

1-1 By: Hochberg, et al. (Senate Sponsor - Van de Putte) H.B. No. 188  
1-2 (In the Senate - Received from the House March 26, 2007;  
1-3 March 29, 2007, read first time and referred to Committee on  
1-4 Education; May 14, 2007, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-6 May 14, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 188 By: Van de Putte

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the adoption of textbooks and the use of credits for  
1-11 textbooks or other instructional materials in a school district or  
1-12 open-enrollment charter school.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. It is the intent of the legislature that Section  
1-15 31.1011, Education Code, as enacted by this Act, is reflective of  
1-16 Section 31.1011, Education Code, as enacted by Section 3, Chapter  
1-17 805, Acts of the 77th Legislature, Regular Session, 2001.

1-18 SECTION 2. Section 31.022, Education Code, is amended by  
1-19 adding Subsection (e) to read as follows:

1-20 (e) The board shall designate a request for production of  
1-21 textbooks in a subject area and grade level by the school year in  
1-22 which the textbooks are intended to be made available in classrooms  
1-23 and not by the school year in which the board makes the request for  
1-24 production.

1-25 SECTION 3. Subchapter B, Chapter 31, Education Code, is  
1-26 amended by adding Sections 31.0221 and 31.0222 to read as follows:

1-27 Sec. 31.0221. MIDCYCLE REVIEW AND ADOPTION OF TEXTBOOKS.

1-28 (a) The State Board of Education shall adopt rules for the midcycle  
1-29 review and adoption of a textbook for a subject for which textbooks  
1-30 are not currently under review by the board under Section 31.022.  
1-31 The rules must require:

1-32 (1) the publisher of the textbook to pay a fee to the  
1-33 board to cover the cost of the midcycle review and adoption of the  
1-34 textbook;

1-35 (2) the publisher of the textbook to enter into a  
1-36 contract with the board concerning the textbook for a term that ends  
1-37 at the same time as any contract entered into by the board for  
1-38 another textbook for the same subject and grade level; and

1-39 (3) a commitment from the publisher to provide the  
1-40 textbook to school districts in the manner specified by the  
1-41 publisher, which may include:

1-42 (A) providing the textbook to any district in a  
1-43 regional education service center area identified by the publisher;  
1-44 or

1-45 (B) providing a certain maximum number of  
1-46 textbooks specified by the publisher.

1-47 (b) Sections 31.023 and 31.024 apply to a textbook adopted  
1-48 under this section. Section 31.027 does not apply to a textbook  
1-49 adopted under this section.

1-50 Sec. 31.0222. BUDGET-BALANCED CYCLE. In determining the  
1-51 review and adoption cycle of textbooks under Section 31.022, the  
1-52 State Board of Education shall:

1-53 (1) consult with the Legislative Budget Board and the  
1-54 governor's office of budget, planning, and policy before approving  
1-55 and publishing any notice or amendment of a cycle;

1-56 (2) review and consider:

1-57 (A) historic average funding levels for  
1-58 textbooks purchased in previous biennia;

1-59 (B) expected average costs of future textbook  
1-60 purchases;

1-61 (C) anticipated student enrollment in future  
1-62 years;

1-63 (D) scheduled revisions to curriculum; and

2-1 (E) the impact on the state budget of the  
 2-2 adoption of textbooks in all or some grade levels in a subject area;  
 2-3 and

2-4 (3) limit the cycle to subject areas for which  
 2-5 textbooks can be purchased with the funding anticipated to be  
 2-6 available in the state textbook fund for the school year in which  
 2-7 the textbooks are to be adopted.

2-8 SECTION 4. Section 31.023(a), Education Code, is amended to  
 2-9 read as follows:

2-10 (a) For each subject and grade level, the State Board of  
 2-11 Education shall adopt two lists of textbooks. The conforming list  
 2-12 includes each textbook submitted for the subject and grade level  
 2-13 that meets applicable physical specifications adopted by the State  
 2-14 Board of Education and contains material covering each element of  
 2-15 the essential knowledge and skills of the subject and grade level in  
 2-16 the student version of the textbook, as well as in the teacher  
 2-17 version of the textbook, as determined by the State Board of  
 2-18 Education under Section 28.002 and adopted under Section 31.024.  
 2-19 The nonconforming list includes each textbook submitted for the  
 2-20 subject and grade level that:

2-21 (1) meets applicable physical specifications adopted  
 2-22 by the State Board of Education;

2-23 (2) contains material covering at least half, but not  
 2-24 all, of the elements of the essential knowledge and skills of the  
 2-25 subject and grade level in the student version of the textbook, as  
 2-26 well as in the teacher version of the textbook; and

2-27 (3) is adopted under Section 31.024.

2-28 SECTION 5. Subchapter B, Chapter 31, Education Code, is  
 2-29 amended by adding Section 31.035 to read as follows:

2-30 Sec. 31.035. SUPPLEMENTAL TEXTBOOKS. (a) Notwithstanding  
 2-31 any other provision of this subchapter, the State Board of  
 2-32 Education may adopt supplemental textbooks that are not on the  
 2-33 conforming or nonconforming list under Section 31.023. The State  
 2-34 Board of Education may adopt a supplemental textbook under this  
 2-35 section only if the textbook:

2-36 (1) contains material covering one or more primary  
 2-37 focal points or primary topics of a subject in the required  
 2-38 curriculum under Section 28.002, as determined by the State Board  
 2-39 of Education;

2-40 (2) is not designed to serve as the sole textbook for a  
 2-41 full course;

2-42 (3) meets applicable physical specifications adopted  
 2-43 by the State Board of Education; and

2-44 (4) is free from factual errors.

2-45 (b) The State Board of Education shall identify the  
 2-46 essential knowledge and skills identified under Section 28.002 that  
 2-47 are covered by a supplemental textbook adopted by the board under  
 2-48 this section.

2-49 (c) A supplemental textbook is subject to the review and  
 2-50 adoption cycle provisions, including the midcycle review and  
 2-51 adoption cycle provisions, of this subchapter.

2-52 (d) A school district or open-enrollment charter school may  
 2-53 requisition a supplemental textbook adopted under this section only  
 2-54 if the district or school:

2-55 (1) uses textbook credits received under Section  
 2-56 31.1011 to purchase the supplemental textbook; or

2-57 (2) instead of requisitioning a textbook on the  
 2-58 conforming list under Section 31.023 for a course in the foundation  
 2-59 curriculum under Section 28.002, requisitions the supplemental  
 2-60 textbook along with other supplemental textbooks or textbooks on  
 2-61 the nonconforming list under Section 31.023 that in combination  
 2-62 cover each element of the essential knowledge and skills for the  
 2-63 course for which the district or school is requisitioning the  
 2-64 supplemental textbooks.

2-65 (e) If the total cost for the supplemental textbooks  
 2-66 requisitioned by a school district or open-enrollment charter  
 2-67 school under Subsection (d)(2) for a course is less than the limit  
 2-68 on the cost under Section 31.025(a) for a single textbook on the  
 2-69 conforming list for the course, the district or school is entitled

3-1 to receive credit under Section 31.1011 in the same manner as if the  
 3-2 single textbook were selected. If the total cost for the  
 3-3 supplemental textbooks requisitioned by a school district or  
 3-4 open-enrollment charter school under Subsection (d)(2) for a course  
 3-5 is greater than the limit on the cost under Section 31.025(a) for a  
 3-6 single textbook on the conforming list for the course, the district  
 3-7 or school may apply credits received under Section 31.1011 toward  
 3-8 the difference for the supplemental textbooks.

3-9 (f) A school district or open-enrollment charter school  
 3-10 that requisitions supplemental textbooks under Subsection (d)(2)  
 3-11 shall certify to the agency that the supplemental textbooks, in  
 3-12 combination with any other textbooks or supplemental textbooks used  
 3-13 by the district or school, cover the essential knowledge and skills  
 3-14 identified under Section 28.002 by the State Board of Education for  
 3-15 the subject and grade level for which the district or school is  
 3-16 requisitioning the supplemental textbooks.

3-17 (g) Sections 31.101(b) and (c) do not apply to supplemental  
 3-18 textbooks requisitioned under this section.

3-19 SECTION 6. Subchapter C, Chapter 31, Education Code, is  
 3-20 amended by adding Section 31.1011 to read as follows:

3-21 Sec. 31.1011. TEXTBOOK CREDITS. (a) A school district or  
 3-22 open-enrollment charter school is entitled to receive credit for  
 3-23 textbooks purchased at a cost below the cost limit established  
 3-24 under Section 31.025(a).

3-25 (b) The credit is an amount equal to the difference between  
 3-26 the price paid for a textbook and the cost limit established under  
 3-27 Section 31.025(a) for that textbook multiplied by the number of  
 3-28 copies of that textbook the school district or open-enrollment  
 3-29 charter school purchases.

3-30 (c) Fifty percent of the total textbook credit of a school  
 3-31 district or open-enrollment charter school shall be credited to the  
 3-32 state textbook fund, and 50 percent of the credit shall be credited  
 3-33 to the district or school to apply toward the requisition of:

3-34 (1) additional textbooks or electronic textbooks that  
 3-35 are on the conforming or nonconforming list under Section 31.023 or  
 3-36 the components of such textbooks, including any electronic  
 3-37 components; or

3-38 (2) supplemental textbooks as provided by Section  
 3-39 31.035.

3-40 (d) The legislature may appropriate funds for the purpose of  
 3-41 increasing the number of textbook credits available for  
 3-42 distribution to school districts and open-enrollment charter  
 3-43 schools under this section. The appropriation may be designated  
 3-44 for a particular subject, for the individual elements of a  
 3-45 particular subject, or for textbooks for students who need extra  
 3-46 assistance. The appropriation must be provided in an equitable  
 3-47 manner.

3-48 SECTION 7. Section 13.04, Chapter 5, Acts of the 79th  
 3-49 Legislature, 3rd Called Session, 2006, is repealed.

3-50 SECTION 8. Section 31.023, Education Code, as amended by  
 3-51 this Act, applies only to a textbook for which the State Board of  
 3-52 Education issues a proclamation under Subchapter B, Chapter 31,  
 3-53 Education Code, on or after the effective date of this Act. A  
 3-54 textbook for which the State Board of Education issues a  
 3-55 proclamation before the effective date of this Act is governed by  
 3-56 the law in effect when the proclamation was issued, and the former  
 3-57 law is continued in effect for that purpose.

3-58 SECTION 9. Section 31.1011, Education Code, as added by  
 3-59 this Act, applies beginning with the 2007-2008 school year.

3-60 SECTION 10. This Act takes effect immediately if it  
 3-61 receives a vote of two-thirds of all the members elected to each  
 3-62 house, as provided by Section 39, Article III, Texas Constitution.  
 3-63 If this Act does not receive the vote necessary for immediate  
 3-64 effect, this Act takes effect September 1, 2007.

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