

- SUBJECT:** Funding instructional materials and technology for public schools
- COMMITTEE:** Public Education — committee substitute recommended
- VOTE:** 7 ayes — Grusendorf, Branch, Delisi, Eissler, Hochberg, B. Keffer, Mowery
- 0 nays
- 2 absent — Oliveira, Dutton
- WITNESSES:** *(On original version:)*
For — Blake Allen, Jennifer Bergland, Victoria Fritze, Bryan Independent School District; Amanda Batson, ADB Partners, Education on Demand, Texas eLearning Coalition; Fred A. Bentsen, Vantage Learning; Ron Cravey, Texas Computer Education Association; Stephen Driesler, Association of American Publishers; Buzz Ellis, The McGraw-Hill Companies, Association of American Publishers; David McGlodn, Teachscape; Gloria Meraz, Texas Library Association; Alice Owen, Irving ISD; Maureen Sirhal, Dell, Inc.; Johnny Veselka, Texas Association of School Administrators, Texas Association of School Boards; Forrest E. Watson, Alliance for Sound Education Policy; Ross Perot; Jon H. Fleming; Jeff L. Meyer; Quality Quinn; Amber L. Smith.
- Against — None
- On — Holly Eaton, Texas Classroom Teachers Association; Richard Kouri, Texas State Teachers Association; Laurie Mankin, Textbook Coordinators Association of Texas; Ted Melina Raab, Texas Federation of Teachers.
- BACKGROUND:** Texas Constitution, Art. 7, sec. 3 require the State Board of Education (SBOE) to set aside a sufficient amount out to provide free text books for the use of children attending public school. Under Education Code, ch. 31, textbooks for each subject in the state's foundation school program are reviewed and adopted on a six-year cycle by the SBOE. For each subject and grade level, the SBOE adopts two separate lists of textbooks. The conforming list contains textbooks that meet manufacturing standards, have been reviewed for factual accuracy, and cover each element of the

Texas essential knowledge and skills (TEKS) for each subject and grade level; the non-conforming list contains textbooks that meet the same manufacturing and accuracy standards and cover at least half, but not all, of the TEKS curriculum. The SBOE also establishes the maximum cost of textbooks as part of the adoption process, and state funds may be used to purchase books on either the conforming or nonconforming list.

School districts buy textbooks with state funds appropriated to TEA for this purpose. The State Textbook Fund consists of a distribution from the Available School Fund in an amount determined by the Legislature. School districts submit textbook requests to TEA, which submits the orders to textbook companies and pays for textbooks and related instructional materials from the State Textbook Fund.

In addition to textbook funds, a school district also receives a "technology allotment" of \$30 per student, or an amount determined by appropriation, to help buy electronic textbooks and other electronic instructional materials and services. For fiscal 2004-05, TEA distributed \$242 million in general revenue to school districts for the technology allotment.

HB 2 by Grusendorf, et. al., which passed the House on March 11 and is pending in the Senate Education Committee, includes a technology allotment of \$70 per student in average daily attendance (ADA) in 2005, increasing to \$150 per student beginning September 1, 2006. This allotment could be used only for the purchase of instructional materials and technology.

The 78th Legislature in 2003 enacted SB 396 by Shapleigh, et. al., which authorized TEA to establish a three-year technology immersion pilot project in which each student in a participating school receives a laptop computer or other wireless mobile computing device, software, online courses, and other learning technologies that have been shown to improve academic achievement, efficiency, teacher performance and retention, parental and community involvement, and proficiency in technologies that prepare students for the work place.

DIGEST:

CSHB 4 would replace the current textbook review, adoption and purchase process with new procedures for the review, adoption and purchase of "instructional materials," which would be defined as media for conveying information to a student. Instructional materials would include books, supplementary materials, computer software, interactive videodiscs,

magnetic media, CD-ROM, computer courseware, online services, an electronic medium, or other means of conveying information to a student. The bill would replace statutory references to "textbooks" with "instructional materials" and would specify that instructional materials selected for use in the public schools would have to be furnished without cost to students in accordance with Article 7, sec. 3(b) of the Texas Constitution.

Technology grants. School districts and charter schools would receive an instructional materials and technology allotment per student in average daily attendance of \$70 beginning September 1, 2005, and of \$150 beginning September 1, 2006. TEA would withhold \$40 of the 2005 allotment and \$60 of the allotment beginning in 2006 and distribute it to districts that qualified for renewable two-year technology grants. To be eligible for a technology grant, a school would have to be identified as meeting the agency's long-range plan for technology and certify that it committed to using \$50 per student in local funds for technology. Grants to eligible school districts would be \$300 for each student enrolled at an eligible campus or charter school. TEA would ensure that schools receiving technology grants reflected the demographic and geographic diversity of the state.

Technology grants could be used by public schools only to purchase:

- wireless electronic mobile computing devices;
- productivity software and hardware, including writing, computation, presentation, printing and communication tools;
- electronic learning software aligned with TEKS;
- library and other research tools;
- electronic assessment tools;
- electronic learning tools to improve communications among students, teachers, school administrators, parents, and the community; and
- classroom and school management systems.

Technology grants also could be used to train teachers in technology and to acquire other infrastructure, components, and technologies necessary to enhance student performance.

Instructional materials. Publishers could at any time submit to the SBOE an instructional material with a statement that identified in writing the

essential knowledge and skills for a subject and grade level that the material covered. The SBOE would meet quarterly to review and approve instructional materials and would approve or reject them no later than two board review meetings after they were submitted. The SBOE would approve these materials on a majority vote unless, on the basis of a TEA or SBOE review, the board determined that the material did not contain the essential knowledge and skills identified by the publisher in the submission. Each approved instructional material would have to be free of factual errors.

For each subject and grade level, the SBOE would list the approved instructional materials. Publishers would provide each public school with information describing each of the publisher's approved instructional materials, as well as at least two samples of these materials. The SBOE periodically would review the list and, by majority vote, remove those materials that the board determined no longer adequately covered essential knowledge and skills.

School districts and charter schools would not be required to select instructional materials approved by the SBOE, but they would certify to TEA annually that each student was being provided with instructional materials that were aligned with essential knowledge and skills adopted by SBOE for that subject and grade level.

Using a blanket purchase order executed by the Department of Information Resources (DIR), school districts and charter schools could buy instructional materials directly from the publisher or through DIR. Prices would be determined through negotiation between the publisher and the DIR, which could execute a contract to purchase or license each approved instructional material. A contract would require the publisher to provide all of the approved instructional materials required by the public schools for the term of the contract. TEA and DIR would enter into an interagency contract specifying each agency's duties for purchasing and licensing of instructional materials. The publisher of approved electronic instructional materials could offer the materials to schools as an annual subscription. The bill would eliminate distribution of textbooks through the textbook depository system.

Computer adaptive assessments. TEA would develop or acquire ongoing, computer-adaptive, interactive assessment tools for each subject and grade level TAKS test and, from funds appropriated for this purpose,

make them available to public schools at no cost. By May 1, 2007, TEA would require school districts to administer to students the computer-adaptive TAKS test to the extent practicable and appropriate. TEA could adopt rules governing computer-adaptive assessments and could delay the release of TAKS test questions and answer keys as necessary to implement computer-adaptive testing.

Grant review. TEA would review all state- and federally funded grant programs and incentives designed to improve student academic performance and would determine the extent to which funds awarded under these programs could be used to enhance technology use in public schools. TEA could, as appropriate, issue a waiver to one or more schools to remove barriers to and encourage the use of technology in public schools. No later than December 1, 2006, the agency would report to the Legislature on the findings of this review, including a summary of promising practices for grant programs that leverage technology.

Technology advisory committee. The TEA commissioner would appoint an advisory committee of business, education, and public members to help the agency monitor changing technology in business, industry, and education. Committee members would be selected in consultation with the House speaker, the lieutenant governor, and the chairs of the House and the Senate education committees. An advisory committee member could not advise the commissioner on the award of a technology grant if the person was an officer or employee of an entity that provided or sought to provide goods or services purchased by a public school using technology grant funds.

Except as otherwise noted, the bill would take effect September 1, 2005.

**SUPPORTERS
SAY:**

CSHB 4 would move public education in Texas boldly into the 21st century by giving school districts the resources and tools needed to harness the promise of technology in education. Other states and many school districts already are successfully implementing this vision and producing positive results. For continued economic growth and improved employment opportunities, Texas simply cannot afford to fall behind in providing a 21st century learning environment. Public education should follow the example of business in embracing technology as an integral part of its operations.

Ten years ago, the SBOE, in conjunction with TEA, adopted a long-range plan for technology that called for one-to-one student to computer ratios by 2010, yet the state has made little progress toward that goal. It is time for the state to stop talking and start taking the bold steps needed to realize the SBOE's vision.

Investing in technology is expensive, and CSHB 4 would not likely fund all of a district's technology needs. But most school districts have used the current \$30 technology allotment to develop technology programs, and the additional funding that CSHB 4 would authorize would allow them to expand on that basic programming. Districts also could use their own resources to provide enough funding to cover the "total cost of ownership."

The bill would break the near monopoly of a handful of publishing giants in providing instructional materials for Texas students and allow state funding for instructional materials to be used for technology as well as textbooks. For too long, textbook publishers – with the encouragement and support of the elected SBOE – have benefited from a system that locks in prices and locks competitors out years before the final product is purchased. This process stifles technology and entrusts the production of instructional content to those textbook publishers that have benefited from the system for years.

The bill would end a process in which textbooks are updated every six years while information and technology move at a far more rapid pace. Under the current system, students effectively are restricted from learning of the spectacular advances of human achievement until years after they occur. Technology offers the promise of delivering a wide array of information to students in a variety of formats suited to particular subjects.

CSHB 4 would set up a process to ensure that instructional materials were reviewed in a timely manner, free of factual errors and contained appropriate instructional content. Instructional materials would be reviewed on an ongoing basis, rather than every six years, to ensure that they were error-free and met state requirements for curriculum content.

CSHB 4 would give school districts flexibility to determine their own funding levels for instructional materials and technology, depending on their existing resources, while providing safeguards to ensure that districts met the state's constitutional responsibility to provide instructional

materials for all children. A district well equipped with instructional materials could spend more on equipment, while another district may invest more heavily in instructional content to upgrade that aspect of its program. Rather than having to select from conforming and nonconforming lists of approved materials, school districts could select from the wide array of products on the market and make their own choices about which instructional materials would support their curriculum. Each school district and charter school would certify annually that for each subject in the required curriculum and for each grade level, the district or school provided instructional materials aligned with essential knowledge and skills for that subject and grade level. This would ensure that school districts continued to meet legal standards for providing all Texas children with an opportunity to learn.

By transferring responsibility for buying instructional materials and negotiating contracts to DIR, CSHB 4 would allow the state to maintain the purchasing power of a large state, while allowing districts flexibility to choose from a wide variety of products. By purchasing materials through DIR, school districts would not go through the costly and time-consuming process of competitive bidding for every instructional material purchased.

CSHB 4 is intended to specify the parameters for the use of funds authorized by HB 2. HB 2 would combine the current \$30 technology allotment with the estimated amount currently spent on textbooks of \$60 per student, then add another \$60 to make up the full \$150 technology allotment. Because the allotment would be funded on the basis of average daily attendance, it would increase as enrollment grew. If the allotment were based on enrollment rather than average daily attendance, the allotment amounts might have to be reduced to maintain current costs in the bill.

If the state does not approve a supplemental appropriation to cover the cost of the 2002 textbook proclamation, school districts could decide whether to purchase all or some of these textbooks using their instructional technology allotments. There is no guarantee that state funds will be appropriated this year to cover the full \$378 million cost of the 2002 proclamation, even if the allotments in HB 2 were reduced. The state is not obligated to buy textbooks listed in any proclamation. The SBOE issued its 2002 proclamation long before anyone knew of the technology opportunities that would be available in 2005. The state should not have to meet all of the parameters of a nonbinding proclamation issued several

years ago. Textbook publishers still would recoup at least part of their costs because school districts would continue to buy textbooks as part of instructional materials expenditures.

While all districts would continue to receive the current level of funding for instructional materials, those districts that have made a commitment to investing in technology would be eligible for significantly more funding through a technology grant program administered by TEA. Districts committed to meeting the state's long-range plan for technology and that committed \$50 per student in ADA of their own resources would be eligible for \$300 more per student for technology funding.

The technology grant program would provide the level of funding needed to meet the total cost of ownership that is critical to the success of technology programs. These funds could be used to buy equipment and to provide ongoing training essential to successful use of technology in the classroom. To address concerns about a "digital divide," the bill would direct TEA to ensure that grants reflected the demographic and geographic diversity of the state. On-line content would be one way to increase equity in the school system by providing children in poor districts with the same access to instructional materials as those in wealthy districts.

The Technology Immersion Project (TIP) authorized by SB 396 already is proving successful in participating districts. The Bryan Independent School District reports positive results on performance from the use of technology, with double-digit gains in student achievement on assessments. Waiting several more years for a full analysis of the TIP should not be necessary before extending technology resources to other districts in the state. Any information gathered from study and review of the TIP after it was completed could be acted on at a later date.

The bill would provide a strong incentive for school districts to convert to on-line testing by imposing a deadline of May 1, 2007, for TEA to provide online assessment materials and for school districts to administer the TAKS test online if practicable and appropriate. School districts would not be required to meet this deadline if such a system were not practicable and appropriate.

The bill would require TEA to develop or acquire ongoing, computer-adaptive, interactive assessment tools for each subject and grade level included in TAKS testing. The agency would have to make these materials

available to school districts at no cost. On-line testing would allow educators to test on a much broader curriculum and use testing methods beyond the standard multiple-choice test. Interactive on-line testing could give teachers immediate feedback, which would improve students' learning and reduce the criticism of "teaching to the test" by enabling educators to fine-tune their assessment of each child's progress and needs.

The bill would help embed technology into the state's educational structure by requiring TEA to review all state- and federally funded grant programs to determine the extent to which grant funds could be used to enhance or expand the use of technology in schools. This proactive approach would help ensure that more districts make the use of technology a priority in developing and carrying out grant-funded programs.

OPPONENTS
SAY:

Texas' current system of review, approval and selection of instructional materials has developed since enactment of the Gilmer-Aikin Act in 1949 to the present. An immediate shutdown of that system could create unintended consequences for students, schools, TEA, publishers, and the Legislature. In seeking to speed up change, the bill could throw away many positive elements of the current system.

Schools do not need to embrace technology for its own sake but should make informed decisions about the use of technology in a broader context. It would be a serious mistake to assume that the state's already inadequate education budget ought to be spent on laptop computers rather than decreasing class sizes, hiring qualified teachers, funding pre-kindergarten, and other priorities. Businesses have harnessed technology mainly to increase efficiency, but schools are not businesses, and efficiency should not necessarily be their highest priority.

CSHB 4 would not provide enough resources for school districts to cover the full array of technology expenses. Investments in technology would be wasted if a school district could not commit sufficient resources to cover the cost of maintenance, upkeep, replacement, training, and other elements that make up the "total cost of ownership" in a technology program. While a textbook is durable, and paper workbooks can be replaced from year to year, a laptop computer would require regular maintenance and oversight to ensure that it was being used appropriately. In many cases, such as the study of literature, textbooks and hard copy are superior to technology-based materials. School districts are not prepared to make the full-scale transition to technology-based instruction envisioned by the bill.

The bill would diminish Texas' influence on the instructional materials development process at many publishing companies. Without the advance commitment of funds and timelines for adoption, companies would not create project timelines to coincide with Texas. The more than 800 school districts with enrollments of fewer than 2,000 students would get little or no attention in the marketing and sales efforts if the state adoption cycle disappeared. Once each district was allowed to determine what it wanted, when it wanted, the larger school districts would receive the sales, marketing, and implementation attention, but the smaller districts would have difficulty selecting and securing instructional materials in a timely manner. Protections in current law designed specifically to ensure that small, rural districts receive the same priority from publishers as larger districts would be eroded.

Changing the SBOE's current review process to an ongoing review and approval process would diminish the authority of the SBOE as well as the content quality of the instructional materials. The bill would require SBOE to review materials quarterly, although school districts generally order instructional materials only once a year. The quarterly adoption timeline would put a strain on the SBOE and TEA staff and would benefit only publishers of instructional materials. The LBB estimates that TEA's staffing and other costs related to the quarterly adoption process would increase by about \$1.5 million per year.

Provisions allowing SBOE, by majority vote, to remove approved materials that the board determined no longer adequately covered essential knowledge and skills would open the door to board rejection of materials based on subjective criteria. The bill should require the SBOE to provide publishers with notice if their materials were removed from the approved list.

By substituting "instructional materials" for "textbooks" throughout the bill, CSHB 4 would subject content publishers to prohibitions, such as giving gifts to elected officials, but would apply no such prohibition on companies producing technology equipment. These companies should be subject to the same requirements and prohibitions as content providers. Otherwise, technology companies could unduly influence school board officials to favor technology over instructional content.

If state funds are allocated for instructional materials, schools should be required to spend those funds on SBOE-reviewed and approved materials,

regardless of what format the materials are in. All materials – print or electronic – should meet the same review and approval requirements. Removing the requirement that districts select only instructional material approved by the SBOE would eliminate the incentive for publishers to go through the approval process.

CSHB 4 should include requirements for categorical funding to ensure that school districts did not spend too much on hardware and too little on instructional content. If school districts did not provide sufficient content to give students opportunities to learn the material they were required to know for the TAKS test and other assessments, the state could be subject to legal action. Texas has made considerable investments and is a national leader in tying accountability standards to assessments and instructional materials. Without adequate controls, the quality of this system could be compromised.

Including the DIR in the process would help schools with purchasing issues, particularly bid requirements, but DIR has limited experience in the specialized area of instructional materials content specifications. Publishers would not want to make financial commitments of millions of dollars to produce instructional materials without assurance until the end of the process of being the winning bidder.

CSHB 4 should reduce proportionally the instructional materials allotment for 2005-06 to cover the \$378 million cost of textbooks from the 2002 proclamation, which covers instructional material included in the TAKS. These funds should be used to pay textbook publishers for materials, including technology-based materials, that the state already has committed to buying and that school districts are planning to receive in four months. Textbook publishers could be at risk for millions of dollars in textbooks that they developed and published in good faith.

Under the current system, the state pays freight charges for textbooks. The bill would not specify whether school districts would have to absorb freight costs and other indirect expenses of the textbook procurement process. Nothing in the bill would ensure that continuing contracts with textbook publishers would be retained. The state's existing commitment to publishers for math workbooks and other one-time use would be terminated, while districts would be authorized to enter into ongoing commitments for technology subscriptions.

The technology allotment should be based on enrollment rather than average daily attendance. Individual students require the same investment in technology whether or not they are in attendance on a particular day. Fast-growth districts would be at a particular advantage if funding were based on attendance rather than enrollment.

The technology grant program would take a part of the technology allotment funding promised to every school district as part of HB 2 and divert it to schools and districts that already had the resources to invest in technology. This would widen the "digital divide" instead of creating opportunities for schools and districts that did not have enough resources to invest in technology. School districts were promised a certain level of funding for HB 2, and this funding should not be changed significantly to finance the technology grant program.

CSHB 4 should be amended to examine the benefits of technology and determine the best return on our technology dollar. Before leaping full-scale into technology, the state should wait for the completion and study of the TIP project and other pilot programs. Any commitment to subscription-based funding should be delayed until at least next session, when the state would have experience with subscription funding for instructional materials in technology applications. Funding for technology applications was delayed last session due to budget constraints, so the state has not yet had any experience with paying for subscriptions over an extended period.

The bill would strongly encourage districts to move quickly to on-line testing when this may not be the best method for the state's current high-stakes accountability system. These summative assessments are designed to measure specific knowledge and to control for other variables, such as environment, test time, and other factors. These factors would be easier to control with the current paper-and-pencil system than with the on-line system envisioned by the bill. On-line testing would be costly, and the benefits would not justify the expense. The LBB estimates that online testing would cost school districts an additional \$11 million per year, which could be spent in other, more beneficial ways.

NOTES:

A proposed floor amendment would eliminate the technology grant program and distribute the full technology allotment to school districts. Districts would have to use the funds for purposes specified in the bill.

The committee substitute made the following substantive changes:

- required TEA to conduct an overall review of federally funded as well as state-funded grant programs to determine the extent to which funds could be used to enhance or expand the use of technology, and eliminated references to specific grant programs;
- eliminated references to formative diagnostic electronic testing and made computer-adaptive assessments available to school districts at no cost;
- replaced annual SBOE review of instructional materials with a quarterly review and approval process and added provisions outlining review and approval procedures;
- eliminated a requirement for TEA to establish a group for technology and implementation;
- established a technology grant program that would be financed by withholding part of each district's instructional materials and technology allotment and distributing grants of \$300 per enrolled student to districts and campuses that qualify for grants; and
- made all grades eligible for technology grants, rather than just 6-12.