

Lt. Gov. Bill Ratliff

Houston Chronicle, July 13, 2008

"The State Board of Education was just in chaos because there were members of the board trying to allow the textbook manufacturers to design their books for a national audience, then you had the ultraconservative wing of the board that was dictating what the social agenda should or shouldn't be in the books. It turned into a food fight. I told them at the time, 'You're embarrassing the state of Texas.'"

New York Times

"Texas Two-Step," January 26, 2009

"The lesson we draw from these shenanigans is that scientifically illiterate boards of education should leave the curriculum to educators and scientists who know what constitutes a sound education."

San Antonio Express-News

"SBOE actions raise alarming concerns," May 30, 2008

"The latest shenanigans by the State Board of Education over the adoption of the English and reading curriculum standards make a good argument for going back to an appointed board. It is difficult to place trust in a group of elected officials that cuts and pastes changes in a 100-page document at the last minute, and then expects everyone to be on board with it before even having an opportunity to read the modifications... That is no way to run a public education system."

El Paso Times

"Cheers & Jeers," March 28, 2008

"Tossing a bone -- The Texas State Board of Education has agreed, under tremendous pressure, to take Hispanic concerns and expertise under advisement when adopting new English and reading standards. Of course, that should have been done years ago when the process began. And now, one wonders at the timing, seeing that the board will take a final vote on the standards in May. That hardly gives enough time for new and necessary input to be integrated into the standards. Regrettably, it appears the board is just trying to pacify the dissenters without giving them a real voice. That could hurt a whole lot of Texas public- school students."

Waco Tribune-Herald

"State school board's creeping creationism," June 11, 2008

"The central problem is that those who wish to attach qualifications to evolution aren't really driven by science but by their faith. 'If the creationist view prevails in Texas,' says the Times editorial, 'students interested in learning how science really works and what scientists really understand about life will first have to overcome the handicap of their own education.' Texas, the nation is watching."

Austin American-Statesman

"Put Texas education board under a microscope," April 1, 2009

"The result is there for anyone to see. Chairman Don McLeroy, Dunbar and others have turned the education board into a national joke. But when it comes to teaching Texas children, what they have done is not funny."



T E X A S
F R E E D O M
N E T W O R K

CASE STUDIES: Choosing Textbooks in Florida and Tennessee

Like Texas, Florida and Tennessee approve lists of textbooks from which local school districts may adopt for their classrooms. Curriculum and textbook adoptions in Florida and Tennessee differ from Texas in at least two key ways, however. First, the final votes are taken by appointed State Boards of Education in Florida and Tennessee but by an elected state board in Texas. Second, the curriculum and textbook adoption processes in both states are outlined in statute, not by rules subject to manipulation by the state board.

FLORIDA

Curriculum

The education commissioner and staff write and revise curriculum standards in various stages through consultation with educators, curriculum and content-area specialists, college and university professors, and leaders in business and industry. The commissioner submits proposed standards and expert evaluations of those standards to the governor, Senate president and House speaker at least 21 days before the appointed State Board of Education considers adoption of those standards.

Textbooks

- The education commissioner appoints subject-specific **State Instructional Materials Committees** (SIMC) from nominees suggested by school districts, professional and education associations, and civic organizations.
- Each SIMC reviews proposed textbooks to ensure that they conform to curriculum standards and other requirements. The committees then recommend to the commissioner those textbooks that should be adopted.
- The commissioner may accept the SIMC recommendations or remove some textbooks, but he or she may not add textbooks that the committees did not recommend.

TENNESSEE

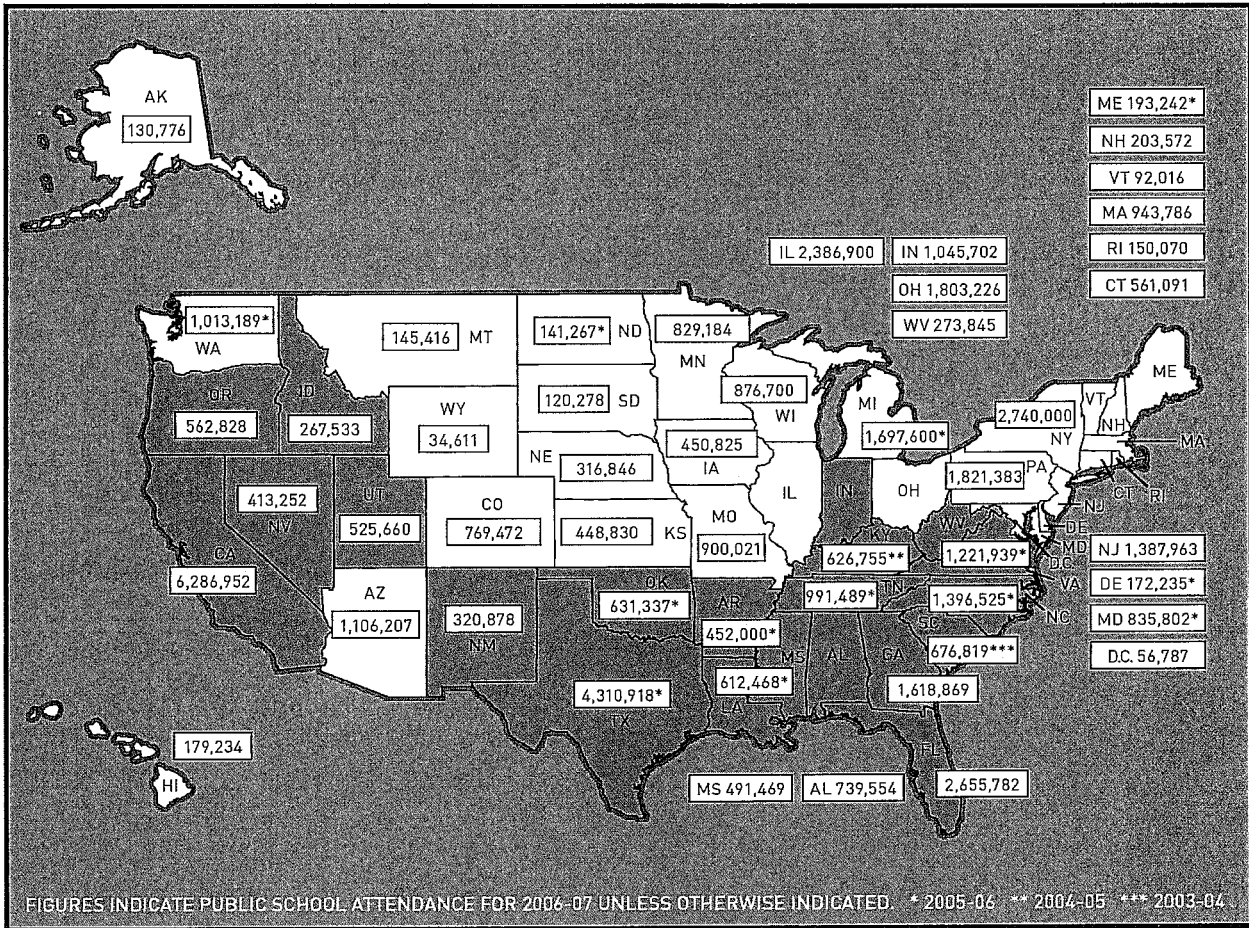
Curriculum

- Committees of educators and specialists convened by the education commissioner write curriculum standards. The appointed State Board of Education receives the proposed standards and then posts them for public written comment before voting on final adoption.

Textbooks

- A 10-member **State Textbook Commission** recommends an official list of textbooks. The commission includes the education commissioner and nine other members appointed by the governor: six educators (including a principal, teachers and school supervisors) and three non-educators, one from each of the eastern, central and western regions of the state.
- The Textbook Commission may appoint an advisory panel of expert teachers by subject and grade. Panelists make individual recommendations.
- The commission recommends textbooks in each subject and grade.
- The State Board of Education receives the recommendations and posts them for public written comment before voting on final adoption.

Map 2: How States Choose Textbooks



- Textbook adoption states (including Grades K-8 in California)
- No statewide textbook adoption process (including Grades 9-12 in California)

California and Texas have, by far, the largest public school enrollments. As a result, publishers often create textbooks specifically for those states and then sell the same or minimally revised books in smaller states around the country. That has been gradually changing, however, as new technology allows publishers to create textbooks for specific smaller states at less expense. Texas and California are also two of 21 states with a centralized process for adopting textbooks. In general, an adoption state creates procedures for reviewing and approving all textbooks submitted for sale to public schools in that state. Local schools then purchase textbooks from the state-approved list. Textbook publishers call other states "open territory" or "open market." Such states do not create statewide "approved" lists. Textbook adoption decisions are made almost entirely at the local level.

Table 2: State Boards of Education: How Members Are Chosen by State

| State | Appointed | Combination of appointed and elected members | Partisan elections | Nonpartisan elections |
|----------------|-----------|--|--------------------|-----------------------|
| Alabama | | | ✓ | |
| Alaska | ✓ | | | |
| Arizona | ✓ | | | |
| Arkansas | ✓ | | | |
| California | ✓ | | | |
| Colorado | | | ✓ | |
| Connecticut | ✓ | | | |
| Delaware | ✓ | | | |
| DC | | ✓ | | ✓ |
| Florida | ✓ | | | |
| Georgia | ✓ | | | |
| Hawaii | | | | ✓ |
| Idaho | ✓ | | | |
| Illinois | ✓ | | | |
| Indiana | ✓ | | | |
| Iowa | ✓ | | | |
| Kansas | | | ✓ | |
| Kentucky | ✓ | | | |
| Louisiana | | ✓ | ✓ | |
| Maine | ✓ | | | |
| Maryland | ✓ | | | |
| Massachusetts | ✓ | | | |
| Michigan | | | ✓ | |
| Minnesota* | | | | |
| Mississippi | ✓ | | | |
| Missouri | ✓ | | | |
| Montana | ✓ | | | |
| Nebraska | | | | ✓ |
| Nevada | | | | ✓ |
| New Hampshire | ✓ | | | |
| New Jersey | ✓ | | | |
| New Mexico | | | ✓ | |
| New York | ✓ | | | |
| North Carolina | ✓ | | | |
| North Dakota | ✓ | | | |
| Ohio | | ✓ | ✓ | |
| Oklahoma | ✓ | | | |
| Oregon | ✓ | | | |
| Pennsylvania | | ✓ | ✓ | |
| Rhode Island | | ✓ | ✓ | |
| South Carolina | ✓ | | | |
| South Dakota | ✓ | | | |
| Tennessee | ✓ | | | |
| Texas | | | ✓ | |
| Utah | | | | ✓ |
| Vermont | ✓ | | | |
| Virginia | ✓ | | | |
| Washington* | | ✓ | | ✓* |
| West Virginia | ✓ | | | |
| Wisconsin* | | | | |
| Wyoming | ✓ | | | |

* Minnesota and Wisconsin do not have state boards of education. Washington voters elect a nonpartisan superintendent of public instruction to their state board.



HOUSE OF REPRESENTATIVES

STATE REPRESENTATIVE ROB EISSLER
CHAIR, HOUSE COMMITTEE ON PUBLIC EDUCATION

STATE REPRESENTATIVE SCOTT HOCHBERG
MEMBER, HOUSE COMMITTEE ON PUBLIC EDUCATION

STATE REPRESENTATIVE DIANE PATRICK
MEMBER, HOUSE COMMITTEE ON PUBLIC EDUCATION

May 16, 2008

Ms. Cristina De La Fuente-Valdez
Director, Policy Coordination
Texas Education Agency
1701 North Congress Avenue
Austin, TX 78701

Re: Proposed Rules 19 TAC Section 74.36

Dear Ms. De La Fuente-Valdez:

We urge the State Board of Education to reject the vague TEKS that have been proposed for the elective courses on the Hebrew Scriptures and New Testament under HB 1287, and to develop the rigorous curriculum that this important area of study merits.

We are the authors of the ten amendments that were adopted unanimously by the House Public Education Committee that significantly changed the direction of the bill, and we speak authoritatively regarding the intent of the legislation as amended. The Committee fully intended for the Board to adopt detailed, content-specific curricula for courses taught under the authority of this bill. The proposed rule unequivocally does not meet the intent of the legislation as passed, nor does it meet the long-standing practice of the Board to establish content-specific curricula for elective courses. Further, without specific TEKS, there is no way a school district can have confidence in the Constitutionality of any course the district would offer under this legislation, hence defeating another major purpose of the bill.

One main purpose of the legislation was to provide for a well-defined curriculum.

A fundamental premise of the series of amendments passed unanimously by the House Committee on Public Education, and ratified by the full Legislature, was that courses adopted under this legislation meet the same rigorous curriculum standards that we trust the Board to establish for other regularly taught courses in the elective curriculum. We clearly expected the Board to apply at least the same effort and scrutiny toward this subject area as it does toward other elective courses in order to create a curriculum specific enough to establish textbook proclamations and to develop standardized training for teachers. The proposed standards do not

meet that expectation.

Our expectations were clearly stated during the debate on the amendments in committee, and echoed by Chairman Eissler in his "Explanation of Committee Amendments" document which he distributed to House members before the floor vote on the bill. (See attached document.)

"The Bible course would be an elective course – an enrichment course – that would need to meet the *same criteria* as all other courses offered in our public schools.... [The amendments] ensure that *school districts will have curriculum standards to follow*.... [Members of the House] can feel secure that the proposed Bible course will be taught with the *same respect and to standards given to other courses* taught in our public schools." [emphasis added]

This expectation was not arbitrary. Over several days of public testimony, it became clear to the committee that to treat the New Testament, the Hebrew Scriptures and other religious literature with appropriate respect, courses on this material should not be ad hoc or subject to the whims of textbook publishers any more than we would allow Algebra II or U.S. History to be treated this way. The Board, more than perhaps any other group, knows the challenges of assuring that accurate, scholarly material reaches our students through course curricula and instructional materials. The Committee was united in asserting that students deserve nothing less from a course in this curriculum.

To further assure the quality of the course, we adopted amendments specifying that teachers of these courses be certified in language arts, social studies or history with, where practical, a minor in religion or biblical studies. We required the development of teacher training materials, based on similar requirements for materials for math teachers, and required that teachers successfully complete this training before teaching these courses.

We also removed language from the original bill that prohibited the adoption of a textbook for the course, and were assured by legal counsel that by doing so, textbooks would be adopted through the proclamation process under Section 31.022, Education Code, without the need to specifically direct the Board to do so in this bill.

We were aware that development of a curriculum and adoption of materials would take time and hard work by the Board and the Agency. So, after discussion of the tasks required by the bill, we specifically amended the bill to delay implementation of this curriculum until the 2009-2010 school year, instead of the immediate implementation in the original bill, to allow time for this work to occur.

Simply pasting the bill's language concerning the purpose of the course and religious neutrality onto a curriculum designed for any independent study course in English or social studies, as the Board has proposed, is hardly the process the Committee or a majority of the Legislature envisioned. None of this would have been necessary if we were simply intending to ratify the Board's previous adoption of independent study standards for courses in religious literature. No bill was needed to do that. Instead, the committee spent more time deliberating on this bill than on any other, meeting three different times to take testimony and hold discussions. It was our sincere belief that we were bringing forward a bill that would make Texas a shining example of

how to teach about religious literature in a respectful, scholarly and secular manner.

The Legislature honored the efforts of our committee by maintaining our language despite an attempt to return the bill to its original form. We urge the Board to continue this process.

The Legislature expects the Board to adopt specific curriculum for elective courses, and the Board has consistently done so, until now.

By failing to adopt a specific content-related curriculum for courses on religious literature, the Board would set a precedent that contradicts the broader state policy of establishing detailed curriculum standards for elective courses.

The Legislature seriously considered eliminating curriculum standards for courses that were not linked to state assessments when it rewrote the Education Code in 1995. It deliberately rejected that proposal, after considering that school districts would likely not have the resources and expertise to individually construct and evaluate curricula for the dozens of non-core courses that a district may offer. Even for large or wealthy districts with sufficient resources, such work would be duplicative and could be carried out much more efficiently at the state level. The need for consistency in curricula for a mobile student population was also offered as a reason to maintain state curriculum standards.

Since that time, the Board has maintained and expanded curricula for the widest range of courses, in considerable detail as to course content.

For example, the course in “Aerobic Activities” in the high school physical education curriculum contains five areas of knowledge and skills specifically related to this course, which, in turn, include 22 specific items that a student is expected to accomplish. The level of detail is substantial, including requiring the student to “describe equipment and practices that decrease the likelihood of injury such as proper footwear.” (See Texas Administrative Code, Title 19, Part 2, Rule 116.54(c)(4)(D).)

Or, take the state curriculum for the vocational course on Fruit, Nut and Vegetable Production. Again, there are five areas of knowledge and skills, with 21 specific items for students to accomplish. The student is expected to “prepare mulches and compost,” “propagate fruit, nut, and vegetable crops,” “market fruit, nut, and vegetable crops”, and in fact specifically do just about everything pertaining to these crops. (See Texas Administrative Code, Title 19, Part 2, Rule 119.54(c).)

The purpose of discussing the curricula for other courses is not to criticize the Board for its attention to detail. The legislative history implies that this is exactly what the Legislature asked the Board to do. Rather, it is to contrast these TEKS with the complete lack of such relevant specifics in the proposed curriculum for religious literature courses.

Not a *single one* of the proposed knowledge and skills for religious literature courses even mentions the Hebrew Scriptures, the New Testament, or any religious writings! Instead, students are required to “read widely to establish a specific area of interest for further study”, “use text

organizers such as overviews, headings, and graphic features to locate and categorize information”, and “use standard grammar, spelling, sentence structure and punctuation”. All of these are legitimate goals, but obviously not designed for this course.

Extra attention to curriculum is required so districts can be less fearful of legal challenges.

Rather than abandoning the practice of determining curriculum, the Board should pay *exceptionally careful* attention to the curriculum for this course.

A district can offer almost any other course in the curriculum without the fear of lawsuits. It is likely there has never been a lawsuit over the content of the course on Fruit, Nut and Vegetable Production. But in discussing this legislation, both the bill's author and the Committee agreed on the need to give school districts confidence that they can offer the courses on religious literature with minimum concern about lawsuits over potential First Amendment violations. The Committee chose to provide this confidence through a well-researched curriculum created through a scholarly process with public input.

At the request of the bill's author, Rep. Hochberg added an amendment to require the unusual step of having the Attorney General review any curricula for possible First Amendment issues before the curricula could be adopted by the Board. The intent of this amendment was to give the Attorney General the opportunity to prevent potential First Amendment battles rather than having to react to challenges after their filing.

The TEKS the Board has proposed leaves each district on its own to establish a curriculum for any course it chooses to offer under this legislation. Unless each proposed district curriculum is submitted to the Attorney General for prior review (which is clearly not anticipated by this bill), a district can have no comfort that the State can or will defend the district if a First Amendment suit is filed. There was substantial discussion that without that level of comfort, few districts will choose to offer such courses.

The existence of vendors selling Bible curricula in the marketplace does not justify the adoption of vague curriculum standards.

Some have argued that content-specific curriculum standards are unnecessary for this subject area because there are curricula available in the marketplace for districts to purchase. That argument must be rejected by the Board.

There are curricula available for a wide range of subject areas. Yet the Board, with authority from the Legislature, develops its own curriculum standards for each course it approves.

Certainly, the Board would not think of simply leaving science or math or reading curricula open to whatever the market provides. Instead, there is a lengthy process of curriculum development and review for every course in each of these subjects. Textbooks are then designed to meet the requirements that the Board establishes.

Texas has steadfastly held to this process despite its cost and the challenges it presents, because

we believe it is important that what students are taught be accurate, well-planned, and subject to public review. In the absence of standards, curriculum vendors and textbook publishers are exempt from such requirements.

The curriculum proposed by the Board provides little guidance for instruction and no means to assess completeness of materials. The course would indeed be subject to the whims of publishers. The Board has fought far too many battles over content to ignore its importance in such a significant and sensitive area as religious literature.

The Board should reject the proposed vague standards and begin a process to build a well-defined course.

The Legislature has given the Board an admittedly difficult task. The Board should embrace the challenge and create a course worthy of the important and complex subject matter to be taught. We will all be proud of the result.

Thank you for your consideration.