

SUBJECT: Adoption, review, funding, and purchase of instructional materials

COMMITTEE: Public Education — favorable, without amendment

VOTE: 8 ayes — Eissler, Aycock, Guillen, Huberty, Shelton, T. Smith, Strama,
Weber

0 nays

3 absent — Hochberg, Allen, Dutton

SENATE VOTE: On final passage, June 3 — 31-0

WITNESSES: (*On similar bill, HB 6:*)

For — (*Registered, but did not testify:* Amy Beneski, Texas Association of School Administrators; Jennifer Bergland, Texas Computer Education Association; Julie Hancy, Texas Association of Community Schools; Don Rogers, Texas Rural Education Association; Julie Shields, Texas Association of School Boards; Maria Whitsett, Texas School Alliance)

Against — (*Registered, but did not testify:* Gwen Dunivent, Transport Workers Union of America; Bill Hammond, Texas Association of Business; Shannon Jones; Gilbert Zavala, Austin Chamber of Commerce)

On — Anita Givens, Texas Education Agency

BACKGROUND: The Texas Constitution requires that the State Board of Education (SBOE) set aside enough funds from the Available School Fund (ASF) to provide free textbooks for each student in the state's public education system. The Legislature appropriates the amount distributed to the ASF from the Permanent School Fund (PSF) for textbooks, the Technology Allotment, and other areas.

Instructional materials adoption and requisition. The SBOE adopts all instructional materials used in the classroom, including manuals for teachers and supplementary materials, such as workbooks for students. The Education Code directs the SBOE to adopt rules for the adoption, requisition, distribution, care, use, and disposal of textbooks. The SBOE

may set the maximum price for which a textbook may be purchased with state textbook funds.

The SBOE is charged with determining the cycle by which it periodically reviews textbooks and adopts new ones. Purchases may be postponed if content is still current. All reviews must be announced to the public at least two years in advance.

The Education Code requires the SBOE to review textbooks for the foundation curriculum— mathematics, social studies, science, and English and Language Arts—every six years. No more than one-sixth of the textbooks for a subject may be reviewed in the same adoption cycle. The SBOE may determine the adoption cycle for textbooks for the enrichment curriculum as appropriate.

The SBOE assigns each approved textbook, including open-source textbooks, to either the conforming or non-conforming list. The conforming list includes textbooks that cover all elements of the essential knowledge and skills in the student and teacher versions of the textbook. The non-conforming list includes textbooks with at least half, but not all, of the elements of the essential knowledge and skills in both versions of the textbook. Information must be provided to school districts on the essential knowledge and skills not covered by the non-conforming materials.

The SBOE requires publishers to provide complete descriptions of newly adopted instructional materials to all school districts and open-enrollment charter schools.

A school district's board of trustees must select materials for mathematics, science, social studies, English, language arts, and reading from either the conforming or non-confirming lists to receive state appropriations. A school district may purchase non-adopted textbooks for enrichment curriculum subjects, such as health, but state appropriations will cover only a portion of the cost. State textbook funds will pay up to the maximum per-student cost as set by the school board for textbooks chosen from the conforming list. The state will fund a portion of the price for textbooks from the non-conforming list, an amount equal to the percentage of the essential knowledge and skills addressed in the textbook.

SBOE rules allow shipments to be made to school districts throughout the summer. Districts may submit orders throughout the school year.

Technology Allotment. The Technology Allotment is used to distribute state funds to school districts to support use of technology in schools. It is distributed to school districts at a specific rate per student in average daily attendance. School districts may use the funds to buy electronic textbooks or technical equipment that contributes to learning and to train school personnel in their use.

Political contributions to SBOE campaigns. It is a criminal offense for a person engaged in manufacturing, shipping, selling, or advertising textbooks or otherwise connected with the textbook business to make or authorize a political contribution to or take part in the campaign of any person seeking election to or serving on the SBOE.

DIGEST:

SB 6 would repeal the Technology Allotment and the current system by which textbooks and instructional materials are purchased for school districts by establishing the Instructional Materials Allotment. The bill would replace references to “textbook” with “instructional material” throughout the Education Code. Instructional material would include a book, supplementary materials, computer software, magnetic media, DVD, CD-ROM, computer courseware, online services, open-source material, an electronic medium, open-source material, or a combination of these.

The bill also would move the economics course requirement to the foundation curriculum from the enrichment curriculum to allow it to fulfill the social studies component of the high school graduation requirements.

Instructional Materials Allotment. The commissioner of education would maintain an instructional materials account for each school district. The commissioner would transfer an allotment annually to each school district’s instructional materials account from the State Instructional Materials Fund, which would be funded from the annual distribution from the Permanent School Fund to the Available School Fund. The commissioner would determine the per-student allotment based on the amount of money in the State Instructional Materials Fund.

Permanent School Fund distribution. The SBOE would have to set aside 50 percent of the annual distribution from the Permanent School Fund to the Available School Fund to fund:

- the Instructional Materials Allotment;
- the purchase of special instructional materials for the education of blind and visually impaired students in public schools;
- the instructional materials adoption and review process;
- the purchase or licensing of open-source instructional material to the extent authorized by the general appropriations act; and
- expenses related to the purchase of instructional materials.

Beginning September 1, 2011, and ending September 1, 2013, each year the SBOE would set aside 40 percent of the annual distribution from the Permanent School Fund to the Available School Fund for the State Instructional Materials Fund. The set-aside calculation would exclude amounts distributed for fiscal 2009-10. This provision would expire September 1, 2013.

Per-student allotment amount. A school district's annual allotment entitlement would be determined by the number of students enrolled in the district during the preceding school year and the per student allotment amount determined by the commissioner. The commissioner could adjust the district's number of students if the commissioner determined another number would be more accurate. The school district could request an adjustment by May 31 of each school year if the district's enrollment were expected to increase or decrease. The commissioner's determination of school district enrollment would be final. The commissioner would have to determine a procedure for identifying high enrollment growth districts and adjust their allotment accordingly.

Use of the allotment. The allotment could be used to buy technological equipment; materials on the commissioner's list; and instructional (including open-source), bilingual, consumable (such as workbooks), and supplemental materials. School districts would have to purchase instructional materials that would help the district in meeting state student performance standards.

At the end of each year, the school district would have to certify to the commissioner that its allotment was used for permitted expenses.

School districts and open-enrollment charter schools would have to use the allotment to purchase a sufficient quantity of new instructional materials or technological equipment adopted by the SBOE. A school district or open-enrollment charter school would have to certify annually to the SBOE and the commissioner that the district provided each student with sufficient materials that together covered every essential knowledge and skills element.

To determine whether each student had instructional materials that covered all elements of the essential knowledge and skills, a school district or open-enrollment charter school could consider materials adopted by the SBOE or adopted or purchased by the commissioner of education, open source materials adopted by the SBOE or made available by other public schools, or instructional materials developed or purchased by the school district or charter school.

A school district with an unused account balance could carry over those funds into the next biennium.

Open-enrollment charter schools would receive an annual allotment in the same manner as a school district. A juvenile justice alternative education program (JJAEP) would receive an amount determined by the commissioner, and the commissioner's determination would be final.

The allotment could be used to pay for training certain educational personnel and to employ technical support staff for technological equipment.

Bilingual materials. The bill would transfer responsibility for buying bilingual materials from the SBOE to the district.

Online requisition. The commissioner would be required to maintain an online purchase request system for school districts to request materials to be purchased with the allotment.

Instructional materials adoption. SB 6 would not require the SBOE to review and adopt instructional materials for all grade levels in a single year. It would require the SBOE to prioritize materials for foundation curriculum subjects for which the essential knowledge and skills had been substantially revised, including career and technology courses, above those for enrichment curricula.

The bill would extend to eight years the time between reviews of materials for foundation curriculum subjects. No more than one-fourth of foundation curriculum instructional materials would be reviewed each biennium.

For the purposes of the current adoption cycle, the bill would consider the SBOE to have adopted instructional materials for English Language arts, English as a second language, and prekindergarten as included in Proclamation 2011.

The bill would decrease the months the SBOE would have before a new review and adoption cycle to notify the public.

A request for production from the SBOE would have to allow submission of open-source instructional materials. Publishers would have to submit materials in digital format upon request, except prekindergarten materials.

Instructional materials list. The SBOE no longer would assign materials to conforming or non-conforming lists. The SBOE would have to identify the percentage of essential knowledge and skills of the subject and grade level covered by each instructional material submitted for adoption, and the material would have to cover at least half of the essential knowledge and skills for the subject and relevant grade level. The list would be provided to school districts, and the board's determination of this percentage would be final.

Commissioner's list. The commissioner would adopt a list of electronic instructional materials and certain science materials for kindergarten through grade 5. After the commissioner placed a material on the list, the SBOE would have 90 days to review and comment, and the SBOE could require the commissioner to remove the material.

Instructional material ownership. Instructional materials bought by a school district or charter school would be the property of that district or charter school, including electronic material or technology equipment.

School districts or open-enrollment charter schools would determine how to dispose of discontinued instructional materials. They could sell materials upon their discontinuation by the SBOE or the commissioner, but the proceeds would have to be used to buy instructional materials. They could dispose of printed materials before their discontinuation if they determined the materials were not needed and would not be needed in the

future. A district or charter school would have to notify the commissioner when choosing to dispose of any material.

The bill would repeal the requirement that the SBOE adopt rules to make copies of discontinued textbooks, other than electronic textbooks, available for use in libraries, Texas Department of Criminal Justice facilities, or state agencies. It would repeal the requirement that the SBOE adopt rules to allow a school district or open enrollment charter school to donate discontinued textbooks, other than electronic textbooks, to a student, an adult education program, or a non-profit organization.

Other provisions. The SBOE would not set a maximum price for instructional materials. The bill no longer would require a school district to purchase a classroom set of SBOE-approved textbooks for each subject and grade level. The bill no longer would require TEA to maintain a data portal for online courses or instructional materials.

Materials for the blind and visually impaired. The bill would transfer authority to purchase special instructional materials for the blind and visually impaired from the SBOE to the commissioner.

Rulemaking and effective date. The bill would grant rulemaking authority to the commissioner of education to implement various provisions. The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect on the 91st day after the last day of the legislative session.

SUPPORTERS
SAY:

SB 6 would move the state from distributing textbooks and technological equipment to distributing money to school districts to purchase these items.

Preserve SBOE authority. The bill would preserve SBOE authority to review and adopt instructional materials. The state should move away from conforming and non-conforming lists and instead rely on a list of materials reviewed by the SBOE with identification of the percentage of essential knowledge and skills covered in each.

Flexibility to school districts. Requiring the SBOE to identify the percentage of essential knowledge and skills covered in each instructional

material would give school districts flexibility to choose from the approved lists or from other materials available to ensure that together the materials covered each of the essential knowledge and skills elements. Districts would have maximum flexibility to buy the type of instructional materials that suited each class of students.

The new allotment would allow school districts to level the playing field across student populations by providing access to technology and of-the-moment information for low-income students who might not otherwise have access to the material. Providing students with the ability to use technology would better prepare them for higher learning and the workforce. It also would allow teachers to teach students how to discern appropriateness of sources of information on the Internet.

Maintaining control of content. It is appropriate for the state to maintain control over the content used in classrooms. Technology already is being used in classrooms, either by individual students with smart phones or by school districts that can afford the equipment. The bill would allow the state to regulate the content of these materials to ensure they met the rigor and curriculum standards adopted by the SBOE.

Increase relevance. The bill would increase the relevance of instructional materials content because online and open-source materials can be updated more quickly and frequently, with less cost than updates to printed materials. The current system has allowed high schools to have extremely out-of-date materials, which hinders students' ability to learn. Journalism textbooks, for example, that do not mention the Internet and are more than 20 years old sit on the shelves, but with increased technology in the classroom, students could receive real-time updates from major new sources.

Teachers work hard to provide relevant lessons but, because of the way technology is funded in the state, they often do not have the right resources. Great teachers use a variety of instructional resources, and CSHB 6 would increase the resources available. The bill also would allow the allotment to be spent to train educators to use this technology to the benefit of students.

OPPONENTS
SAY:

While the bill would provide increased flexibility for school districts, the bill could hold school districts to the same per-student allotment for many years without adjustments for inflation. Other allotments for school

districts, such as the transportation allotment, have not been increased on a per-student basis since their inception. School districts could experience a decrease in instructional materials funding long term.

SB 6 should provide a mechanism for low property-wealth school districts to buy technological devices that other districts already have in order to increase equity.

NOTES:

The fiscal note indicates that the state would experience a net savings of about \$348 million for fiscal 2012-13.