

Regular Session, 2011

HOUSE BILL NO. 580

BY REPRESENTATIVE HOFFMANN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TEXTBOOKS/MATERIALS: Provides relative to textbooks and other instructional materials

1 AN ACT

2 To enact R.S. 17:8.3, 8.4, and 3996(B)(13) and to repeal R.S. 17:8 through 8.2, 351 through  
3 353, and 415.1, relative to textbooks and other instructional materials; to provide  
4 relative to procedures for recommendation and purchasing; to provide relative to  
5 contracts with publishers; to provide relative to electronic versions; to provide  
6 relative to funding; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 17:8.3, 8.4, and 3996(B)(13) are hereby enacted to read as follows:

9 §8.3. School books prescribed by board

10 A. The State Board of Elementary and Secondary Education shall prescribe  
11 through rules and regulations the recommendation, distribution, and use of free  
12 school books and other materials of instruction by the governing authority of each  
13 public elementary and secondary school, including special schools. Such school  
14 books and materials of instruction shall be supplied to the children of this state at the  
15 elementary and secondary levels without charge out of funds appropriated therefor  
16 by the legislature in accordance with the requirements of Article VIII, Section 13(A)  
17 of the Constitution of Louisiana.

18 B. The State Board of Elementary and Secondary Education shall require the  
19 governing authority of each public elementary and secondary school to adopt  
20 procedures permitting any public school student to have use, after regular school

1 hours during the week and on weekends, of any free school book. Any public school  
2 student using any school book pursuant to the provisions of this Subsection shall be  
3 responsible for such school book. These procedures shall not be applicable to basal  
4 readers and programs.

5 C. The State Board of Elementary and Secondary Education shall ensure that  
6 school books and materials of instruction accurately reflect the contributions and  
7 achievements of people of differing races and which promote an understanding of  
8 the history and values of the people of the United States and Louisiana, including the  
9 free enterprise system, private property, constitutional liberties, democratic values,  
10 and traditional standards of moral values.

11 D. The State Board of Elementary and Secondary Education shall require  
12 that all school books and other materials of instruction adhere to curriculum  
13 standards adopted by the board pursuant to R.S. 17:24.4(E).

14 E. The State Board of Elementary and Secondary Education shall encourage  
15 the governing authority of each public elementary and secondary school to maximize  
16 the availability and accessibility of electronic textbooks and instructional materials  
17 in any school under its jurisdiction. Each such governing authority may purchase  
18 electronic textbooks and other instructional materials, media, or content and their  
19 means of distribution or access as it deems necessary and appropriate to fulfill its  
20 educational mission and to address state curriculum standards and school and district  
21 accountability system requirements.

22 F. The State Board of Elementary and Secondary Education shall not restrict  
23 the amount or percentage of state or local funds a public school governing authority  
24 may expend for the purchase of printed or electronic textbooks, instructional  
25 materials, or other education-related media or content or their means of distribution  
26 or access whether or not they are on the state list of recommended textbooks and  
27 other instructional materials.

28 G. The State Board of Elementary and Secondary Education shall establish  
29 rules and procedures for supplying school books and other materials of instruction

1 for children participating in any home study program approved by the board when  
2 available. Such rules and procedures shall include but not be limited to a  
3 requirement that any school books and other materials of instruction provided  
4 pursuant to this Subsection shall be made available only to the child or children of  
5 the parent or legal guardian obtaining approval for a home study program. The  
6 board shall provide a copy of such rules and procedures to any parent or legal  
7 guardian applying for approval of a home study program.

8 H. The governing authority of each public elementary and secondary school  
9 that disburses school library books, textbooks, and other materials of instruction to  
10 nonpublic school students shall submit to the state superintendent of education such  
11 documentation as required to verify the administrative costs incurred by the  
12 governing authority in the disbursement of such books and instructional materials.  
13 The verified costs of administration incurred by each governing authority shall be  
14 paid by the state.

15 §8.4. Contracts with publishers; reviewing school books and materials of instruction

16 A. The State Board of Elementary and Secondary Education shall award  
17 contracts with publishers of school books on a competitive basis for a term to be  
18 determined by the board. Each contract shall be so made as to authorize the board  
19 to terminate it upon ninety-days notice. The procedure for examining books and  
20 awarding contracts shall be under the control of the board and in accordance with  
21 any applicable law. The board shall have authority to set and collect fees from  
22 publishers participating in state school book contracting procedures.

23 B. Each contract shall stipulate that the publisher shall automatically reduce  
24 the net cost of textbooks in the state when the net cost of the publisher for books  
25 covered by the contract are reduced anywhere in the United States, so that no edition  
26 of that textbook shall at any time be sold in this state at a higher net cost than that  
27 received for that book elsewhere in the United States.

28 C. Each contract with a publisher shall stipulate that the book or books  
29 covered by the contract to be sold in this state shall be identical with the official

1 samples filed with the board with respect to size, paper, binding, print, illustrations,  
2 subject matter, and all other particulars which may affect the value of said books;  
3 however, during the period of the contract, the board may approve revised editions  
4 of a textbook or service at the bid price, which will authorize a publisher to provide  
5 such revisions.

6 D. Each contract with a publisher shall stipulate that whenever five thousand  
7 or more copies of a textbook of a single title and edition are to be purchased by the  
8 state from a single publisher during a twelve-month period which shall be established  
9 by the board by rule, not less than eighty percent of the total number of the copies  
10 of such book purchased by the state shall be printed and bound by a printer licensed  
11 to do business and doing business within the state, provided that the publisher  
12 receives a timely bid made according to the publisher's bid-making requirements  
13 from such a printer and provided that the printer is able to print and bind such book  
14 in accordance with the manufacturer's specifications for state textbooks as  
15 promulgated by the state Department of Education and at a cost equal to or less than  
16 the unit cost per book for the same number of books made in an otherwise qualified  
17 bid by any out-of-state printer bidding on the same work. Whenever two or more  
18 printers in this state submit bids which would qualify all of them to print and bind  
19 textbooks pursuant to this Section and one such printer is a minority-owned business  
20 as defined in R.S. 39:1952(15), the minority-owned business shall be awarded not  
21 less than ten percent of the printing and binding required by this Section to be done  
22 in this state.

23 E. The State Board of Elementary and Secondary Education shall make  
24 every effort to increase the availability and accessibility of electronic textbooks and  
25 instructional materials in the state's public elementary and secondary schools and  
26 shall encourage all publishers to provide electronic versions of the products they  
27 offer, whether in addition to, or in lieu of, the printed version.

28 F. The state Department of Education shall be the depository in the state for  
29 books for the schools. The state superintendent of education may do all things

1        necessary and proper for the department to function as such depository, including but  
2        not limited to providing for the power to enter into contracts or agreements and to  
3        acquire property, through lease or purchase, in which the depository is to be located,  
4        and to determine the location or locations of the depository. The superintendent may  
5        require publishers to maintain a depository in the state or may contract, in  
6        accordance with the procedures for the letting of contracts set forth in applicable  
7        provisions of the Louisiana Procurement Code, particularly R.S. 39:1593, with any  
8        other public or private agency to act as the depository.

9                G. The state Department of Education shall require any depository with  
10        which the department does business to provide the department a written summary of  
11        all purchase orders for textbooks received by the depository from the department.  
12        The depository shall transmit such summary within three business days whenever the  
13        department requests it to do so, and the department shall make such a request upon  
14        the written request of any printer licensed to and actually doing business in  
15        Louisiana. Such a summary shall be a public record. The summary shall itemize the  
16        total number of copies of each book which is the subject of a purchase order, the unit  
17        price of each book, the commissions paid to or the discounts received by the  
18        depository, and the publisher of each book.

19                H. The books shall be distributed to the governing authority of each public  
20        elementary and secondary school from the depository on requisition of the state  
21        superintendent of education.

22                I.(1) The State Board of Elementary and Secondary Education shall establish  
23        a procedure enabling each governing authority of a public elementary or secondary  
24        school to order and receive textbooks. The procedure shall include but not be limited  
25        to permitting a public elementary or secondary school governing authority to  
26        contract with a textbook publisher and receive any applicable publisher's discount;  
27        however, any textbook purchased under the provisions of this Paragraph shall be  
28        purchased at the same price or a lower price than such textbook can be purchased  
29        from any source other than the publisher.

1           (2) The State Board of Elementary and Secondary Education shall adopt  
2           necessary rules and regulations in accordance with the Administrative Procedure Act  
3           to implement the provisions of this Subsection.

4           J. The State Board of Elementary and Secondary Education shall take such  
5           action as is necessary to assure that all school books and materials of instruction  
6           included in state publisher contracts are thoroughly screened, reviewed, and  
7           approved as to their alignment with content standards adopted by the board pursuant  
8           to R.S. 17:24.4(E).

9           K. The State Board of Elementary and Secondary Education shall take such  
10          action as is necessary to assure that any state committee or other group responsible  
11          for screening, reviewing, and evaluating any materials of instruction and computer  
12          and related technological equipment and supplies, other than the governing authority  
13          of a public elementary or secondary school, shall contain a membership not less than  
14          one-third of which are teachers. For the purposes of this Section, the term "teacher"  
15          shall mean any person employed by a city or parish school board who, as a condition  
16          of employment, is required to hold a valid teaching certificate issued by the state  
17          Department of Education. Not less than one-third of such committee or group shall  
18          be parents who have a child currently attending public school, or had a child attend  
19          public school in the past ten years, and who are not public educators. Meetings of  
20          such committee or group shall be open to the public, and any member of the public  
21          may attend and file written or make oral objections to any textbook under  
22          consideration. The board shall adopt a form whereby any member of the public may  
23          file written objections to any textbook being considered for inclusion in a contract.

24          L. The State Board of Elementary and Secondary Education shall maintain  
25          a copy of all recommended textbooks and instructional materials. Such textbooks  
26          and materials shall be maintained at the state Department of Education for a period  
27          of one year following their initial recommendation. Such textbooks and materials  
28          shall be available for public inspection online or during regular office hours.

1 M.(1) The state Department of Education shall ensure that all textbooks  
2 being considered for state recommendation are placed, prior to state recommendation  
3 and for a period of at least ninety days, in two cooperating public library branches  
4 in Baton Rouge, in three cooperating public library branches in New Orleans to be  
5 determined by the New Orleans Public Library system, and in a cooperating public  
6 library in Shreveport, Monroe, Alexandria, Lake Charles, Lafayette, Houma,  
7 Covington, Hammond, Metairie, Marrero, Bossier City, Natchitoches, Ruston,  
8 DeRidder, New Iberia, Opelousas, Bogalusa, and any other city designated by the  
9 superintendent of elementary and secondary education. Any interested person may  
10 inspect and review the books during the period when they are on display. Four  
11 samples of each such textbook shall be made available for such inspection and  
12 review at each such library. Three such samples shall be made available to be  
13 checked out from each such library by any interested person according to rules and  
14 regulations that the state Department of Education shall establish for such purpose.  
15 The locations and dates of availability of such textbooks shall be posted by the state  
16 Department of Education on its website in the form of a press release which shall  
17 remain posted online for the duration of the review period.

18 (2) The provisions of this Subsection shall be applicable only to such a  
19 textbook for which an electronic copy is not available online for inspection and  
20 review.

21 \* \* \*

22 §3996. Charter schools; exemptions

23 \* \* \*

24 B. Notwithstanding any state law, rule, or regulation to the contrary and  
25 except as may be otherwise specifically provided for in an approved charter, a  
26 charter school established and operated in accordance with the provisions of this  
27 Chapter and its approved charter and the school's officers and employees shall be  
28 exempt from all statutory mandates or other statutory requirements that are

1 applicable to public schools and to public school officers and employees except for  
2 the following laws otherwise applicable to public schools with the same grades:

3 \* \* \*

4 (13) Textbooks and other instructional materials, R.S. 17:8.3 and 8.4.

5 \* \* \*

6 Section 2. R.S. 17:8 through 8.2, 351 through 353, and 415.1 are hereby repealed  
7 in their entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Hoffmann

HB No. 580

**Abstract:** Provides relative to textbooks and other instructional materials for elementary and secondary schools; shifts responsibility for selecting textbooks from BESE to the local school board or other governing authority. Authorizes BESE to recommend textbooks.

Proposed law makes changes to terminology throughout present law to refer to the governing authority of a public elementary or secondary school rather than a city, parish, or other local public school board.

BESE's general role in the textbook selection and distribution process

Present law requires the State Board of Elementary and Secondary Education (BESE) to prescribe and adopt and exercise control and supervision over the distribution and use of free school books and other materials of instruction for use in elementary and secondary schools and special schools. Proposed law instead requires BESE to prescribe through rules and regulations the recommendation, distribution, and use of such books and materials. Further requires BESE to require that all such books and materials adhere to curriculum standards adopted by BESE (also known as grade-level expectations or GLEs).

Funding of textbooks and other instructional materials

Present law prohibits BESE from restricting the amount or percentage of state or local funds a board may expend for electronic versions of textbooks and materials. Proposed law broadens the application of this prohibition to provide that there shall be no such restriction with respect to the purchase of electronic or printed textbooks or instructional materials, regardless of whether they are on the state list of recommended textbooks and materials.

Review and inspection of textbooks

Present law requires that textbooks and materials be made available for public inspection at the state Dept. of Education during regular office hours. Proposed law adds as an alternative that they be made available for inspection online.

Present law provides for textbook review procedures, including citizen participation, the composition of textbook review committees (not less than 1/3 of membership shall be



teachers, and not less than 1/3 of membership shall be parents who are not public educators), and the placement of proposed textbooks in various public library branches throughout the state. Proposed law retains present law but provides that copies are only required to be placed throughout the state when electronic versions are not available online. Relative to the textbook review committee, proposed law requires that parents have a child in public school or have had a child in public school in the past 10 years.

#### Miscellaneous provisions

##### Present law:

- (1) Requires BESE to establish rules and procedures for supplying school books and other materials of instruction for children participating in approved home study programs.
- (2) Provides relative to contracts with publishers for school books and for the state Dept. of Education's service as the state depository for school books.
- (3) Encourages school boards to maximize the availability and accessibility of electronic versions of textbooks and other instructional materials and authorizes a school board to purchase them as it deems necessary and appropriate.
- (4) Requires public school boards that disburse school library books, textbooks, and other instructional materials to nonpublic school students to submit to the state superintendent of education documentation to verify the administrative costs incurred and provides that such verified costs shall be paid by the state.

Proposed law retains present law.

##### Present law:

- (1) Provides relative to the disposition of school books no longer in use, including provisions dealing with their sale, donation, and disposal.
- (2) Requires BESE to prescribe and adopt and exercise supervision and control over the distribution and use of school books and other learning materials, supplies, and equipment for postsecondary and vocational-technical schools and programs.

Proposed law deletes present law.

(Adds R.S. 17:8.3, 8.4, and 3996(B)(13); Repeals R.S. 17:8-8.2, 351-353, and 415.1)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Education to the original bill.

1. Specifies that the prohibition against BESE's restriction of the amount or percentage of funds that a public school governing authority may expend on textbooks or instructional materials shall be applicable whether or not they are on the state list of recommended textbooks or other instructional materials.
2. Deletes proposed law provision authorizing BESE to disapprove of the use of textbooks not on the state list of recommended textbooks.
3. Reinstates present law deleted in the original bill that provides relative to the following:

- (a) The composition of committees or groups responsible for screening, reviewing, and evaluating textbooks and instructional materials.
- (b) The required placement of copies of textbooks in various library branches throughout the state. (Proposed law further provides that such placement shall not be required if electronic copies are available for online inspection and review).
- (c) Contracts with publishers, including the requirement that the state Dept. of Education encourage publishers to provide electronic versions of products.
- (d) The state Dept. of Education's service as the state depository for school books.

House Floor Amendments to the engrossed bill.

1. Specifies, relative to the composition of textbook review committees, that parents serving on such committees, in addition to not being public educators, shall have a child in public school either currently or within the past 10 years.