

SENATE AMENDMENTS

2nd Printing

By: Hochberg

H.B. No. 2488

A BILL TO BE ENTITLED

AN ACT

relating to open-source textbooks for public schools.

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

SECTION 1. Section 31.002, Education Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Electronic textbook" means 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, including an open-source textbook.

(1-a) "Open-source textbook" means an electronic textbook that is available for downloading from the Internet at no charge to a student and without requiring the purchase of an unlock code, membership, or other access or use charge, except for a charge to order an optional printed copy of all or part of the textbook.

SECTION 2. Subchapter B, Chapter 31, Education Code, is amended by adding Section 31.0241 to read as follows:

Sec. 31.0241. ADOPTION OF OPEN-SOURCE TEXTBOOKS. (a) In this section, "eligible institution" means:

(1) a public, private, or independent college or university located in this state that spends at least \$75 million per year on research that may be reported under Section 61.051(h);

1 or

2 (2) a public technical institute, as defined by
3 Section 61.003.

4 (b) The State Board of Education shall place an open-source
5 textbook for a secondary-level course submitted for adoption by an
6 eligible institution on a conforming or nonconforming list if:

7 (1) the textbook is written, compiled, or edited
8 primarily by faculty of the eligible institution who specialize in
9 the subject area of the textbook;

10 (2) the eligible institution identifies each
11 contributing author;

12 (3) the appropriate department of the eligible
13 institution certifies the textbook for accuracy; and

14 (4) the eligible institution determines that the
15 textbook qualifies for placement on the conforming or nonconforming
16 list based on the extent to which the textbook covers the essential
17 knowledge and skills identified under Section 28.002 for the
18 subject for which the textbook is written and certifies that:

19 (A) for a textbook for a senior-level course, a
20 student who successfully completes a course based on the textbook
21 will be prepared, without remediation, for entry into the eligible
22 institution's freshman-level course in that subject; or

23 (B) for a textbook for a junior-level and
24 senior-level course, a student who successfully completes the
25 junior-level course based on the textbook will be prepared for
26 entry into the senior-level course.

27 (c) This section does not prohibit an eligible institution

1 from submitting a textbook for placement on a conforming or
2 nonconforming list through any other adoption process provided by
3 this chapter.

4 SECTION 3. Section 31.026, Education Code, is amended by
5 adding Subsection (e) to read as follows:

6 (e) This section does not apply to an open-source textbook.

7 SECTION 4. Subchapter B, Chapter 31, Education Code, is
8 amended by adding Section 31.0261 to read as follows:

9 Sec. 31.0261. CONTRACTS FOR PRINTING OF OPEN-SOURCE
10 TEXTBOOKS. The State Board of Education may execute a contract for
11 the printing of an open-source textbook listed on the conforming or
12 nonconforming list. The contract must allow a school district to
13 requisition printed copies of an open-source textbook as provided
14 by Section 31.103.

15 SECTION 5. Section 31.027, Education Code, is amended by
16 adding Subsection (d) to read as follows:

17 (d) This section does not apply to an open-source textbook.

18 SECTION 6. Section 31.103, Education Code, is amended by
19 adding Subsection (d) to read as follows:

20 (d) A school district or open-enrollment charter school
21 that selects an open-source textbook shall requisition a sufficient
22 number of printed copies for use by students unable to access the
23 textbook electronically unless the district or school provides to
24 each student:

25 (1) electronic access to the textbook at no cost to the
26 student; or

27 (2) printed copies of the portion of the textbook that

1 will be used in the course.

2 SECTION 7. Section 31.104, Education Code, is amended by
3 amending Subsections (b) and (c) and adding Subsections (g) and (h)
4 to read as follows:

5 (b) A school district or open-enrollment charter school may
6 order replacements for textbooks that have been lost or damaged
7 directly from:

8 (1) the textbook depository; [~~or~~]

9 (2) the textbook publisher or manufacturer if the
10 textbook publisher or manufacturer does not have a designated
11 textbook depository in this state under Section 31.151(a)(6)(B); or

12 (3) any source for a printed copy of an open-source
13 textbook.

14 (c) Each textbook must state that the textbook is the
15 property of or is licensed to this state, as appropriate. Each
16 textbook, other than an electronic textbook or a printed copy of an
17 open-source textbook, must be covered by the student under the
18 direction of the teacher. Except as provided by Subsection (g), a
19 [A] student must return all textbooks to the teacher at the end of
20 the school year or when the student withdraws from school.

21 (g) At the end of the school year for which an open-source
22 textbook that a school district or open-enrollment charter school
23 does not intend to use for another student is distributed, the
24 printed copy of the open-source textbook becomes the property of
25 the student to whom it is distributed.

26 (h) This section does not apply to an electronic copy of an
27 open-source textbook.

1 SECTION 8. Section 31.151(a), Education Code, is amended to
2 read as follows:

3 (a) A publisher or manufacturer of textbooks:

4 (1) shall furnish any textbook the publisher or
5 manufacturer offers in this state, at a price that does not exceed
6 the lowest price at which the publisher offers that textbook for
7 adoption or sale to any state, public school, or school district in
8 the United States;

9 (2) shall automatically reduce the price of a textbook
10 sold for use in a school district or open-enrollment charter school
11 to the extent that the price is reduced elsewhere in the United
12 States;

13 (3) shall provide any textbook or ancillary item free
14 of charge in this state to the same extent that the publisher or
15 manufacturer provides the textbook or ancillary item free of charge
16 to any state, public school, or school district in the United
17 States;

18 (4) shall guarantee that each copy of a textbook sold
19 in this state is at least equal in quality to copies of that
20 textbook sold elsewhere in the United States and is free from
21 factual error;

22 (5) may not become associated or connected with,
23 directly or indirectly, any combination in restraint of trade in
24 textbooks or enter into any understanding or combination to control
25 prices or restrict competition in the sale of textbooks for use in
26 this state;

27 (6) shall:

1 (A) maintain a depository in this state or
2 arrange with a depository in this state to receive and fill orders
3 for textbooks, other than open-source textbooks, on-line
4 textbooks, or on-line textbook components, consistent with State
5 Board of Education rules; or

6 (B) deliver textbooks to a school district or
7 open-enrollment charter school without a delivery charge to the
8 school district, open-enrollment charter school, or state, if:

9 (i) the publisher or manufacturer does not
10 maintain or arrange with a depository in this state under Paragraph
11 (A) and the publisher's or manufacturer's textbooks and related
12 products are warehoused or otherwise stored less than 300 miles
13 from a border of this state; or

14 (ii) the textbooks are open-source
15 textbooks, on-line textbooks, or on-line textbook components;

16 (7) shall, at the time an order for textbooks is
17 acknowledged, provide to school districts or open-enrollment
18 charter schools an accurate shipping date for textbooks that are
19 back-ordered;

20 (8) shall guarantee delivery of textbooks at least 10
21 business days before the opening day of school of the year for which
22 the textbooks are ordered if the textbooks are ordered by a date
23 specified in the sales contract; and

24 (9) shall submit to the State Board of Education an
25 affidavit certifying any textbook the publisher or manufacturer
26 offers in this state to be free of factual errors at the time the
27 publisher executes the contract required by Section 31.026.

1 SECTION 9. This Act takes effect September 1, 2009.

ADOPTED

MAY 25 2009

Atty. Gen.
Secretary of the Senate

By: Hochberg

H.B. No. 2488

Substitute the following for ____ .B. No. ____ :

By: Mario Gallegos

C.S. ____ .B. No. ____

A BILL TO BE ENTITLED

AN ACT

relating to open-source textbooks for public schools.

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

SECTION 1. Section 31.002, Education Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Electronic textbook" means 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, including an open-source textbook.

(1-a) "Open-source textbook" means an electronic textbook that is available for downloading from the Internet at no charge to a student and without requiring the purchase of an unlock code, membership, or other access or use charge, except for a charge to order an optional printed copy of all or part of the textbook. The term includes a state-developed open-source textbook purchased under Subchapter B-1.

SECTION 2. Subchapter B, Chapter 31, Education Code, is amended by adding Section 31.0241 to read as follows:

Sec. 31.0241. ADOPTION OF OPEN-SOURCE TEXTBOOKS. (a) In this section, "eligible institution" means:

(1) a public, private, or independent college or

1 university located in this state that spends at least \$75
2 million per year on research that may be reported under Section
3 61.051(h); or

4 (2) a public technical institute, as defined by
5 Section 61.003.

6 (b) The State Board of Education shall place an open-
7 source textbook for a secondary-level course submitted for
8 adoption by an eligible institution on a conforming or
9 nonconforming list if:

10 (1) the textbook is written, compiled, or edited
11 primarily by faculty of the eligible institution who specialize
12 in the subject area of the textbook;

13 (2) the eligible institution identifies each
14 contributing author;

15 (3) the appropriate department of the eligible
16 institution certifies the textbook for accuracy; and

17 (4) the eligible institution determines that the
18 textbook qualifies for placement on the conforming or
19 nonconforming list based on the extent to which the textbook
20 covers the essential knowledge and skills identified under
21 Section 28.002 for the subject for which the textbook is
22 written and certifies that:

23 (A) for a textbook for a senior-level course, a
24 student who successfully completes a course based on the
25 textbook will be prepared, without remediation, for entry into
26 the eligible institution's freshman-level course in that
27 subject; or

1 (B) for a textbook for a junior-level and
2 senior-level course, a student who successfully completes the
3 junior-level course based on the textbook will be prepared for
4 entry into the senior-level course.

5 (c) This section does not prohibit an eligible institution
6 from submitting a textbook for placement on a conforming or
7 nonconforming list through any other adoption process provided
8 by this chapter.

9 SECTION 3. Section 31.026, Education Code, is amended by
10 adding Subsection (e) to read as follows:

11 (e) This section does not apply to an open-source
12 textbook.

13 SECTION 4. Subchapter B, Chapter 31, Education Code, is
14 amended by adding Section 31.0261 to read as follows:

15 Sec. 31.0261. CONTRACTS FOR PRINTING OF OPEN-SOURCE
16 TEXTBOOKS. The State Board of Education may execute a contract
17 for the printing of an open-source textbook listed on the
18 conforming or nonconforming list. The contract must allow a
19 school district to requisition printed copies of an open-source
20 textbook as provided by Section 31.103.

21 SECTION 5. Section 31.027, Education Code, is amended by
22 adding Subsection (d) to read as follows:

23 (d) This section does not apply to an open-source
24 textbook.

25 SECTION 6. Chapter 31, Education Code, is amended by
26 adding Subchapter B-1 to read as follows:

27 SUBCHAPTER B-1. STATE-DEVELOPED OPEN-SOURCE TEXTBOOKS

1 Sec. 31.071. PURCHASE AUTHORITY. (a) The commissioner
2 may purchase state-developed open-source textbooks in accordance
3 with this subchapter.

4 (b) The commissioner:

5 (1) shall purchase any state-developed open-source
6 textbooks through a competitive process; and

7 (2) may purchase more than one state-developed open-
8 source textbook for a subject or grade level.

9 (c) A state-developed open-source textbook must be
10 irrevocably owned by or licensed to the state for use in the
11 applicable subject or grade level. The state must have
12 unlimited authority to modify, delete, combine, or add content
13 to the textbook after purchase.

14 (d) The commissioner may issue a request for proposals for
15 a state-developed open-source textbook:

16 (1) in accordance with the textbook review and
17 adoption cycle under Section 31.022; or

18 (2) at any other time the commissioner determines
19 that a need exists for additional textbook options.

20 (e) The costs of administering this subchapter and
21 purchasing state-developed open-source textbooks shall be paid
22 from the state textbook fund, as determined by the commissioner.

23 Sec. 31.072. CONTENT REQUIREMENTS. (a) A state-developed
24 open-source textbook must:

25 (1) be evaluated by teachers or other experts, as
26 determined by the commissioner, before purchase; and

27 (2) meet the requirements for inclusion on a

1 conforming or nonconforming textbook list under Section 31.023.

2 (b) Following a curriculum revision by the State Board of
3 Education, the commissioner shall require the revision of a
4 state-developed open-source textbook relating to that
5 curriculum. The commissioner may, at any time, require an
6 additional revision of a state-developed open-source textbook or
7 contract for ongoing revisions of a textbook for a period not to
8 exceed the period under Section 31.022 for which a textbook for
9 that subject and grade level may be adopted. The commissioner
10 shall use a competitive process to request proposals to revise a
11 state-developed open-source textbook under this subsection.

12 (c) The commissioner shall provide for special and
13 bilingual state-developed open-source textbooks in the same
14 manner provided under Sections 31.028 and 31.029.

15 Sec. 31.073. COST. (a) For purposes of this section, the
16 commissioner shall determine the cost to a school district or
17 open-enrollment charter school for a state-developed open-source
18 textbook in an amount sufficient to cover state expenses
19 associated with the textbook, including expenses incurred by the
20 state in soliciting, evaluating, revising, and purchasing the
21 textbook.

22 (b) If a school district or open-enrollment charter school
23 selects a state-developed open-source textbook instead of
24 another textbook adopted under Subchapter B, the difference
25 between the cost determined by the commissioner under Subsection
26 (a) and the maximum price for a textbook in the same subject
27 area, as determined by the State Board of Education under

1 Section 31.025, shall be allocated as follows:

2 (1) 50 percent of the amount shall be credited to the
3 state textbook fund under Section 31.021 to be used for purposes
4 of this subchapter; and

5 (2) 50 percent of the amount shall be credited to the
6 school district or open-enrollment charter school for use as
7 provided by Section 31.1011(c).

8 (c) Notwithstanding Section 31.022, a school district or
9 open-enrollment charter school may adopt a state-developed open-
10 source textbook at any time, regardless of the textbook review
11 and adoption cycle under that section.

12 (d) A school district or open-enrollment charter school
13 may not be charged for selection of a state-developed open-
14 source textbook in addition to a textbook adopted under
15 Subchapter B.

16 Sec. 31.074. DISTRIBUTION. (a) The commissioner shall
17 provide for the distribution of state-developed open-source
18 textbooks in a manner consistent with distribution of textbooks
19 adopted under Subchapter B.

20 (b) The commissioner may use a competitive process to
21 contract for printing or other reproduction of a state-developed
22 open-source textbook on behalf of a school district or open-
23 enrollment charter school. The commissioner may not require a
24 school district or open-enrollment charter school to contract
25 with a state-approved provider for the printing or reproduction
26 of a state-developed open-source textbook.

27 Sec. 31.075. OWNERSHIP; LICENSING. (a) A state-developed

1 open-source textbook is the property of the state.

2 (b) The commissioner shall provide a license to each
3 public school in the state, including a school district, an
4 open-enrollment charter school, and a state or local agency
5 educating students in any grade from prekindergarten through
6 high school, to use and reproduce a state-developed open-source
7 textbook.

8 (c) The commissioner may provide a license to use a state-
9 developed open-source textbook to an entity not listed in
10 Subsection (b). In determining the cost of a license under this
11 subsection, the commissioner shall seek, to the extent feasible,
12 to recover the costs of developing, revising, and distributing
13 state-developed open-source textbooks.

14 Sec. 31.076. RULES; FINALITY OF DECISIONS. (a) The
15 commissioner may adopt rules necessary to implement this
16 subchapter.

17 (b) A decision by the commissioner regarding the purchase,
18 revision, cost, or distribution of a state-developed open-source
19 textbook is final and may not be appealed.

20 Sec. 31.077. ADOPTION SCHEDULE. The commissioner shall
21 develop a schedule for the adoption of state-developed open-
22 source textbooks under this subchapter. In developing the
23 adoption schedule under this section, the commissioner shall
24 consider:

25 (1) the availability of funds;

26 (2) the existing textbook adoption cycles under

27 Subchapter B; and

1 (3) the availability of textbooks for development or
2 purchase by the state.

3 SECTION 7. Section 31.103, Education Code, is amended by
4 adding Subsections (d) and (e) to read as follows:

5 (d) A school district or open-enrollment charter school
6 that selects an open-source textbook shall requisition a
7 sufficient number of printed copies for use by students unable
8 to access the textbook electronically unless the district or
9 school provides to each student:

10 (1) electronic access to the textbook at no cost to
11 the student; or

12 (2) printed copies of the portion of the textbook
13 that will be used in the course.

14 (e) The commissioner may establish a list of equipment or
15 devices that a school district or open-enrollment charter school
16 may purchase using textbook credits or textbook credits in
17 combination with other available funds to provide electronic
18 access to open-source textbooks under Subsection (d)(1).

19 SECTION 8. Section 31.104, Education Code, is amended by
20 amending Subsections (b) and (c) and adding Subsections (g) and
21 (h) to read as follows:

22 (b) A school district or open-enrollment charter school
23 may order replacements for textbooks that have been lost or
24 damaged directly from:

25 (1) the textbook depository; ~~[or]~~

26 (2) the textbook publisher or manufacturer if the
27 textbook publisher or manufacturer does not have a designated

1 textbook depository in this state under Section 31.151(a)(6)(B);
2 or

3 (3) any source for a printed copy of an open-source
4 textbook.

5 (c) Each textbook must state that the textbook is the
6 property of or is licensed to this state, as appropriate. Each
7 textbook, other than an electronic textbook or a printed copy of
8 an open-source textbook, must be covered by the student under
9 the direction of the teacher. Except as provided by Subsection
10 (g), a [A] student must return all textbooks to the teacher at
11 the end of the school year or when the student withdraws from
12 school.

13 (g) At the end of the school year for which an open-source
14 textbook that a school district or open-enrollment charter
15 school does not intend to use for another student is
16 distributed, the printed copy of the open-source textbook
17 becomes the property of the student to whom it is distributed.

18 (h) This section does not apply to an electronic copy of
19 an open-source textbook.

20 SECTION 9. Section 31.151(a), Education Code, is amended
21 to read as follows:

22 (a) A publisher or manufacturer of textbooks:

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

1 (2) shall automatically reduce the price of a
2 textbook sold for use in a school district or open-enrollment
3 charter school to the extent that the price is reduced elsewhere
4 in the United States;

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

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

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

19 (6) shall:

20 (A) maintain a depository in this state or
21 arrange with a depository in this state to receive and fill
22 orders for textbooks, other than open-source textbooks, on-line
23 textbooks, or on-line textbook components, consistent with State
24 Board of Education rules; or

25 (B) deliver textbooks to a school district or
26 open-enrollment charter school without a delivery charge to the
27 school district, open-enrollment charter school, or state, if:

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

6 (ii) the textbooks are open-source
7 textbooks, on-line textbooks, or on-line textbook components;

8 (7) shall, at the time an order for textbooks is
9 acknowledged, provide to school districts or open-enrollment
10 charter schools an accurate shipping date for textbooks that are
11 back-ordered;

12 (8) shall guarantee delivery of textbooks at least 10
13 business days before the opening day of school of the year for
14 which the textbooks are ordered if the textbooks are ordered by
15 a date specified in the sales contract; and

16 (9) shall submit to the State Board of Education an
17 affidavit certifying any textbook the publisher or manufacturer
18 offers in this state to be free of factual errors at the time
19 the publisher executes the contract required by Section 31.026.

20 SECTION 10. This Act takes effect September 1, 2009.

21

ADOPTED

MAY 25 2009

Letai Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Thomas Rajim*

1 Amend C.S.H.B. No. 2488 (senate committee printing) by adding
2 the following appropriately numbered SECTIONS to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION ____ Subchapter A, Chapter 31, Education Code, is
5 amended by adding Section 31.004 to read as follows:

6 Sec. 31.004. CERTIFICATION OF PROVISION OF TEXTBOOKS,
7 ELECTRONIC TEXTBOOKS, AND INSTRUCTIONAL MATERIALS. Each school
8 district and open-enrollment charter school shall annually certify
9 to the State Board of Education and the commissioner that, for each
10 subject in the required curriculum and each grade level, the
11 district provides each student with textbooks, electronic
12 textbooks, or instructional materials that cover all elements of
13 the essential knowledge and skills adopted by the State Board of
14 Education for that subject and grade level.

15 SECTION ____ To the extent of any conflict, Section 31.004,
16 Education Code, as added by this Act, prevails over Section 31.004,
17 Education Code, as added by H.B. No. 4294, Acts of the 81st
18 Legislature, Regular Session, 2009, regardless of the relative
19 dates of enactment.

ADOPTED

FLOOR AMENDMENT NO. 2

MAY 25 2009

BY:

Patricia Spaw
Secretary of the Senate

[Signature]

1 Amend C.S.H.B. 2488 (senate committee report) as
2 follows:

3 In SECTION 2 of the bill, on page 1, strike lines 32-
4 35 and substitute "(1) a public institution of higher
5 education that is designated as a research university or
6 emerging research university under the higher education
7 coordinating board's accountability system, or a private
8 university located in this state that is a member of the
9 Association of American Universities; or".

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2488 by Hochberg (relating to open-source textbooks for public schools.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would require the State Board of Education to adopt open-source textbooks for secondary courses submitted by certain institutions of higher education or public technical institutes in Texas on a conforming or non-conforming list if the textbooks meet requirements established in the bill.

The bill would require school districts and charter schools that select open-source textbooks to requisition printed copies of the textbooks or portions of the textbooks for students lacking the technology to access the open-source materials or to arrange for the student to have the necessary technology to access the materials at no charge. To the extent that open-source textbooks are selected by districts in place of traditional textbooks, the lower cost of these materials could result in overall state savings.

The bill would allow the Commissioner to issue a request for proposals (RFP) for state-developed open-source textbooks and would stipulate requirements and a review process for state-developed open-source textbooks. The bill stipulates that if a school district selects a state-developed open-source textbook, the school district would be entitled to 50 percent of the difference between the maximum cost for a traditional textbook for the course and the cost of the open-source textbook. The remaining 50 percent of the difference in cost would accrue to the state textbook fund.

The bill would allow the Commissioner to charge a licensing fee to entities other than public schools for the use of a state-developed open-source textbook.

The bill would require some programming changes in the Educational Materials and Textbooks (EMAT) System. The Texas Education Agency estimates associated costs could be managed within existing resources. TEA assumes that it would contract for services to write, evaluate, and analyze RFPs and responses and to develop a list of equipment and devices that could be purchased with textbook credits. It is assumed that this contract resource would transition to a full-time-equivalent position during FY2010. Associated costs are not estimated to be significant and could be covered from licensing fee revenue authorized by the bill if authority for expenditure of such revenue were granted.

Local Government Impact

School districts that choose open-source textbooks would be required either to requisition printed copies or provide technological equipment for students without access to technology required to use open-source materials.

School districts that choose state-developed open-source textbooks with costs below the established maximum price would receive additional revenue for textbook-related purchases due to the bill's provision of 50 percent of the difference between the cost of the textbook and the maximum price.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, JSp, JGM, JSc

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable Florence Shapiro, Chair, Senate Committee on Education

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2488 by Hochberg (relating to open-source textbooks for public schools.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would require the State Board of Education to adopt open-source textbooks for secondary courses submitted by certain institutions of higher education or public technical institutes in Texas on a conforming or non-conforming list if the textbooks meet requirements established in the bill.

The bill would require school districts and charter schools that select open-source textbooks to requisition printed copies of the textbooks or portions of the textbooks for students lacking the technology to access the open-source materials or to arrange for the student to have the necessary technology to access the materials at no charge. To the extent that open-source textbooks are selected by districts in place of traditional textbooks, the lower cost of these materials could result in overall state savings.

The bill would allow the Commissioner to issue a request for proposals (RFP) for state-developed open-source textbooks and would stipulate requirements and a review process for state-developed open-source textbooks. The bill stipulates that if a school district selects a state-developed open-source textbook, the school district would be entitled to 50 percent of the difference between the maximum cost for a traditional textbook for the course and the cost of the open-source textbook. The remaining 50 percent of the difference in cost would accrue to the state textbook fund.

The bill would allow the Commissioner to charge a licensing fee to entities other than public schools for the use of a state-developed open-source textbook.

The bill would require some programming changes in the Educational Materials and Textbooks (EMAT) System. The Texas Education Agency estimates associated costs could be managed within existing resources. TEA assumes that it would contract for services to write, evaluate, and analyze RFPs and responses and to develop a list of equipment and devices that could be purchased with textbook credits. It is assumed that this contract resource would transition to a full-time-equivalent position during FY2010. Associated costs are not estimated to be significant and could be covered from licensing fee revenue authorized by the bill if authority for expenditure of such revenue were granted.

Local Government Impact

School districts that choose open-source textbooks would be required either to requisition printed copies or provide technological equipment for students without access to technology required to use open-source materials.

School districts that choose state-developed open-source textbooks with costs below the established maximum price would receive additional revenue for textbook-related purchases due to the bill's provision of 50 percent of the difference between the cost of the textbook and the maximum price.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, JSp, JGM, JSc

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 18, 2009

TO: Honorable Florence Shapiro, Chair, Senate Committee on Education

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2488 by Hochberg (Relating to open-source textbooks for public schools.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would require the State Board of Education to adopt open-source textbooks for secondary courses submitted by certain institutions of higher education or public technical institutes in Texas on a conforming or non-conforming list if the textbooks meet requirements established in the bill.

The bill would require school districts and charter schools that select open-source textbooks to requisition printed copies of the textbooks or portions of the textbooks for students lacking the technology to access the open-source materials or to arrange for the student to have the necessary technology to access the materials at no charge. To the extent that open-source textbooks are selected by districts in place of traditional textbooks, the lower cost of these materials could result in overall state savings.

The bill would require some programming changes in the Educational Materials and Textbooks (EMAT) System. The Texas Education Agency estimates associated costs could be managed within existing resources.

Local Government Impact

School districts that choose open-source textbooks would be required either to requisition printed copies or provide technological equipment for students without access to technology required to use open-source materials.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, JSp, JGM, JSc

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 14, 2009

TO: Honorable Rob Eissler, Chair, House Committee on Public Education

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2488 by Hochberg (relating to open-source textbooks for public schools.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would require the State Board of Education to adopt open-source textbooks for secondary courses submitted by certain institutions of higher education or public technical institutes in Texas on a conforming or non-conforming list if the textbooks meet requirements established in the bill.

The bill would require school districts and charter schools that select open-source textbooks to requisition printed copies of the textbooks or portions of the textbooks for students lacking the technology to access the open-source materials or to arrange for the student to have the necessary technology to access the materials at no charge. To the extent that open-source textbooks are selected by districts in place of traditional textbooks, the lower cost of these materials could result in overall state savings.

The bill would require some programming changes in the Educational Materials and Textbooks (EMAT) System. The Texas Education Agency estimates associated costs could be managed within existing resources.

Local Government Impact

School districts that choose open-source textbooks would be required either to requisition printed copies or provide technological equipment for students without access to technology required to use open-source materials.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, JSp, JGM, JSc

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 30, 2009

TO: Honorable Rob Eissler, Chair, House Committee on Public Education

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2488** by Hochberg (Relating to open-source textbooks for public schools.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB2488, As Introduced: a negative impact of (\$7,471,000) through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$3,746,000)
2011	(\$3,725,000)
2012	(\$3,725,000)
2013	(\$3,725,000)
2014	(\$3,725,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>State Textbook Fund</i> 3
2010	(\$3,746,000)
2011	(\$3,725,000)
2012	(\$3,725,000)
2013	(\$3,725,000)
2014	(\$3,725,000)

Fiscal Analysis

The bill would require the State Board of Education to adopt open-source textbooks for secondary courses submitted by certain institutions of higher education or public technical institutes in Texas on a conforming or non-conforming list if the textbooks meet requirements established in the bill.

The bill would require school districts and charter schools that select open-source textbooks to requisition printed copies of the textbooks for students lacking the technology to access the open-source materials or to arrange for the student to have the necessary technology to access the materials at no charge.

Methodology

The cost to print and bind open-source textbooks is assumed at \$35 per book, and shipping is assumed at \$2.25 per book. For purposes of this estimate it is assumed that school districts would requisition 100,000 printed copies of open-source textbooks per year, which yields associated costs estimated at \$3.5 million annually for printing and \$225,000 annually for shipping.. The Texas Education Agency estimates that modifications to the Electronic Materials and Textbooks system (EMAT) costing \$21,000 in FY2010 would be required.

Should the number of actual printed copies ordered vary from the assumption made in this fiscal note, the cost will increase or decrease in a proportional manner.

Technology

TEA estimates that modifications to the Electronic Materials and Textbooks system (EMAT) costing \$21,000 in FY2010 would be required.

Local Government Impact

School districts that choose open-source textbooks would be required either to requisition printed copies or provide technological equipment for students without access to technology required to use open-source materials.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, JSp, JGM, JSc