

1-1 By: Branch, et al. (Senate Sponsor - Shapiro) H.B. No. 4294
1-2 (In the Senate - Received from the House May 4, 2009;
1-3 May 11, 2009, read first time and referred to Committee on
1-4 Education; May 21, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 May 21, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 4294 By: Shapiro

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

1-10 relating to textbooks, electronic textbooks, instructional
1-11 material, and technological equipment in public schools.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter A, Chapter 31, Education Code, is
1-14 amended by adding Section 31.004 to read as follows:

1-15 Sec. 31.004. CERTIFICATION OF PROVISION OF TEXTBOOKS,
1-16 ELECTRONIC TEXTBOOKS, AND INSTRUCTIONAL MATERIALS. Each school
1-17 district and open-enrollment charter school shall annually certify
1-18 to the State Board of Education and the commissioner that, for each
1-19 subject in the required curriculum and each grade level, the
1-20 district provides each student with textbooks, electronic
1-21 textbooks, or instructional materials that cover all elements of
1-22 the essential knowledge and skills adopted by the State Board of
1-23 Education for that subject and grade level.

1-24 SECTION 2. Section 31.021, Education Code, is amended by
1-25 adding Subsection (f) to read as follows:

1-26 (f) The state textbook fund may be used to purchase
1-27 technological equipment necessary to support the use of electronic
1-28 textbooks or instructional material included on the list adopted
1-29 under Section 31.0231 or any textbook or material approved by the
1-30 State Board of Education.

1-31 SECTION 3. Section 31.022, Education Code, is amended by
1-32 adding Subsection (f) to read as follows:

1-33 (f) The board shall amend any request for production issued
1-34 for the purchase of textbooks to conform to the textbook funding
1-35 levels provided by the General Appropriations Act for the year of
1-36 implementation.

1-37 SECTION 4. Subchapter B, Chapter 31, Education Code, is
1-38 amended by adding Section 31.0231 to read as follows:

1-39 Sec. 31.0231. ELECTRONIC TEXTBOOK AND INSTRUCTIONAL
1-40 MATERIAL LIST. (a) The commissioner shall adopt a list of:

1-41 (1) electronic textbooks; and

1-42 (2) instructional material that conveys information
1-43 to the student or otherwise contributes to the learning process,
1-44 including tools, models, and investigative materials designed for
1-45 use as part of the foundation curriculum for science in
1-46 kindergarten through grade five.

1-47 (b) A school district may select an electronic textbook or
1-48 instructional material on the list adopted under Subsection (a) to
1-49 be funded by the state textbook fund under Section 31.021.

1-50 (c) Before the commissioner places an electronic textbook
1-51 or instructional material on the list adopted under Subsection (a),
1-52 the electronic textbook or instructional material:

1-53 (1) must be reviewed and recommended to the
1-54 commissioner by a panel of recognized experts in the subject area of
1-55 the electronic textbook or instructional material and experts in
1-56 education technology; and

1-57 (2) must satisfy criteria adopted for the purpose by
1-58 commissioner rule.

1-59 (d) The criteria adopted under Subsection (c)(2) must:

1-60 (1) include evidence of alignment with current
1-61 research in the subject for which the electronic textbook or
1-62 instructional material is intended to be used;

1-63 (2) include coverage of the essential knowledge and

2-1 skills identified under Section 28.002 for the subject for which
 2-2 the electronic textbook or instructional material is intended to be
 2-3 used and identify:

2-4 (A) each of the essential knowledge and skills
 2-5 for the subject and grade level or levels covered by the electronic
 2-6 textbook or instructional material; and

2-7 (B) the percentage of the essential knowledge and
 2-8 skills for the subject and grade level or levels covered by the
 2-9 electronic textbook or instructional material; and

2-10 (3) include appropriate training for teachers.

2-11 (e) The commissioner shall update, as necessary, the list
 2-12 adopted under Subsection (a). Before the commissioner places an
 2-13 electronic textbook or instructional material on the updated list,
 2-14 the requirements of Subsection (c) must be met. Before the
 2-15 commissioner removes an electronic textbook or instructional
 2-16 material from the updated list, the removal must be recommended by a
 2-17 panel of recognized experts in the subject area of the electronic
 2-18 textbook or instructional material and experts in education
 2-19 technology.

2-20 (f) After notice to the commissioner explaining in detail
 2-21 the changes, the provider of an electronic textbook or
 2-22 instructional material on the list adopted under Subsection (a) may
 2-23 update the navigational features or management system related to
 2-24 the electronic textbook or instructional material.

2-25 (g) After notice to the commissioner and a review by the
 2-26 commissioner, the provider of an electronic textbook or
 2-27 instructional material on the list adopted under Subsection (a) may
 2-28 update the content of the electronic textbook or instructional
 2-29 material if needed to accurately reflect current knowledge or
 2-30 information.

2-31 (h) The commissioner shall adopt rules as necessary to
 2-32 implement this section. The rules must:

2-33 (1) be consistent with Section 31.151 regarding the
 2-34 duties of publishers and manufacturers and the imposition of a
 2-35 reasonable administrative penalty; and

2-36 (2) require public notice of an opportunity for the
 2-37 submission of an electronic textbook or instructional material.

2-38 SECTION 5. Section 31.101, Education Code, is amended by
 2-39 amending Subsections (a) and (c) and adding Subsections (b-1),
 2-40 (c-1), and (e) to read as follows:

2-41 (a) Each year, during a period established by the State
 2-42 Board of Education, the board of trustees of each school district
 2-43 and the governing body of each open-enrollment charter school
 2-44 shall:

2-45 (1) for a subject in the foundation curriculum, notify
 2-46 the State Board of Education of the textbooks selected by the board
 2-47 of trustees or governing body for the following school year from
 2-48 among the textbooks on the appropriate conforming or nonconforming
 2-49 list, including the list adopted under Section 31.0231; or

2-50 (2) for a subject in the enrichment curriculum:

2-51 (A) notify the State Board of Education of each
 2-52 textbook selected by the board of trustees or governing body for the
 2-53 following school year from among the textbooks on the appropriate
 2-54 conforming or nonconforming list, including the list adopted under
 2-55 Section 31.0231; or

2-56 (B) notify the State Board of Education that the
 2-57 board of trustees or governing body has selected a textbook that is
 2-58 not on the conforming or nonconforming list.

2-59 (b-1) If a school district or open-enrollment charter
 2-60 school selects for a particular subject or grade level an
 2-61 electronic textbook or instructional material on the list adopted
 2-62 under Section 31.0231, the state shall pay the district or school an
 2-63 amount equal to the cost of the electronic textbook or
 2-64 instructional material plus textbook credits under Section 31.1011
 2-65 equal to 50 percent of the difference between that cost and the
 2-66 limitation established under Section 31.025 for a textbook for that
 2-67 subject and grade level, multiplied by the number of electronic
 2-68 textbooks or instructional materials the district or school needs
 2-69 for that subject and grade level.

3-1 (c) A school district or open-enrollment charter school
3-2 that selects a textbook that is not on the conforming or
3-3 nonconforming list or that selects an electronic textbook or
3-4 instructional material that is on the list adopted under Section
3-5 31.0231:

3-6 (1) is responsible for the portion of the cost of the
3-7 textbook that is not paid by the state under Subsection (b); and

3-8 (2) may use funds received from the state under
3-9 Subsection (b) or (b-1), as applicable, [only] for purchasing the
3-10 textbook, electronic textbook, or instructional material for which
3-11 the funds were received or supplementing the allotment under
3-12 Section 32.005 to purchase technological equipment according to
3-13 rules adopted by the commissioner.

3-14 (c-1) Notwithstanding any other provision of this chapter,
3-15 a school district or open-enrollment charter school must purchase a
3-16 classroom set of textbooks adopted by the State Board of Education
3-17 under Section 31.023 or 31.035 for each subject and grade level in
3-18 the foundation and enrichment curriculum.

3-19 (e) A school district or open-enrollment charter school
3-20 that selects a subscription-based electronic textbook or
3-21 instructional material on the conforming list under Section 31.023
3-22 or the list adopted under Section 31.0231 may cancel the
3-23 subscription and subscribe to a new electronic textbook or
3-24 instructional material on the conforming list under Section 31.023
3-25 or the list adopted under Section 31.0231 before the end of the
3-26 state contract period under Section 31.026 if:

3-27 (1) the district or school has used the electronic
3-28 textbook or instructional material for at least one school year;
3-29 and

3-30 (2) the agency approves the change based on a written
3-31 request to the agency by the district or school that specifies the
3-32 reasons for changing the electronic textbook or instructional
3-33 material used by the district or school.

3-34 SECTION 6. Section 31.1011(c), Education Code, is amended
3-35 to read as follows:

3-36 (c) Fifty percent of the total textbook credit of a school
3-37 district or open-enrollment charter school shall be credited to the
3-38 state textbook fund, and 50 percent of the credit shall be credited
3-39 to the district or school to apply toward the requisition of:

3-40 (1) additional textbooks or electronic textbooks that
3-41 are on the conforming or nonconforming list under Section 31.023 or
3-42 the components of such textbooks, including any electronic
3-43 components; [~~or~~]

3-44 (2) supplemental textbooks as provided by Section
3-45 31.035;

3-46 (3) electronic textbooks or instructional materials
3-47 on the list adopted under Section 31.0231; or

3-48 (4) technological equipment under Section 31.021(f).

3-49 SECTION 7. The heading to Section 31.152, Education Code,
3-50 is amended to read as follows:

3-51 Sec. 31.152. ACCEPTING REBATE ON TEXTBOOKS, ELECTRONIC
3-52 TEXTBOOKS, INSTRUCTIONAL MATERIALS, OR TECHNOLOGICAL EQUIPMENT.

3-53 SECTION 8. Sections 31.152(a) and (b), Education Code, are
3-54 amended to read as follows:

3-55 (a) A school trustee, administrator, or teacher commits an
3-56 offense if that person receives any commission or rebate on any
3-57 textbooks, electronic textbooks, instructional materials, or
3-58 technological equipment used in the schools with which the person
3-59 is associated as a trustee, administrator, or teacher.

3-60 (b) A school trustee, administrator, or teacher commits an
3-61 offense if the person accepts a gift, favor, or service that:

3-62 (1) is given to the person or the person's school;

3-63 (2) might reasonably tend to influence a trustee,
3-64 administrator, or teacher in the selection of a textbook,
3-65 electronic textbook, instructional material, or technological
3-66 equipment; and

3-67 (3) could not be lawfully purchased with funds from
3-68 the state textbook fund.

3-69 SECTION 9. This Act takes effect immediately if it receives

4-1 a vote of two-thirds of all the members elected to each house, as
4-2 provided by Section 39, Article III, Texas Constitution. If this
4-3 Act does not receive the vote necessary for immediate effect, this
4-4 Act takes effect September 1, 2009.

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