

By: Grusendorf, Delisi, Eissler, Edwards,
Flores

H.B. No. 4

Substitute the following for H.B. No. 4:

By: Eissler

C.S.H.B. No. 4

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the use of technology and the purchase of instructional
3 materials by public schools.

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

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

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

23 (28) The commissioner shall perform duties relating to
24 the funding, adoption, and purchase of instructional materials

1 [~~textbooks~~] under Chapter 31.

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

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

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

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

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

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

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

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

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

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

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

27 (a) A person interested in selling bonds of any type or a

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

7 (c) In this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (7) admission to or examination in any required
27 educational course or program; or

1 (8) lockers.

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

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

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

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

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

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

17 (5) a ~~textbook~~ report on instructional materials;

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

22 (7) an attendance report;

23 (8) any report required for accreditation review;

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

27 or

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

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

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

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

9 (a) A parent is entitled to:

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

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

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

26 SECTION 13. Sections 28.002(c) and (h), Education Code, are
27 amended to read as follows:

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

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

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

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

26 (b) From funds appropriated for the purpose, the agency
27 shall make assessment tools developed or acquired under this

1 section available to public schools at no cost.

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

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

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

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

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

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

22 (2) "Publisher" means a person who prepares
23 instructional materials for sale or distribution to educational
24 institutions. The term includes an on-line service or a developer
25 or distributor of [an] electronic instructional materials
26 [~~textbook~~].

27 (4) "Technological equipment" means hardware, a

1 device, or equipment necessary for:

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

5 (B) professional use by a classroom teacher.

6 SECTION 18. Section 31.003, Education Code, is amended to
7 read as follows:

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

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

14 SUBCHAPTER B. STATE APPROVAL

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

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

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

25 (b) The agency shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (c) As applicable, a contract must provide for the purchase
17 or licensing of instructional materials [~~a textbook~~] at a
18 [~~specific~~] price determined through negotiation between the
19 publisher and the Department of Information Resources that does [~~7~~
20 ~~which may~~] not exceed the lowest price paid by any other state or
21 any school or school district. The price must be fixed for the term
22 of the contract.

23 (d) The Department of Information Resources shall execute a
24 blanket purchase order with the publisher of an approved
25 instructional material. A school district or open-enrollment
26 charter school may requisition instructional materials under the
27 purchase order.

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

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

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

15 Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].
 16 (a) The State Board of Education may provide for [~~purchase~~] special
 17 instructional materials [~~textbooks~~] for the education of blind and
 18 visually impaired students in public schools. In addition, for a
 19 teacher who is blind or visually impaired, the board shall provide a
 20 teacher's edition in Braille or large type, as requested by the
 21 teacher, for each printed instructional material [~~textbook~~] the
 22 teacher uses in the instruction of students. The printed teacher
 23 edition must be available at the same time the printed student
 24 instructional materials [~~textbooks~~] become available.

25 (b) The publisher of an approved printed instructional
 26 material [~~adopted textbook~~] shall provide the agency with
 27 computerized [~~textbook~~] files for the production of Braille

1 instructional materials [~~textbooks~~] or other versions of
2 instructional materials [~~textbooks~~] to be used by students with
3 disabilities, on request of the State Board of Education. A
4 publisher shall arrange the computerized [~~textbook~~] files in one of
5 several optional formats specified by the State Board of Education.

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

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

16 (d) In this section:

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

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

26 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS
27 [~~TEXTBOOKS~~]. The board shall approve instructional materials

1 [~~purchase or otherwise acquire textbooks~~] for use in bilingual
2 education classes.

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

11 SECTION 22. Subchapter B, Chapter 31, Education Code, is
12 amended by adding Section 31.031 to read as follows:

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

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

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

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

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

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

26 or

27 (B) through the Department of Information

1 Resources.

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

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

12 SECTION 24. Section 31.102, Education Code, is amended to
13 read as follows:

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

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

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

27 SECTION 25. Sections 31.104-31.106, Education Code, are

1 amended to read as follows:

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

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

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

16 (c) Each instructional material [~~textbook~~] must state that
17 the instructional material [~~textbook~~] is the property of or is
18 licensed to this state, as appropriate. Each instructional material
19 [~~textbook~~], other than an electronic instructional material
20 [~~textbook~~], must be covered by the student under the direction of
21 the teacher. A student must return all instructional materials
22 [~~textbooks~~] to the teacher at the end of the school year or when the
23 student withdraws from school.

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

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

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

18 Sec. 31.105. SALE OF INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].
19 The board of trustees of a school district or governing body of an
20 open-enrollment charter school may sell instructional materials
21 [~~textbooks~~], other than electronic instructional materials
22 [~~textbooks~~], to a student or another school at the state contract
23 price. Money [~~The district shall send money~~] from the sale of
24 instructional materials may be used only to purchase items that may
25 be purchased lawfully using the allotment provided by Section
26 32.005. [~~textbooks to the commissioner as required by the~~
27 ~~commissioner. The commissioner shall deposit the money in the~~

1 ~~state textbook fund.]~~

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

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

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

9 SECTION 27. Sections 31.151(a), (b), and (d), Education
10 Code, are amended to read as follows:

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

13 (1) shall furnish any instructional material
14 [~~textbook~~] the publisher [~~or manufacturer~~] offers in this state[~~7~~]
15 at a price that does not exceed the lowest price at which the
16 publisher offers that instructional material [~~textbook~~] for
17 adoption or sale to any state, public school, or school district in
18 the United States;

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

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

1 States;

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

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

12 (6) shall[+]

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

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

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

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

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

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

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

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

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

27 (d) A penalty collected under this section shall be

1 deposited to the credit of the foundation school [~~state textbook~~]
2 fund.

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

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

7 SECTION 29. Sections 31.152(a), (b), and (d), Education
8 Code, are amended to read as follows:

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

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

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

16 (2) might reasonably tend to influence a trustee,
17 administrator, or teacher in the selection of instructional
18 materials [~~a textbook~~]; and

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

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

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

25 (2) instructional materials[~~7~~] such as maps or
26 worksheets[~~7 that convey information to the student or otherwise~~
27 ~~contribute to the learning process~~].

1 SECTION 30. The heading to Section 31.153, Education Code,
2 is amended to read as follows:

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

5 SECTION 31. Section 31.153(a), Education Code, is amended
6 to read as follows:

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

10 SECTION 32. Subchapter E, Chapter 31, Education Code, is
11 amended to read as follows:

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

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

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

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

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

1 Justice and other state agencies.

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

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

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

17 (b) A person serving on the advisory committee may not
18 advise the commissioner regarding the award of a grant under
19 Section 32.006 if the person is an officer or employee of a business
20 entity that provides or seeks to provide to a public school goods or
21 services that the public school pays for or will pay for using funds
22 from a grant under Section 32.006.

23 (c) The advisory committee is subject to Chapters 551 and
24 552, Government Code.

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

27 Sec. 32.002. AUTHORITY OF PUBLIC SCHOOL [~~DISTRICT~~]. A

1 public school [~~district~~] is not required by this subchapter to
2 acquire or use technology that has been approved, selected, or
3 contracted for by the State Board of Education or the commissioner.

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

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

10 Sec. 32.005. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
11 ALLOTMENT.

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

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

19 (a-1) From the amounts appropriated for purposes of
20 Subsection (a), the commissioner shall withhold \$40 for each
21 student in average daily attendance and reduce each district's or
22 school's allotment accordingly. The commissioner may use amounts
23 withheld under this subsection only for purposes of making grants
24 under Section 32.006. This subsection expires September 1, 2006.

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

26 (1) provide for the purchase by school districts and
27 open-enrollment charter schools of instructional materials

1 ~~[electronic textbooks]~~ or technological equipment that contributes
2 to student learning; and

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

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

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

14 (a-1) From the amounts appropriated for purposes of
15 Subsection (a), the commissioner shall withhold \$60 for each
16 student in average daily attendance and reduce each district's or
17 school's allotment accordingly. The commissioner may use amounts
18 withheld under this subsection only for purposes of making grants
19 under Section 32.006.

20 SECTION 38. Subchapter A, Chapter 32, Education Code, is
21 amended by adding Section 32.006 to read as follows:

22 Sec. 32.006. TECHNOLOGY GRANTS. (a) From amounts withheld
23 under Section 32.005(a-1), the commissioner shall make grants as
24 provided by this section to school districts on behalf of eligible
25 campuses and to eligible open-enrollment charter schools. A grant
26 under this section must be in the amount of \$300 for each student
27 enrolled at an eligible campus or eligible open-enrollment charter

1 school.

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

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

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

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

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

12 (A) wireless electronic mobile computing
13 devices;

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

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

20 (D) library and other research tools;

21 (E) electronic assessment tools;

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

25 (G) classroom and school management systems;

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

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

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

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

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

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

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

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

25 (b) To the extent possible considering other statutory
26 requirements, the commissioner and agency shall encourage the use
27 of instructional materials [~~textbook—funds~~] and technology

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

3 SECTION 41. Subchapter B, Chapter 39, Education Code, is
4 amended by adding Section 39.0232 to read as follows:

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

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

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

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

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

19 SECTION 42. Section 41.124(c), Education Code, is amended
20 to read as follows:

21 (c) A school district that receives tuition for a student
22 from a school district with a wealth per student that exceeds the
23 equalized wealth level may not claim attendance for that student
24 for purposes of Chapters 42 and 46 and the instructional materials
25 and technology allotment under Section 32.005 [~~31.021(b)(2)~~].

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

1 Sec. 44.046. PURCHASE OF INSTRUCTIONAL MATERIALS.

2 Notwithstanding Section 44.031, a public school may purchase
3 instructional materials, as defined by Section 31.002, under a
4 blanket purchase order executed by the Department of Information
5 Resources under Section 31.026.

6 SECTION 44. Sections 31.002(3), 31.021, 31.022, 31.023,
7 31.024, 31.025, 31.101, 31.103, and 31.1031, Education Code, are
8 repealed.

9 SECTION 45. Except as otherwise provided by this Act, this
10 Act takes effect September 1, 2005.