~] magnetic media, DVD, CD-ROM,
2 computer courseware, on-line services, or an electronic medium, or
3 other means of conveying information to the student or otherwise
4 contributing to the learning process through electronic means.

5 (2) "Publisher" means a person who prepares
6 instructional materials for sale or distribution to educational
7 institutions. The term includes an on-line service or a developer
8 or distributor of [~~an~~] electronic instructional materials
9 [~~textbook~~].

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

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

15 (B) professional use by a classroom teacher.

16 SECTION 18. Section 31.003, Education Code, is amended to
17 read as follows:

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

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

24 SUBCHAPTER B. STATE APPROVAL

25 [~~FUNDING, ADOPTION, AND PURCHASE~~]

26 SECTION 20. Section 31.021, Education Code, as amended by
27 S.B. No. 151, Acts of the 79th Legislature, Regular Session, 2005,

1 is amended to read as follows:

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

3 FUND. (a) The state instructional materials [~~textbook~~] fund
4 consists of:

5 (1) an amount set aside by the State Board of Education
6 from the available school fund, computed in accordance with this
7 section; and

8 (2) [~~all funds accruing from the state's sale of~~
9 ~~disused textbooks; and~~

10 [~~(3)~~] all amounts lawfully paid into the fund from any
11 other source.

12 (b) The State Board of Education shall annually set aside
13 out of the available school fund of the state an amount sufficient
14 for the instructional materials allotment to provide public [~~board,~~
15 ~~school districts, and open-enrollment charter~~] schools with the
16 funds required to purchase and distribute the necessary
17 instructional materials [~~textbooks~~] for the use of the students of
18 this state for the following school year. The board shall determine
19 the amount of the available school fund to set aside for the state
20 instructional materials [~~textbook~~] fund based on the amount of the
21 instructional materials and technology allotment under Section
22 32.005(a). [~~+~~

23 [~~(1) a report by the commissioner issued on July 1 or,~~
24 ~~if that date is a Saturday or Sunday, on the following Monday,~~
25 ~~stating the amount of unobligated money in the fund,~~

26 [~~(2) the commissioner's estimate, based on textbooks~~
27 ~~selected under Section 31.101 and on attendance reports submitted~~

1 ~~under Section 31.103 by school districts and open-enrollment~~
2 ~~charter schools, of the amount of funds, in addition to funds~~
3 ~~reported under Subdivision (1), that will be necessary for purchase~~
4 ~~and distribution of textbooks for the following school year, and~~

5 ~~[(3) any amount the board determines should be set~~
6 ~~aside for emergency purposes caused by unexpected increases in~~
7 ~~attendance.]~~

8 (c) This subsection applies only if the pilot project
9 established under Section 54.2161 is implemented~~[, and expires~~
10 ~~August 15, 2009]~~. In addition to the amount set aside under
11 Subsection (b), the State Board of Education shall annually set
12 aside out of the available school fund an amount sufficient for each
13 school district with one or more students entitled to free
14 textbooks under the pilot project established under Section 54.2161
15 to pay the costs of those textbooks as required by Section 31.031
16 for the following school year. The board shall determine the amount
17 of the available school fund to set aside for the state
18 instructional materials ~~[textbook]~~ fund for purposes of this
19 subsection based on the commissioner's estimate of the amount that
20 will be necessary to pay the costs of textbooks as required under
21 Section 31.031. This subsection expires August 31, 2006.

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

25 ~~[(e) All necessary expenses incurred under this chapter~~
26 ~~shall be paid from the state textbook fund on invoices approved by~~
27 ~~the commissioner.]~~

1 SECTION 21. Subchapter B, Chapter 31, Education Code, is
2 amended by adding Sections 31.0251, 31.0252, and 31.0253 to read as
3 follows:

4 Sec. 31.0251. SUBMISSION OF INSTRUCTIONAL MATERIALS;
5 REVIEW. (a) A publisher may at any time submit an instructional
6 material to the State Board of Education for approval. As part of a
7 submission, a publisher must include a statement that identifies in
8 writing the essential knowledge and skills for a subject and grade
9 level as determined by the board under Section 28.002 that the
10 instructional material covers.

11 (b) The board shall:

12 (1) review each instructional material submitted for
13 approval as provided by Section 31.0253;

14 (2) determine whether the instructional material
15 covers the essential knowledge and skills identified in the
16 submission; and

17 (3) identify the degree to which the instructional
18 material complies with the essential knowledge and skills.

19 Sec. 31.0252. CORRECTION OF FACTUAL ERRORS. (a) The State
20 Board of Education shall adopt rules authorizing the imposition of
21 an administrative penalty in the manner provided by Section 31.151
22 against a publisher who knowingly fails to promptly correct any
23 factual errors discovered by the board in the instructional
24 materials submitted by the publisher.

25 (b) In setting the amount of any penalty to be imposed under
26 this section, the board shall consider the stage of the
27 instructional materials review and approval process at which the

1 failure occurs and set progressively higher penalties for failures
2 that occur later in the process.

3 Sec. 31.0253. APPROVAL BY STATE BOARD OF EDUCATION. (a)
4 The State Board of Education shall meet biannually to approve
5 instructional materials submitted under Section 31.0251. The board
6 must approve or reject each submitted instructional material not
7 later than the second biannual meeting held for the purpose of
8 approving instructional materials under this section after the date
9 the instructional material was submitted.

10 (b) By majority vote, the board shall approve an
11 instructional material submitted under Section 31.0251 unless the
12 board determines, based on the board's own review, that the
13 instructional material does not contain the essential knowledge and
14 skills identified by the publisher in the submission. The board
15 shall identify the essential knowledge and skills for a subject and
16 grade level that an approved instructional material covers.

17 (c) Each approved instructional material must be free from
18 factual errors.

19 (d) For each subject and grade level, the board shall list
20 the approved instructional materials. The board shall
21 periodically:

22 (1) review each list of approved instructional
23 materials; and

24 (2) by majority vote, remove approved instructional
25 materials that the board determines no longer cover the essential
26 knowledge and skills.

27 SECTION 22. Sections 31.026-31.030, Education Code, are

1 amended to read as follows:

2 Sec. 31.026. ~~CONTRACT~~~~[, PRICE]~~. (a) The Department of
3 Information Resources may ~~[State Board of Education shall]~~ execute
4 a contract~~[+~~

5 ~~[(1)]~~ for the purchase or licensing of each approved
6 instructional material. The commissioner, with the assistance of
7 the Department of Information Resources, the State Board of
8 Education, and the office of the attorney general, shall develop
9 model contracts that may be used by public schools for the purchase
10 or licensing of instructional materials under this chapter ~~[adopted~~
11 ~~textbook other than an electronic textbook; and~~

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

14 (b) A contract for the purchase or licensing of
15 instructional materials must require the publisher to provide all
16 of the approved instructional materials ~~[the number of textbooks]~~
17 required by public schools ~~[school districts]~~ in this state for the
18 term of the contract~~[, which must coincide with the board's~~
19 ~~adoption cycle]~~.

20 (c) As applicable, a contract must provide for the purchase
21 or licensing of instructional materials ~~[a textbook]~~ at a
22 ~~[specific]~~ price determined through negotiation between the
23 publisher and the Department of Information Resources or the public
24 school, as applicable, that does ~~[, which may]~~ not exceed the lowest
25 price paid by any other state or any school or school district. The
26 price must be fixed for the term of the contract.

27 (d) The Department of Information Resources shall execute a

1 blanket purchase order with the publisher of an approved
2 instructional material. A school district may requisition
3 instructional materials under the purchase order.

4 (e) The agency and the Department of Information Resources
5 shall enter into an interagency contract specifying each agency's
6 duties regarding the purchasing and licensing of instructional
7 materials.

8 (f) The contract may allow the publisher of an approved
9 instructional material to update the material as provided by
10 Section 31.033.

11 Sec. 31.027. INFORMATION TO PUBLIC SCHOOLS [~~SCHOOL~~
12 ~~DISTRICTS~~]; SAMPLE COPIES. (a) A publisher shall provide each
13 public school [~~district and open-enrollment charter school~~] with
14 information that fully describes each of the publisher's approved
15 instructional materials. [~~adopted textbooks. On request of a~~
16 ~~school district, a publisher shall provide a sample copy of an~~
17 ~~adopted textbook.~~]

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

21 Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].
22 (a) The State Board of Education may provide for [~~purchase~~] special
23 instructional materials [~~textbooks~~] for the education of blind and
24 visually impaired students in public schools. In addition, for a
25 teacher who is blind or visually impaired, the board shall provide a
26 teacher's edition in Braille or large type, as requested by the
27 teacher, for each printed instructional material [~~textbook~~] the

1 teacher uses in the instruction of students. The printed teacher
2 edition must be available at the same time the printed student
3 instructional materials [~~textbooks~~] become available.

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

12 (c) The board shall require electronic instructional
13 materials submitted for approval under Section 31.0251 to comply
14 with the standards established under Section 508, Rehabilitation
15 Act of 1973 (29 U.S.C. Section 794d) [~~may also enter into agreements~~
16 ~~providing for the acceptance, requisition, and distribution of~~
17 ~~special textbooks and instructional aids pursuant to 20 U.S.C.~~
18 ~~Section 101 et seq.~~] for use by students enrolled in:

- 19 (1) public schools; or
20 (2) private nonprofit schools, if state funds, other
21 than for administrative costs, are not involved.

22 (d) In this section:

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

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

5 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS
6 [~~TEXTBOOKS~~]. The board shall approve instructional materials
7 [~~purchase or otherwise acquire textbooks~~] for use in bilingual
8 education classes.

9 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The
10 State Board of Education shall adopt rules to ensure that used
11 instructional materials [~~textbooks~~] sold to public schools [~~school~~
12 ~~districts and open-enrollment charter schools~~] are not sample
13 copies that contain factual errors. The rules may provide for the
14 imposition of an administrative penalty in accordance with Section
15 31.151 against a seller of used instructional materials [~~textbooks~~]
16 who knowingly violates this section.

17 SECTION 23. Section 31.031(b), Education Code, as added by
18 S.B. No. 151, Acts of the 79th Legislature, Regular Session, 2005,
19 is amended to read as follows:

20 (b) From the amount set aside by the State Board of
21 Education under Section 31.021(c) or allocated to a school district
22 under Section 32.005(c), the school district that a student
23 entitled to free textbooks under the pilot project established by
24 Section 54.2161 attends shall pay the costs of each textbook the
25 student requires for a course described by Section 54.2161(b)(2).

26 SECTION 24. Subchapter B, Chapter 31, Education Code, is
27 amended by adding Sections 31.032 and 31.033 to read as follows:

1 Sec. 31.032. SUBSCRIPTION-BASED ELECTRONIC INSTRUCTIONAL
2 MATERIALS. The publisher of an approved electronic instructional
3 material may offer the material to public schools on an annual
4 subscription basis.

5 Sec. 31.033. UPDATING INSTRUCTIONAL MATERIALS. The
6 publisher of an approved instructional material may, under the
7 terms of a contract under Section 31.026, update the instructional
8 material. The State Board of Education by rule shall provide for an
9 expedited review process to determine the extent to which an
10 updated instructional material:

11 (1) is aligned with the essential knowledge and skills
12 for the subject and grade level; and

13 (2) does not contain factual errors.

14 SECTION 25. Subchapter C, Chapter 31, Education Code, is
15 amended by adding Sections 31.1012 and 31.1013 to read as follows:

16 Sec. 31.1012. LOCAL SELECTION AND PURCHASE. (a) A school
17 district shall:

18 (1) select the instructional materials to be used by
19 the district; and

20 (2) using funds allotted under Section 32.005 or other
21 funds that may be used for the purpose, purchase those materials:

22 (A) directly from the publisher of the materials;

23 or

24 (B) through the Department of Information
25 Resources, if the materials have been approved by the State Board of
26 Education.

27 (b) A school district is not required to select

1 instructional materials that have been approved by the State Board
2 of Education under this chapter.

3 Sec. 31.1013. CERTIFICATION OF PROVISION OF INSTRUCTIONAL
4 MATERIALS. Each school district shall annually certify to the
5 agency that, for each subject in the required curriculum and each
6 grade level, the district provides each student with instructional
7 materials that are aligned with the essential knowledge and skills
8 adopted by the State Board of Education for that subject and grade
9 level.

10 SECTION 26. Section 31.102, Education Code, is amended to
11 read as follows:

12 Sec. 31.102. TITLE AND CUSTODY. (a) Each instructional
13 material [~~textbook~~] purchased as provided by this chapter is the
14 property of this state.

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

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

25 SECTION 27. Sections 31.104-31.106, Education Code, are
26 amended to read as follows:

27 Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of

1 trustees of a school district [~~or the governing body of an~~
2 ~~open-enrollment charter school~~] may delegate to an employee the
3 authority to requisition, distribute, and manage the inventory of
4 instructional materials [~~textbooks~~] in a manner consistent with
5 this chapter and rules adopted under this chapter.

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

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

14 (c) Each instructional material [~~textbook~~] must state that
15 the instructional material [~~textbook~~] is the property of or is
16 licensed to this state, as appropriate. The board may require the
17 publisher of a textbook that must be returned by a student under
18 Subsection (d) to place a bar code with a unique identifying number
19 on the textbook. Each instructional material [~~textbook~~], other
20 than an electronic instructional material [~~textbook~~], must be
21 covered by the student under the direction of the teacher. A student
22 must return all instructional materials [~~textbooks~~] to the teacher
23 at the end of the school year or when the student withdraws from
24 school.

25 (d) Each student, or the student's parent or guardian, is
26 responsible for each instructional material [~~textbook~~] not
27 returned by the student. A student who fails to return all

1 instructional materials [~~textbooks~~] forfeits the right to free
 2 instructional materials [~~textbooks~~] until each instructional
 3 material [~~textbook~~] previously issued but not returned is paid for
 4 by the student, parent, or guardian. As provided by policy of the
 5 board of trustees [~~or governing body~~], a school district [~~or~~
 6 ~~open-enrollment charter school~~] may waive or reduce the payment
 7 requirement if the student is from a low-income family. The
 8 district [~~or school~~] shall allow the student to use instructional
 9 materials [~~textbooks~~] at school during each school day. If an
 10 instructional material [~~a textbook~~] is not returned or paid for,
 11 the district [~~or school~~] may withhold the student's records. A
 12 district [~~or school~~] may not, under this subsection, prevent a
 13 student from graduating, participating in a graduation ceremony, or
 14 receiving a diploma.

15 (e) The board of trustees of a school district may not
 16 require an employee of the district to pay for an instructional
 17 material [~~a textbook~~] or instructional technology that is stolen,
 18 misplaced, or not returned by a student.

19 Sec. 31.105. SALE, EXCHANGE, OR LOAN OF INSTRUCTIONAL
 20 MATERIALS [~~TEXTBOOKS~~]. (a) The board of trustees of a school
 21 district [~~or governing body of an open-enrollment charter school~~]
 22 may sell instructional materials [~~textbooks~~], other than
 23 electronic instructional materials [~~textbooks~~], to a student or
 24 another school at a [~~the state contract~~] price determined by board
 25 rule. Money [~~The district shall send money~~] from the sale of
 26 instructional materials may be used only to purchase items that may
 27 be purchased lawfully using the allotment provided by Section

1 32.005.

2 (b) Subject to any applicable licensing agreement, the
3 board of trustees of a school district may:

4 (1) exchange instructional materials with another
5 school district; or

6 (2) loan instructional materials to another school
7 district [~~textbooks to the commissioner as required by the~~
8 ~~commissioner. The commissioner shall deposit the money in the~~
9 ~~state textbook fund~~].

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

14 SECTION 28. The heading to Section 31.151, Education Code,
15 is amended to read as follows:

16 Sec. 31.151. DUTIES OF PUBLISHERS [~~AND MANUFACTURERS~~].

17 SECTION 29. Sections 31.151(a), (b), and (d), Education
18 Code, are amended to read as follows:

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

21 (1) shall furnish any instructional material
22 [~~textbook~~] the publisher [~~or manufacturer~~] offers in this state[~~7~~]
23 at a price that does not exceed the lowest price at which the
24 publisher offers that instructional material [~~textbook~~] for
25 adoption or sale to any state, public school, or school district in
26 the United States;

27 (2) shall automatically reduce the price of an

1 instructional material [~~a textbook~~] sold for use in a public school
2 [~~district or open-enrollment charter school~~] to the extent that the
3 price is reduced elsewhere in the United States;

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

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

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

20 (6) shall[+
21 [~~(A) maintain a depository in this state or~~
22 ~~arrange with a depository in this state to receive and fill orders~~
23 ~~for textbooks, other than on-line textbooks or on-line textbook~~
24 ~~components, consistent with State Board of Education rules; or~~
25 [~~(B)~~] deliver instructional materials
26 [~~textbooks~~] to a public school [~~district or open-enrollment charter~~
27 ~~school~~] without a delivery charge to the school [~~district,~~

1 ~~open-enrollment charter school,~~] or state[, if:

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

7 ~~[(ii) the textbooks are on-line textbooks~~
8 ~~or on-line textbook components];~~

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

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

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

24 (b) The State Board of Education may impose a reasonable
25 administrative penalty against a publisher [~~or manufacturer~~] who
26 knowingly violates Subsection (a). The board shall provide for a
27 hearing to be held to determine whether a penalty is to be imposed

1 and, if so, the amount of the penalty. The board shall base the
2 amount of the penalty on:

- 3 (1) the seriousness of the violation;
- 4 (2) any history of a previous violation;
- 5 (3) the amount necessary to deter a future violation;
- 6 (4) any effort to correct the violation; and
- 7 (5) any other matter justice requires.

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

11 SECTION 30. The heading to Section 31.152, Education Code,
12 is amended to read as follows:

13 Sec. 31.152. ACCEPTING REBATE ON INSTRUCTIONAL MATERIALS
14 [~~TEXTBOOKS~~].

15 SECTION 31. Sections 31.152(a), (b), and (d), Education
16 Code, are amended to read as follows:

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

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

- 23 (1) is given to the person or the person's school;
- 24 (2) might reasonably tend to influence a trustee,
25 administrator, or teacher in the selection of instructional
26 materials [~~a textbook~~]; and
- 27 (3) could not be lawfully purchased with state

1 instructional materials funds [~~from the state textbook fund~~].

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

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

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

9 SECTION 32. The heading to Section 31.153, Education Code,
10 is amended to read as follows:

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

13 SECTION 33. Section 31.153(a), Education Code, is amended
14 to read as follows:

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

18 SECTION 34. Subchapter E, Chapter 31, Education Code, is
19 amended to read as follows:

20 SUBCHAPTER E. DISPOSITION OF

21 INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

22 Sec. 31.201. DISPOSITION OF INSTRUCTIONAL MATERIALS
23 [~~TEXTBOOKS~~]. (a) The commissioner, with the approval of the State
24 Board of Education, may provide for the disposition of:

25 (1) instructional materials [~~textbooks~~], other than
26 electronic instructional materials [~~textbooks~~], that are no longer
27 in acceptable condition to be used for instructional purposes; or

1 (2) discontinued instructional materials [~~textbooks~~],
2 other than electronic instructional materials [~~textbooks~~].

3 (b) The commissioner, as provided by rules adopted by the
4 State Board of Education, shall make available on request copies of
5 discontinued instructional materials [~~textbooks~~], other than
6 electronic instructional materials [~~textbooks~~], for use in
7 libraries maintained in municipal and county jails and facilities
8 of the institutional division of the Texas Department of Criminal
9 Justice and other state agencies.

10 (c) The State Board of Education shall adopt rules under
11 which a public school [~~district or open-enrollment charter school~~]
12 may donate discontinued instructional materials [~~textbooks~~], other
13 than electronic instructional materials [~~textbooks~~], to a student,
14 to an adult education program, or to a nonprofit organization.

15 SECTION 35. Subchapter A, Chapter 32, Education Code, is
16 amended by adding Section 32.0011 to read as follows:

17 Sec. 32.0011. ADVISORY COMMITTEE FOR INSTRUCTIONAL
18 TECHNOLOGY AND IMPLEMENTATION. (a) An advisory committee for
19 instructional technology and implementation is created to assist
20 the agency and permit the agency to monitor changing technology in
21 business, industry, and education.

22 (b) Members of the advisory committee are appointed as
23 follows:

24 (1) the commissioner, in consultation with the
25 lieutenant governor, the speaker of the house of representatives,
26 and the presiding officers of the standing committees of the senate
27 and the house of representatives with jurisdiction over the agency,

1 shall appoint members from the business and education communities
2 and public members; and

3 (2) the State Board of Education may appoint one
4 member.

5 (c) The advisory committee is subject to Chapters 551 and
6 552, Government Code.

7 SECTION 36. Sections 32.002 and 32.003, Education Code, are
8 amended to read as follows:

9 Sec. 32.002. AUTHORITY OF PUBLIC SCHOOL [~~DISTRICT~~]. A
10 public school [~~district~~] is not required by this subchapter to
11 acquire or use technology that has been approved, selected, or
12 contracted for by the State Board of Education or the commissioner.

13 Sec. 32.003. AUTHORITY OF COMMISSIONER TO CONTRACT. The
14 commissioner may contract with developers of technology to supply
15 technology for use by public schools [~~school districts~~] throughout
16 this state.

17 SECTION 37. Effective September 1, 2006, Section 32.005,
18 Education Code, is amended to read as follows:

19 Sec. 32.005. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
20 ALLOTMENT. (a) Each school district is entitled to an allotment of
21 \$100 [~~\$30~~] for each student in average daily attendance or a
22 different amount for any year provided by appropriation.

23 (a-1) From the funds a school district receives under
24 Subsection (a), the district shall use an amount equal to \$50 for
25 each student in average daily attendance to fund targeted
26 instructional technology programs under Section 32.006. A school
27 district shall use funds for targeted instructional technology

1 programs in a manner that allows each student and teacher assigned
2 to a targeted campus, grade level on a campus, or specific
3 educational program to benefit from a targeted instructional
4 technology program. The commissioner shall adopt rules concerning
5 the use of funds under this subsection. This subsection expires
6 August 31, 2007.

7 (b) An allotment under this section may be used only to:

8 (1) provide for the purchase by school districts of
9 instructional materials [~~electronic textbooks~~] or technological
10 equipment that contributes to student learning; and

11 (2) pay for training educational personnel directly
12 involved in student learning in the appropriate use of electronic
13 instructional materials [~~textbooks~~] and for providing for access to
14 technological equipment for instructional use.

15 (c) The allotment under this section may be paid from:

16 (1) the telecommunications infrastructure fund under
17 Subchapter C, Chapter 57, Utilities Code;

18 (2) the available school fund; [~~or~~]

19 (3) the state instructional materials fund under
20 Section 31.021; or

21 (4) any other fund that may be used for that purpose
22 and that is identified in the General Appropriations Act as the
23 source of payment of the allotment.

24 (d) This subsection applies only if the pilot project
25 established under Section 54.2161 is implemented. In addition to
26 amounts to which the district is entitled under Subsection (a), a
27 school district is entitled to an amount sufficient for the

1 district to pay the costs of textbooks for students participating
2 in the pilot project established under Section 54.2161. This
3 subsection expires August 15, 2009.

4 SECTION 38. Effective September 1, 2007, Section 32.005,
5 Education Code, is amended by amending Subsection (a) and adding
6 Subsection (a-1) to read as follows:

7 (a) Each school district is entitled to an allotment of \$150
8 [~~\$30~~] for each student in average daily attendance or a different
9 amount for any year provided by appropriation.

10 (a-1) From the funds a school district receives under
11 Subsection (a), the district shall use an amount equal to \$60 for
12 each student in average daily attendance to fund targeted
13 instructional technology programs under Section 32.006. A school
14 district shall use funds for targeted instructional technology
15 programs in a manner that allows each student and teacher assigned
16 to a targeted campus, grade level on a campus, or specific
17 educational program to benefit from a targeted instructional
18 technology program. The commissioner shall adopt rules concerning
19 the use of funds under this subsection.

20 SECTION 39. Subchapter A, Chapter 32, Education Code, is
21 amended by adding Section 32.006 to read as follows:

22 Sec. 32.006. TARGETED INSTRUCTIONAL TECHNOLOGY PROGRAMS.

23 (a) Each school district shall use funds designated for targeted
24 instructional technology programs under Section 32.005(a-1) in
25 accordance with this section and in a manner consistent with the
26 long-range plan developed by the State Board of Education under
27 Section 32.001 and the district's own technology plan. A school

1 district may use funds from other sources, including grants,
2 donations, and state and federal funds, to provide targeted
3 instructional technology programs.

4 (b) A targeted instructional technology program must
5 provide for each student and teacher at a targeted campus or grade
6 level on a targeted campus:

7 (1) the provision of:

8 (A) wireless electronic mobile computing devices
9 or other technology devices that convey instruction;

10 (B) productivity software and hardware,
11 including writing, computation, presentation, printing, and
12 communication tools;

13 (C) electronic learning software aligned with
14 the essential knowledge and skills adopted by the State Board of
15 Education under Section 28.002;

16 (D) library and other research tools;

17 (E) electronic assessment tools;

18 (F) electronic learning tools to improve
19 communications among students, teachers, school administrators,
20 parents, and the community; and

21 (G) classroom management systems;

22 (2) professional development for teachers to
23 integrate the tools and solutions described by Subdivision (1); or

24 (3) the provision of other infrastructure,
25 components, and technologies to support and enhance student
26 performance through individual instruction programs.

27 (c) The Legislative Budget Board shall:

1 (1) conduct a biennial study of the cost of school
2 district targeted instructional technology programs, including the
3 cost of implementing those programs on a statewide basis; and

4 (2) based on the results of the study required by
5 Subdivision (1), make recommendations to the legislature before the
6 beginning of each regular session of the legislature concerning
7 statewide implementation of targeted instructional technology
8 programs.

9 (d) Each biennium, the Legislative Budget Board and the
10 commissioner shall jointly conduct a performance evaluation of
11 school district targeted instructional technology programs.

12 SECTION 40. Subchapter A, Chapter 32, Education Code, is
13 amended by adding Section 32.007 to read as follows:

14 Sec. 32.007. AGREEMENT WITH PUBLIC BROADCASTING STATION.

15 (a) The commissioner may enter into an agreement with a public
16 broadcasting station, or a consortium of public broadcasting
17 stations, under which the station or consortium will provide online
18 instructional content and educational materials.

19 (b) From funds appropriated to the agency, the commissioner
20 may, under an agreement entered into under Subsection (a), make
21 instructional materials available through public broadcasting
22 stations for purposes of instruction and professional development
23 and for use in providing adult-based education.

24 (c) An agreement entered into under Subsection (a) must, to
25 the extent practicable, provide access to instructional materials
26 and online content to persons located in all parts of this state.

27 (d) For purposes of providing high-quality online

1 instructional materials under this section, the commissioner may:
2 (1) use federal funds that may be used for those
3 purposes; or
4 (2) use unexpended balances of funds appropriated to
5 the agency for educational purposes, including adult education.

6 SECTION 41. Subchapter A, Chapter 32, Education Code, is
7 amended by adding Section 32.008 to read as follows:

8 Sec. 32.008. INSTRUCTIONAL TECHNOLOGY GRANTS. (a) From
9 amounts appropriated for the purpose, the commissioner shall make
10 grants as provided by this section to school districts on behalf of
11 eligible campuses and to eligible open-enrollment charter schools.
12 A grant under this section must be in the amount of \$300 for each
13 student enrolled at an eligible campus or eligible open-enrollment
14 charter school.

15 (b) To be eligible for a grant under this section, a public
16 school must:

17 (1) be identified by the agency as meeting the goals of
18 the long-range plan for technology under Section 32.001; and

19 (2) certify to the commissioner that the school will
20 commit to using, for a purpose specified by Subsection (c), other
21 funds available to the school in an amount equal to \$50 for each
22 student enrolled at the school.

23 (c) A grant under this section may be used only to:

24 (1) provide for the purchase by public schools of:

25 (A) wireless electronic mobile computing devices
26 or other technology devices that convey instruction;

27 (B) productivity software and hardware,

1 including writing, computation, presentation, printing, and
2 communication tools;

3 (C) electronic learning software aligned with
4 the essential knowledge and skills adopted by the State Board of
5 Education under Section 28.002;

6 (D) library and other research tools;

7 (E) electronic assessment tools;

8 (F) electronic learning tools to improve
9 communications among students, teachers, school administrators,
10 parents, and the community; and

11 (G) classroom and school management systems;

12 (2) provide professional development for teachers to
13 integrate the tools and solutions described by Subdivision (1); and

14 (3) acquire other infrastructure, components, and
15 technologies necessary to support and enhance student performance.

16 (d) To receive a grant under this section, a school district
17 or open-enrollment charter school must apply in the time and manner
18 specified by commissioner rule. A grant under this section is for a
19 period of two school years and may be renewed as provided by
20 commissioner rule. The commissioner shall ensure that public
21 schools that are awarded grants under this section reflect the
22 demographic and geographic diversity of this state.

23 SECTION 42. The heading to Section 32.154, Education Code,
24 as added by Chapter 834, Acts of the 78th Legislature, Regular
25 Session, 2003, is amended to read as follows:

26 Sec. 32.154. [~~DISTRICT OR~~] SCHOOL SELECTION.

27 SECTION 43. Section 32.154, Education Code, as added by

1 Chapter 834, Acts of the 78th Legislature, Regular Session, 2003,
2 is amended by adding Subsection (a-1) and amending Subsection (b)
3 to read as follows:

4 (a-1) In addition to school districts and schools selected
5 before September 1, 2005, for participation in the technology
6 immersion pilot project, the agency shall expand the program by
7 selecting for participation in the pilot project for the 2005-2006
8 and subsequent school years each high school to which a school
9 district regularly assigns students who were enrolled in grade
10 eight during the 2004-2005 school year at a district school
11 participating in the pilot project. The agency shall establish
12 criteria for expanding the pilot project under this subsection.

13 (b) Except as provided by Subsection (a-1), the ~~[The]~~ agency
14 shall select the participating ~~[districts and]~~ schools for the
15 pilot project based on each ~~[district's or]~~ school's need for the
16 pilot project. In selecting participants, the agency shall
17 consider the following criteria:

18 (1) whether the ~~[district or]~~ school has limited
19 access to educational resources that could be improved through the
20 use of wireless mobile computing devices and other technologies;

21 (2) whether the ~~[district or]~~ school has the following
22 problems and whether those problems can be mitigated through the
23 use of wireless mobile computing devices and other technologies:

24 (A) documented teacher shortages in critical
25 areas;

26 (B) limited access to advanced placement
27 courses;

1 (C) low rates of satisfactory performance on
2 assessment instruments under Subchapter B, Chapter 39; and

3 (D) high dropout rates;

4 (3) the [~~district's~~ or] school's readiness to
5 incorporate technology into its classrooms;

6 (4) the possibility of obtaining a trained technology
7 support staff and high-speed Internet services for the [~~district~~
8 or] school; and

9 (5) the methods the [~~district~~ or] school will use to
10 measure the progress of the pilot project in the [~~district~~ or]
11 school in accordance with Section 32.155(e).

12 SECTION 44. Section 32.156, Education Code, as added by
13 Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003,
14 is amended to read as follows:

15 Sec. 32.156. ON-LINE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

16 (a) The agency may develop and adopt strategies for making
17 instructional materials [~~textbooks~~] available through the portal
18 or through other means in an electronic format as an alternative or
19 supplement to traditional instructional materials [~~textbooks~~].

20 (b) In developing and adopting strategies under this
21 section, the agency shall seek to achieve a system under which a
22 student may, in addition to [~~a~~] traditional instructional materials
23 [~~textbook~~], be provided with secure Internet access to each
24 instructional material [~~textbook~~] used by the student.

25 SECTION 45. Section 32.161(b), Education Code, is amended
26 to read as follows:

27 (b) To the extent possible considering other statutory

1 requirements, the commissioner and agency shall encourage the use
2 of instructional materials [~~textbook funds~~] and technology
3 allotment funds under Section 32.005 [~~31.021(b)(2)~~] in a manner
4 that facilitates the development and use of the portal.

5 SECTION 46. Subchapter B, Chapter 39, Education Code, is
6 amended by adding Sections 39.0232 and 39.0233 to read as follows:

7 Sec. 39.0232. COMPUTER-ADAPTIVE ASSESSMENT. (a) To the
8 extent practicable and appropriate, the agency shall provide for
9 assessment instruments required under Section 39.023 to be designed
10 so that those assessment instruments can be computer-adaptive.

11 (b) To the extent practicable and appropriate, the agency
12 shall require school districts to administer to students the
13 computer-adaptive assessment instruments.

14 (c) The commissioner may adopt rules to implement this
15 section.

16 (d) As necessary to implement this section, the
17 commissioner by rule may delay the release of assessment instrument
18 questions and answer keys under Section 39.023(e).

19 (e) The agency shall implement this section not later than
20 May 1, 2007. This subsection expires September 1, 2007.

21 Sec. 39.0233. COMPUTER-ADAPTIVE ASSESSMENT TOOLS. (a)
22 Subject to the discretion of the commissioner regarding subjects
23 and grade levels, the agency shall develop or acquire ongoing,
24 computer-adaptive, interactive assessment tools for each subject
25 and grade level for which an assessment instrument is adopted under
26 Section 39.023.

27 (b) The commissioner shall set aside an appropriate amount,

1 not to exceed \$11.5 million each fiscal year, from the Foundation
2 School Program to pay the cost of developing or acquiring
3 assessment tools under this section. After setting aside an
4 appropriate amount in accordance with this section, the
5 commissioner shall reduce each district's tier one allotments
6 proportionately. A reduction in tier one allotments under this
7 subsection does not affect the computation of students in weighted
8 average daily attendance for purposes of Subchapter F, Chapter 42.

9 (b-1) Subsection (b) applies beginning with the fiscal year
10 beginning September 1, 2006. This subsection expires September 1,
11 2007.

12 (c) Any amount set aside under this section must be approved
13 by the Legislative Budget Board and the governor's office of
14 budget, planning, and policy.

15 (d) The agency shall make assessment tools developed or
16 acquired under this section available to public schools at no cost.

17 SECTION 47. Subchapter B, Chapter 44, Education Code, is
18 amended by adding Section 44.046 to read as follows:

19 Sec. 44.046. PURCHASE OF INSTRUCTIONAL MATERIALS.
20 Notwithstanding Section 44.031, a public school may purchase
21 instructional materials, as defined by Section 31.002, under a
22 blanket purchase order executed by the Department of Information
23 Resources under Section 31.026.

24 SECTION 48. Sections 31.002(3), 31.022, 31.023, 31.024,
25 31.025, 31.101, 31.103, and 31.1031, Education Code, and Sections
26 32.154(a) and (c), Education Code, as added by Chapter 834, Acts of
27 the 78th Legislature, Regular Session, 2003, are repealed.

1 SECTION 49. (a) In addition to other amounts appropriated
2 by the 79th Legislature, the amount of \$291,088,189 is appropriated
3 from the state instructional materials fund to the Texas Education
4 Agency for the fiscal year beginning September 1, 2005, for the
5 purchase of public school textbooks for those grade levels
6 specified by State Board of Education Proclamation 2002, for the
7 following subjects, and not to exceed the following amounts:

8 (1) Languages Other than English - \$40,773,895;

9 (2) American Sign Language - \$257,071;

10 (3) Health Education - \$107,001,442; and

11 (4) Fine Arts - \$143,055,781.

12 (b) In addition to other amounts appropriated by the 79th
13 Legislature, the amount of \$35 million is appropriated from federal
14 funds that may be used for the purpose for the expansion of the
15 technology immersion project under Subchapter D, Chapter 32,
16 Education Code, as added by Chapter 834, Acts of the 78th
17 Legislature, Regular Session, 2003, in accordance with Section
18 32.154, Education Code, as added by Chapter 834, Acts of the 78th
19 Legislature, Regular Session, 2003, and as amended by this Act.

20 (c) For the fiscal year beginning September 1, 2006, the
21 unexpended balance of an appropriation made by Subsection (a) or
22 (b) of this section is appropriated to the Texas Education Agency
23 for the purpose stated in Subsection (a) or (b) of this section, as
24 applicable.

25 SECTION 50. In addition to other amounts appropriated by
26 the 79th Legislature, the amount of \$300 million is appropriated
27 from the state instructional materials fund to the Texas Education

1 Agency for the fiscal year beginning September 1, 2006, for the
2 instructional materials and technology allotment under Section
3 32.005, Education Code, as amended by this Act.

4 SECTION 51. Contingent on the availability of funds
5 appropriated to or in the control of the General Land Office, the
6 amount of \$65 million is appropriated to the Texas Education Agency
7 for the fiscal year beginning September 1, 2005, for the provision
8 of technology grants under Section 32.008, Education Code, as added
9 by this Act, and for the fiscal year beginning September 1, 2006,
10 the unexpended balance of that appropriation is appropriated to the
11 Texas Education Agency for that purpose.

12 SECTION 52. Except as otherwise provided by this Act, this
13 Act takes effect immediately if it receives a vote of two-thirds of
14 all the members elected to each house, as provided by Section 39,
15 Article III, Texas Constitution. If this Act does not receive the
16 vote necessary for immediate effect, this Act takes effect on the
17 91st day after the last day of the legislative session, except as
18 otherwise provided by this Act.