

As Engrossed: 1/24/95 3/9/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**

A Bill

ACT 605 OF 1995
SENATE BILL 109

4 **By: Senators Hardin, Todd and Malone**

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For An Act To Be Entitled

8 "AN ACT TO AMEND TITLE 6, CHAPTER 21, SUBCHAPTER 4 OF THE
9 ARKANSAS CODE TO PROVIDE LOCAL SCHOOL DISTRICTS
10 FLEXIBILITY IN PURCHASING TEXTBOOKS AND OTHER
11 INSTRUCTIONAL MATERIALS; TO REPEAL ARK. CODE. § 6-16-202;
12 AND FOR OTHER PURPOSES."

13

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Subtitle

15 "TO PROVIDE LOCAL SCHOOL DISTRICTS
16 FLEXIBILITY IN PURCHASING TEXTBOOKS AND
17 OTHER INSTRUCTIONAL MATERIALS."

18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20

21 SECTION 1. Arkansas Code Annotated § 6-21-402 is hereby amended to read
22 as follows:

23 "6-21-402. Definitions.

24 (a) As used in this subchapter, unless the context otherwise requires,
25 instructional materials include traditional books and trade books in printed
26 and bound form; activity-oriented programs that may include manipulatives,
27 hand-held calculators, or other hands-on materials; and technology-based
28 materials that require the use of electronic equipment in order to be used in
29 the learning process.

30 (b) Technology-based materials do not include the equipment required to
31 make use of these materials."

32

33 SECTION 2. Arkansas Code Annotated § 6-21-403 is hereby amended to read
34 as follows:

35 "6-21-403. Requirements generally.

36 (a) Public school districts shall provide textbooks and other

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1 instructional materials for all pupils attending the public schools of this
2 state in grades kindergarten through twelve (K-12), inclusive, in all subjects
3 taught in those grades, without cost to the pupils.

4 (b) School districts may select their own textbooks or instructional
5 materials, or districts may select from the recommended State-approved list."

6 (c) *Any materials purchased with state funds shall be consistent with*
7 *the curriculum and educational goals established by the State Board of*
8 *Education.*

9

10 SECTION 3. Arkansas Code Annotated § 6-21-404 is hereby amended to read
11 as follows:

12 "6-21-404. Duties of State Board of Education generally.

13 (a) The State Board of Education is authorized and empowered to:

14 (1) Make rules and regulations to implement this subchapter and
15 provide for a statewide textbook selection committee;

16 (2) Require reports from school districts on the use and
17 distribution of these items; and

18 (3) Do whatever else may be necessary for the general welfare of
19 the public school textbook and instructional materials system in order to
20 acquire such items at the lowest possible cost.

21 (b) The powers enumerated in this section are cumulative and not
22 restrictive.

23 (c) The State Board of Education shall have power to include any
24 additional regulations in the bid and contract form that the State Board of
25 Education deems best for the administration of this subchapter, and any
26 regulations included in the bid and contract forms and accepted by the
27 publisher shall be construed as a part of this subchapter.

28 (d) Publishers shall be required to comply with the additional
29 regulations as if they were included in this subchapter."

30

31 SECTION 4. Arkansas Code Annotated § 6-21-405 is hereby amended to read
32 as follows:

33 "6-21-405. Determination of recommended instructional materials.

34 (a) By March 15 of each year, the Department of Education shall prepare
35 and distribute to school districts a recommended list of books, series of

1 books, and other instructional materials for all subjects required by the
2 Arkansas Standards for Accreditation.

3 (b) School districts may elect to purchase instructional materials from
4 the State-recommended list, or districts may select other instructional
5 materials.

6 (c) If a school district selects other instructional material not
7 recommended by the State, the district shall certify to the department by June
8 of each year which instructional materials the district wishes to purchase by
9 state contract from the State-recommended list."

10

11 SECTION 5. Arkansas Code Annotated § 6-21-406 is hereby amended to read
12 as follows:

13 "6-21-406. Conditions for offering textbooks for adoption, sale or
14 exchange.

15 Before any person, company, or corporation shall offer any school
16 textbooks or other instructional materials used in grades kindergarten through
17 twelve (K-12), inclusive, for adoption, sale, or exchange in the state of
18 Arkansas, the person, company, or corporation shall comply with the following
19 conditions:

20 (1) (A) The person, company, or corporation shall file a bid and
21 contract form in the Office of the Director of General Education or the
22 Director of Vocational and Technical Education showing the prices at which the
23 publisher will agree to sell to the State of Arkansas during the contract
24 period.

25 (B) When the State Board of Education accepts any or all of the
26 textbooks or other instructional materials in the bid and contract form and so
27 certifies in the form, the bid and contract form shall become an official
28 contract.

29 (C) The State Board of Education is authorized to permit
30 publishers to bid current wholesale prices, or the board may require
31 publishers to bid lowest existing contract prices at which the textbooks or
32 other instructional materials are being sold elsewhere in the country.

33 (D) The State Board of Education shall certify in the call for
34 bids whether it wants current wholesale prices or lowest contract prices.

35 (E) In the bid and contract form, the publisher shall certify the

1 date on which the current wholesale prices were established and submit a list
2 of all existing adoption bids showing such items as may be requested by the
3 State Board of Education on an official form furnished by the State Board of
4 Education.

5 (F) At the end of each fiscal year of the contract, the publisher
6 shall submit a certified list of all state contracts made during the fiscal
7 year just closed on all books or other instructional materials for which the
8 publisher has a contract in this state.

9 (G) The publisher shall automatically reduce prices in Arkansas
10 whenever a contract is made at a lower price in another state after the date
11 of contract in Arkansas.

12 (H) If any publisher makes a contract on a special or state
13 edition in another state after the date of contract in Arkansas, the State
14 Board of Education is authorized to require the publisher to supply the
15 special or state edition to the schools of Arkansas at the contract price in
16 other states.

17 (I) The State Board of Education is authorized to require a
18 publisher to bid an exchange price on all basal or supplementary textbooks
19 bids, and all the price regulations in this subchapter applying to regular
20 contracts shall also apply to exchange prices;

21 (2) (A) The person, company, or corporation shall deposit a copy of each
22 textbook and other instructional material in printed or manuscript form in the
23 office of the Director of General Education.

24 (B) *All publishers doing business in the state of Arkansas shall*
25 *maintain one (1) or more book depositories at the publisher's expense in*
26 *Arkansas.*

27 (C) All items offered for sale in Arkansas pursuant to this
28 subchapter shall be equal in quality to those deposited in the office of the
29 Director of General Education and shall meet the minimum standards and
30 specifications set forth by the State Board of Education."

31

32 SECTION 6. Arkansas Code Annotated § 6-21-407 is hereby amended to read
33 as follows:

34 "6-21-407. Contracts with publishers.

35 (a) The State Board of Education shall make and execute contracts with

1 all publishers whose books, series of books, or instructional materials have
2 been recommended by the State.

3 (b) (1) (A) The State Board of Education shall determine the contract
4 period, provided that no contract period shall be for less than three (3)
5 years nor more than five (5) years for courses subject to rapid knowledge-base
6 changes.

7 (B) For courses determined by the State Board of Education
8 to be free of rapid knowledge-base changes, the contract period may be for a
9 maximum of ten (10) years.

10 (2) Contract periods for paperback books, novels, plays, and
11 other forms of literature in a softbound cover that are part of a basal
12 textbook program may be from one (1) to five (5) years.

13 (c) If during the first two (2) years of any contract, the consumer
14 price index has increased by twelve percent (12%) or more, the State Board of
15 Education is authorized to renegotiate with the contract holder the prices
16 contained in the contract. The State Board of Education may grant a price
17 increase in the last three (3) years of the contract, provided the publisher
18 certifies that the price is no higher than the lowest contract prices the
19 product is currently bid in any other state.

20 (d) The State Board of Education is authorized to renew or extend
21 contracts for no less than one (1) year nor more than two (2) years. This
22 provision shall be made a part of the publisher's contract, and the State
23 Board of Education may exercise the provision by notifying the publisher no
24 less than one (1) year prior to the expiration of the original contract."

25

26 SECTION 7. Arkansas Code Annotated § 6-21-408 is hereby amended to read
27 as follows:

28 "6-21-408. Exchange regulations.

29 (a) The State Board of Education shall make and enforce the necessary
30 exchange regulations that will guarantee the payment of exchange prices and
31 govern the exchange on basal and supplementary textbooks.

32 (b) The State Board of Education is authorized to incorporate any
33 exchange provision it approves in the contract of the publisher, and the
34 publisher shall be bound by such exchange provision of the contract as if it
35 were a part of this subchapter."

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2 SECTION 8. Arkansas Code Annotated § 6-21-409 is hereby amended to read
3 as follows:

4 "6-21-409. Assessment of damages for publishers_ failure to comply.

5 (a) The State Board of Education is authorized to assess any publisher
6 any amount of damages to the State of Arkansas for failure to comply with the
7 terms of his contract or any published regulation of the State Board of
8 Education, provided that the publisher has been given a hearing before the
9 State Board of Education regarding the assessment of damages.

10 (b) Failure to reimburse the State within six (6) months after notice
11 of assessment has been served on the publisher shall give the State Board of
12 Education the right to cancel all the contracts of the publisher involved and
13 to forbid the publisher to bid in any future adoptions for a maximum period of
14 five (5) years from the date that damages are assessed under this section."

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16 SECTION 9. Arkansas Code Annotated § 6-21-410 is hereby amended to read
17 as follows:

18 "6-21-410. Illegal acts involving school officials.

19 (a) (1) It shall be illegal for the Director of General Education or any
20 other employee connected with the Department of Education, any member of any
21 selecting committee, or any member of any school board to accept or receive
22 any money, gift, property, or favor whatsoever from any person, firm, or
23 corporation, or any agent thereof, offering for sale any item pursuant to this
24 subchapter, or from any person in any way interested in such sale.

25 (2) Any person who pleads guilty, nolo contendere, or is found
26 guilty of violating this subsection shall be subject to a fine not to exceed
27 five hundred dollars (\$500) or imprisonment in the county jail for a period
28 not to exceed six (6) months or both.

29 (3) Any fines collected under this subsection shall be deposited
30 in the State Treasury to the credit of the Public School Fund.

31 (b) (1) It shall be illegal for any teacher in the public schools of
32 Arkansas, any county supervisor or city superintendent of schools, any member
33 of any school board or board of education, or any person connected with the
34 public school system of Arkansas in any capacity to have any interest in the
35 profits, proceeds, or sale of any school textbooks or other instructional

1 materials used in the schools of Arkansas under his charge or with which he is
2 connected in any official capacity, provided that this provision shall not
3 apply nor have any reference to royalties or fees received by a person from
4 the sale of school books or other instructional materials of which he is the
5 author.

6 (2) Any person who pleads guilty, nolo contendere, or is found
7 guilty of violating this subsection shall be subject to a fine no less than
8 fifty dollars (\$50) nor more than two hundred dollars (\$200).

9 (3) Any fines collected under this subsection shall be deposited
10 in the State Treasury to the credit of the Public School Fund.

11 (c) (1) It shall be illegal for any person, directly or indirectly, to
12 promise or offer to give or cause to be promised, offered, or given any money,
13 good, bribe, present, reward, or any valuable thing whatsoever to the Director
14 of General Education, his assistants, or any other employee of the Department
15 of Education, any school board members, teachers, or other persons with the
16 intent of influencing their decisions on any questions, matters, causes, or
17 proceedings in the selection of any textbooks or other instructional
18 materials.

19 (2) Any person who pleads guilty, nolo contendere, or is found
20 guilty of violating this subsection shall be subject to a fine not to exceed
21 five hundred dollars (\$500) or imprisonment in the county jail for a period
22 not to exceed six (6) months or both.

23 (3) Any fines collected under this subsection shall be deposited
24 in the State Treasury to the credit of the Public School Fund."

25
26 SECTION 10. Arkansas Code Annotated § 6-21-411 is hereby amended to
27 read as follows:

28 "6-21-411. Tax exemption.

29 No textbooks, library books, or other items purchased by the State to be
30 distributed free to the public schools of Arkansas pursuant to this subchapter
31 shall be subject to the Arkansas gross receipts tax or the Arkansas
32 compensating tax."

33
34 SECTION 11. Arkansas Code Annotated § 6-21-412 is hereby amended to
35 read as follows:

1 "6-21-412. Distributions of textbooks, materials or funds.

2 The State Board of Education shall distribute textbooks, instructional
3 materials, or textbook funds to the districts in the state upon any common and
4 equitable basis adopted by the board."

5 SECTION 12. Arkansas Code Annotated § 6-21-413 is hereby amended to
6 read as follows:

7 "6-21-413. Local selection committee.

8 Each school district shall select a textbook selection committee to be
9 composed of a majority of certified personnel, which shall include classroom
10 teachers."

11

12 SECTION 13. Arkansas Code Annotated §§ 6-21-414 through 6-21-423 are
13 hereby repealed.

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15 SECTION 14. Arkansas Code Annotated § 6-16-202 is hereby repealed.

16

17 SECTION 15. All provisions of this act of a general and permanent
18 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
19 Code Revision Commission shall incorporate the same in the Code.

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21 SECTION 16. If any provision of this act or the application thereof to
22 any person or circumstance is held invalid, such invalidity shall not affect
23 other provisions or applications of the act which can be given effect without
24 the invalid provision or application, and to this end the provisions of this
25 act are declared to be severable.

26

27 SECTION 17. All laws and parts of laws in conflict with this act are
28 hereby repealed.

29

/s/Hardin et al

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APPROVED: 3-13-95

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