

Amend CSSB 422 as follows:

(1) Strike Sections 1.18 and 1.19 of the bill (house committee report, page 26, line 3, through page 27, line 2).

(2) In Section 1.36 of the bill (house committee report, page 55, lines 21 and 22), strike "Subsections (d) and (e), Section 31.1011,".

(3) Between Articles 2 and 3 of the bill (house committee report, page 92, between lines 8 and 9), insert the following new article, appropriately numbered, and renumber the subsequent articles accordingly:

ARTICLE \_\_\_\_ . USE OF TECHNOLOGY IN PUBLIC SCHOOLS AND  
ACQUISITION OF INSTRUCTIONAL MATERIALS

SECTION \_\_\_\_ .01. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.030 to read as follows:

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

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

SECTION \_\_\_\_ .02. Section 7.055(b)(28), 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 \_\_\_\_ .03. Section 7.056(f), 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

39.131 or 39.132 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, and G, 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 \_\_\_\_\_.04. Section 7.102(c)(23), 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 \_\_\_\_\_.05. Sections 7.108(a) and (c), 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 instructional material [~~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 \_\_\_\_\_.06. 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 \_\_\_\_\_.07. Section 7.112(a), 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 \_\_\_\_\_.08. Section 7.112(c)(2), 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 \_\_\_\_\_.09. Section 11.158(b), 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. Section 11.164(a), 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. Section 19.007(e), Education Code, is amended to read as follows:

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

SECTION \_\_\_\_ .12. Sections 26.006(a) and (c), 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 public 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. Sections 28.002(c) and (h), Education Code, are amended to read as follows:

(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.

SECTION \_\_\_\_ .14. Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.010 to read as follows:

Sec. 28.010. COMPUTER-ADAPTIVE ASSESSMENT TOOLS. (a) The agency shall develop or acquire ongoing, computer-adaptive, interactive, assessment tools for each subject and grade level for which an assessment instrument is adopted under Section 39.023.

(b) From funds appropriated for the purpose, the agency shall make assessment tools developed or acquired under this section available to public schools at no cost.

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

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

SECTION \_\_\_\_ .16. 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 in accordance with Section 3(b), Article VII, Texas Constitution.

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

(1) "Instructional material" [~~"Electronic textbook"~~] means a medium for conveying information to a student. The term includes a book, supplementary materials, a combination of a book and supplementary materials, computer software, interactive videodisc, magnetic media, CD-ROM, computer courseware, on-line services, an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means.

(2) "Publisher" means a person who prepares instructional materials for sale or distribution to educational institutions. The term 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 \_\_\_\_ .18. Section 31.003, Education Code, is amended to read as follows:

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

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

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

SECTION \_\_\_\_ .20. Subchapter B, Chapter 31, Education Code, is amended by adding Sections 31.0251 and 31.0252 to read as follows:

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

(b) The agency shall:

(1) promptly review each instructional material submitted for approval; and

(2) determine whether the instructional material covers the essential knowledge and skills identified in the submission.

Sec. 31.0252. APPROVAL BY STATE BOARD OF EDUCATION. (a) The State Board of Education shall meet quarterly to approve instructional materials submitted under Section 31.0251. The board must approve or reject each submitted instructional material not later than the second meeting held under this section after the date the instructional material was submitted.

(b) By majority vote, the State Board of Education shall

approve an instructional material submitted under Section 31.0251 unless the board determines, based on the agency's review or the board's own review, that the instructional material does not contain the essential knowledge and skills identified by the publisher in the submission. The board shall identify the essential knowledge and skills for a subject and grade level that an approved instructional material covers.

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

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

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

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

SECTION \_\_\_\_ .21. Sections 31.026-31.030, Education Code, are amended to read as follows:

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

~~[(1)]~~ for the purchase or licensing of each approved instructional material [~~adopted textbook other than an electronic textbook; and~~

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

(b) A contract must require the publisher to provide all of the approved instructional materials [~~the number of textbooks~~] required by public schools [~~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 materials [~~a textbook~~] at a [~~specific~~] price determined through negotiation between the publisher and the Department of Information Resources that does [~~, 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) The Department of Information Resources shall execute a blanket purchase order with the publisher of an approved instructional material. A school district or open-enrollment charter school may requisition instructional materials under the purchase order.

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

(f) The contract may allow the publisher of an approved instructional material to update the material as provided by Section 31.032.

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

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

Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. (a) The State Board of Education may provide for [~~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 board shall provide a teacher's edition in Braille or large type, as requested by the teacher, for each printed instructional material [~~textbook~~] the teacher uses in the instruction of students. The printed teacher edition must be available at the same time the printed student instructional materials [~~textbooks~~] become available.

(b) The publisher of an approved printed instructional material [~~adopted textbook~~] shall provide the agency with computerized [~~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 State Board of Education. A publisher shall arrange the computerized [~~textbook~~] files in one of several optional formats specified by the State Board of Education.

(c) The board shall require electronic instructional materials submitted for approval under Section 31.0251 to comply with the standards established under Section 508, Rehabilitation Act of 1973 (29 U.S.C. Section 794d) [~~may also enter into agreements providing for the acceptance, requisition, and distribution of special 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 approved instructional materials [~~adopted textbook~~] used in the student's class.

(2) "Special instructional materials" [~~textbook~~] means instructional materials [~~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.

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

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 \_\_\_\_ .22. Subchapter B, Chapter 31, Education Code, is amended by adding Sections 31.031 and 31.032 to read as follows:

Sec. 31.031. SUBSCRIPTION-BASED ELECTRONIC INSTRUCTIONAL MATERIALS. The publisher of an approved electronic instructional material may offer the material to public schools on an annual subscription basis.

Sec. 31.032. UPDATING INSTRUCTIONAL MATERIALS. The publisher of an approved instructional material may, under the terms of a contract under Section 31.026, update the instructional material. The State Board of Education by rule shall provide for an expedited review process to determine the extent to which an updated instructional material:

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

(2) does not contain factual errors.

SECTION \_\_\_\_ .23. Subchapter C, Chapter 31, Education Code, is amended by adding Sections 31.1012 and 31.1013 to read as follows:

Sec. 31.1012. LOCAL SELECTION AND PURCHASE. (a) A school district or open-enrollment charter school shall:

(1) select the instructional materials to be used by the district or school; and

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

(A) directly from the publisher of the materials;

or

(B) through the Department of Information Resources.

(b) A school district or open-enrollment charter school is not required to select an instructional material that is approved by the State Board of Education.

Sec. 31.1013. CERTIFICATION OF PROVISION OF INSTRUCTIONAL MATERIALS. Each school district and open-enrollment charter school shall annually certify to the agency that, for each subject in the required curriculum and each grade level, the district or school provides each student with instructional materials that are aligned with the essential knowledge and skills adopted by the State Board

of Education for that subject and grade level.

SECTION \_\_\_\_ .24. 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 is the property of 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 instructional materials [~~textbooks~~] purchased as provided by this chapter for the district or school. The board of trustees or governing body shall distribute instructional materials [~~textbooks~~] to students in the manner that the board or governing body determines is most effective and economical.

SECTION \_\_\_\_ .25. Sections 31.104-31.106, Education Code, are 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; or~~

~~[(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)].~~

(c) Each instructional material [~~textbook~~] must state that the instructional material [~~textbook~~] is the property of or is licensed to this state, as appropriate. The board may require the publisher of a textbook that must be returned by a student under Subsection (d) to place a bar code with a unique identifying number

on the textbook. Each instructional material [~~textbook~~], other than an electronic instructional material [~~textbook~~], must be covered by the student under the direction of the teacher. 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 each instructional material [~~textbook~~] not returned by the student. A student who fails to return all instructional materials [~~textbooks~~] forfeits the right to free instructional materials [~~textbooks~~] until each instructional material [~~textbook~~] previously issued but not returned 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~~] at school during each school day. If an instructional material [~~a textbook~~] is not returned 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.

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

Sec. 31.105. SALE, EXCHANGE, OR LOAN OF INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. (a) The board of trustees of a school district or governing body of an open-enrollment charter school may sell instructional materials [~~textbooks~~], other than electronic instructional materials [~~textbooks~~], to a student or another school at a [~~the state contract~~] price determined by board rule. Money [~~The district shall send money~~] from the sale of instructional materials may be used only to purchase items that may be purchased lawfully using the allotment provided by Section 32.005.

(b) Subject to any applicable licensing agreement, the

board of trustees of a school district or governing body of an open-enrollment charter school may:

(1) exchange instructional materials with another school district or open-enrollment charter school; or

(2) loan instructional materials to another school district or open-enrollment charter school [~~textbooks to the commissioner as required by the commissioner. The commissioner shall deposit the money in the state textbook fund~~].

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

SECTION \_\_\_\_\_.26. The heading to Section 31.151, Education Code, is amended to read as follows:

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

SECTION \_\_\_\_\_.27. Sections 31.151(a), (b), and (d), Education Code, are amended 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~~[7]~~ 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 an instructional material [~~a textbook~~] sold for use in a public 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 an 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 on-line textbooks or on-line textbook components, consistent with State Board of Education rules; or~~

~~[(B)] deliver instructional materials [~~textbooks~~] to a public 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 on-line textbooks or on-line textbook components];~~

(7) shall, at the time an order for instructional materials [~~textbooks~~] is acknowledged, provide to public [~~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.

(b) The State Board of Education may impose a reasonable administrative penalty against a publisher [~~or manufacturer~~] who knowingly violates Subsection (a). The board shall provide for a hearing to be held to determine whether a penalty is to be imposed and, if so, the amount of the penalty. The board shall base the amount of the penalty on:

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

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

SECTION \_\_\_\_\_.28. The heading to Section 31.152, Education Code, is amended to read as follows:

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

SECTION \_\_\_\_\_.29. Sections 31.152(a), (b), and (d), 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 instructional materials [~~textbooks~~] 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 instructional materials [~~a textbook~~]; 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 \_\_\_\_\_.30. 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 \_\_\_\_\_.31. Section 31.153(a), 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 \_\_\_\_\_.32. Subchapter E, Chapter 31, Education Code, is amended to read as follows:

SUBCHAPTER E. DISPOSITION OF  
INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

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

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

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

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

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

SECTION \_\_\_\_ .33. Subchapter A, Chapter 32, Education Code, is amended by adding Section 32.0011 to read as follows:

Sec. 32.0011. ADVISORY COMMITTEE FOR TECHNOLOGY AND IMPLEMENTATION. (a) The commissioner, in consultation with the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of the senate and the house of representatives with jurisdiction over the agency, shall appoint an advisory committee of business, education, and public members to assist the agency and permit the agency to monitor changing technology in business, industry, and education.

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

SECTION \_\_\_\_ .34. Sections 32.002 and 32.003, Education Code, are amended to read as follows:

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

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

SECTION \_\_\_\_ .35. The heading to Section 32.005, Education Code, is amended to read as follows:

Sec. 32.005. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT.

SECTION \_\_\_\_ .36. Effective September 1, 2005, Section 32.005, Education Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) Each school district or open-enrollment charter school is entitled to an allotment of \$70 [~~\$30~~] for each student in average daily attendance or a different amount for any year provided by appropriation.

(a-1) From the funds a school district receives under Subsection (a), the district shall use an amount equal to \$40 for each student in average daily attendance to fund targeted technology programs under Section 32.006. A school district shall

use funds for targeted technology programs in a manner that allows each student and teacher assigned to a targeted campus, grade level on a campus, or specific educational program to benefit from a targeted technology program. The commissioner shall adopt rules concerning the use of funds under this subsection. This subsection expires September 1, 2006.

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

(1) provide for the purchase by school districts and open-enrollment charter schools of instructional materials [~~electronic textbooks~~] or technological equipment that contributes to student learning; and

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

SECTION \_\_\_\_\_.37. Effective September 1, 2006, Section 32.005, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

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

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

SECTION \_\_\_\_\_.38. Subchapter A, Chapter 32, Education Code, is amended by adding Sections 32.006 and 32.007 to read as follows:

Sec. 32.006. TARGETED TECHNOLOGY PROGRAMS. (a) Each school district shall use funds designated for targeted technology programs under Section 32.005(a-1) in accordance with this section and in a manner consistent with the long-range plan developed by the

State Board of Education under Section 32.001 and the district's own technology plan. A school district may use funds from other sources, including grants, donations, and state and federal funds, to provide targeted technology programs.

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

(1) the provision of:

(A) wireless electronic mobile computing devices;

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

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

(D) library and other research tools;

(E) electronic assessment tools;

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

(G) classroom management systems;

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

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

(c) The Legislative Budget Board shall:

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

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

(d) Each biennium, the Legislative Budget Board and the commissioner shall jointly conduct a performance evaluation of

school district targeted technology programs.

Sec. 32.007. AGREEMENT WITH PUBLIC BROADCASTING STATION.

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

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

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

(d) For purposes of providing high-quality online instructional materials under this section, the commissioner may:

(1) use federal funds that may be used for those purposes; or

(2) use unexpended balances of funds appropriated to the agency for educational purposes, including adult education.

SECTION \_\_\_\_\_.39. Section 32.156, Education Code, as added by Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

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

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

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

SECTION \_\_\_\_\_.40. Section 32.161(b), Education Code, is amended to read as follows:

(b) To the extent possible considering other statutory requirements, the commissioner and agency shall encourage the use

of instructional materials [~~textbook funds~~] and technology allotment funds under Section 32.005 [~~31.021(b)(2)~~] in a manner that facilitates the development and use of the portal.

SECTION \_\_\_\_\_.41. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0233 to read as follows:

Sec. 39.0233. COMPUTER-ADAPTIVE ASSESSMENT. (a) To the extent practicable and appropriate, the agency shall provide for assessment instruments required under Section 39.023 to be designed so that those assessment instruments can be computer-adaptive.

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

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

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

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

SECTION \_\_\_\_\_.42. Section 41.124(c), Education Code, 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 and technology allotment under Section 32.005 [~~31.021(b)(2)~~].

SECTION \_\_\_\_\_.43. Subchapter B, Chapter 44, Education Code, is amended by adding Section 44.046 to read as follows:

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

SECTION \_\_\_\_\_.44. Sections 31.002(3), 31.021, 31.022, 31.023, 31.024, 31.025, 31.101, 31.103, and 31.1031, Education Code, are repealed.

(4) Strike Section 3.01 of the bill (house committee report,

page 92, lines 10-14) and substitute the following section, appropriately numbered:

SECTION \_\_\_\_ .01. Except as otherwise provided by this Act, 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 September 1, 2005, except as otherwise provided by this Act.