

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013

# A Bill

HOUSE BILL 1535

4  
5 By: Representative Lampkin  
6 By: Senator Elliott

## For An Act To Be Entitled

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9 AN ACT TO AMEND THE FREE TEXTBOOK ACT OF 1975; AND  
10 FOR OTHER PURPOSES.

## Subtitle

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14 TO AMEND THE FREE TEXTBOOK ACT OF 1975.

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

18  
19 SECTION 1. Arkansas Code § 6-21-402 is amended to read as follows:  
20 6-21-402. Definition.

21 As used in this subchapter, "instructional materials" means:

22 (1) Traditional books, textbooks, and trade books in printed and bound  
23 form;

24 (2) Activity-oriented programs that may include:

25 (A) Manipulatives;

26 (B) Hand-held calculators; or

27 (C) Other hands-on material; and

28 (3) ~~(A)~~ Technology-based materials that require the use of electronic  
29 equipment in order to be used in the learning process.

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

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

35 (a) Public school districts shall provide ~~textbooks, other~~  
36 instructional materials, ~~or digital resources~~, including the availability of



1 any equipment needed to access the ~~digital resources~~ instructional materials,  
 2 for all pupils attending the public schools of this state in kindergarten  
 3 through grade twelve (K-12), inclusive, in all subjects taught in those  
 4 grades, without cost to the pupils.

5 (b) School districts may select their own ~~textbooks~~, instructional  
 6 materials, ~~or digital resources~~, including the ~~availability of any~~ equipment  
 7 needed to access the ~~digital resources~~, ~~or school districts may select from~~  
 8 ~~the recommended state approved list~~ instructional materials.

9 (c) Any materials purchased with state funds shall be consistent with  
 10 the curriculum and educational goals established by the State Board of  
 11 Education.

12 (d)(1)(A) The Department of Education shall monitor to ensure that all  
 13 school districts in Arkansas comply with this section.

14 (B) The department shall report in the annual school  
 15 performance report a school district that fails to provide ~~textbooks, other~~  
 16 instructional materials, ~~or digital resources~~, including the availability of  
 17 any equipment needed to access the ~~digital resources~~ instructional materials.

18 (2) The state board, through the department, may promulgate  
 19 rules as may be necessary to carry out this subchapter and shall report to  
 20 the members of the House Committee on Education and Senate Committee on  
 21 Education annually any school district out of compliance by November 1 of  
 22 each year.

23 (e)(1) As used in this subsection, "person" means an individual, a  
 24 partnership, a corporation, a company, or an association.

25 (2) A person who operates in this state shall not charge a  
 26 school district a price for instructional materials that exceeds the lowest  
 27 contracted price currently bid in another state on the same product.

28 (3) A person shall sell instructional materials at the same  
 29 price to all school districts in the state and must guarantee the price for  
 30 the remainder of the school year.

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 32 SECTION 3. Arkansas Code § 6-21-404 is amended to read as follows:

33 6-21-404. Duties of the State Board of Education generally.

34 (a) The State Board of Education ~~is authorized and empowered to~~ may:

35 (1) Make rules and regulations to implement this subchapter ~~and~~  
 36 ~~to provide for a statewide textbook selection committee;~~

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

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

6           (b) The powers enumerated in this section are cumulative and not  
7 restrictive.

8           ~~(c)(1) The state board shall have power to include any additional  
9 regulations in the bid and contract form that the state board deems best for  
10 the administration of this subchapter.~~

11           ~~(2) Any regulations included in the bid and contract forms and  
12 accepted by the publisher shall be construed as a part of this subchapter.~~

13           ~~(3) Publishers shall be required to comply with the additional  
14 regulations as if they were included in this subchapter.~~

15           ~~(d) Publishers must sell their materials at the same price to all  
16 schools and school districts in the state and must guarantee that price for  
17 the life of a state adoption cycle.~~

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19           SECTION 4. Arkansas Code § 6-21-405 is repealed:

20           ~~6-21-405. Determination of recommended instructional materials.~~

21           ~~(a) By March 15 of each year, the Department of Education shall  
22 prepare and distribute to school districts a recommended list of books,  
23 series of books, and other instructional materials for all subjects required  
24 by the Standards for Accreditation of Arkansas Public Schools and School  
25 Districts.~~

26           ~~(b) School districts may elect to purchase instructional materials  
27 from the state recommended list, or school districts may select other  
28 instructional materials.~~

29           ~~(c) If a school district selects other instructional material not  
30 recommended by the state, the school district shall certify to the department  
31 by June of each year which instructional materials the school district wishes  
32 to purchase by state contract from the state recommended list.~~

33           ~~(d) If a school district selects other instructional materials not  
34 recommended by the state, the school district may purchase such materials  
35 outside any state contract.~~

36

1 SECTION 5. Arkansas Code § 6-21-406 is amended to read as follows:  
 2 6-21-406. Conditions for offering textbooks for adoption, sale, or  
 3 exchange.

4 (a)(1) As used in this subsection, "person" means an individual, a  
 5 partnership, a corporation, a company, or an association.

6 (2) Before any person, company, or corporation shall offer any  
 7 school textbooks or other a person may offer instructional materials used in  
 8 kindergarten through grade twelve (K-12), inclusive, for adoption, sale, or  
 9 exchange in the State of Arkansas, the person, company, or corporation shall  
 10 comply with the following conditions, by June 30 of each year, submit to the  
 11 Department of Education a certified list of:

12 (A) All state contracts made during the state fiscal year  
 13 just ended on all instructional materials the publisher sold in this state  
 14 during the state fiscal year just ended; and

15 (B) Instructional materials sold to each school district  
 16 in Arkansas, including the price of each instructional material.

17 ~~(1)(A) The person, company, or corporation shall file a bid and~~  
 18 ~~contract form in the office of the Commissioner of Education showing the~~  
 19 ~~prices at which the publisher will agree to sell to the State of Arkansas~~  
 20 ~~during the contract period.~~

21 ~~(B) When the State Board of Education accepts any or all~~  
 22 ~~of the textbooks or other instructional materials in the bid and contract~~  
 23 ~~form and so certifies in the form, the bid and contract form shall become an~~  
 24 ~~official contract.~~

25 ~~(C) The state board is authorized to permit publishers to~~  
 26 ~~bid current wholesale prices, or the state board may require publishers to~~  
 27 ~~bid lowest existing contract prices at which the textbooks or other~~  
 28 ~~instructional materials are being sold elsewhere in the country.~~

29 ~~(D) The state board shall certify in the call for bids~~  
 30 ~~whether it wants current wholesale prices or lowest contract prices.~~

31 ~~(E) In the bid and contract form, the publisher shall~~  
 32 ~~certify the date on which the current wholesale prices were established and~~  
 33 ~~submit a list of all existing adoption bids showing such items as may be~~  
 34 ~~requested by the state board on an official form furnished by the state~~  
 35 ~~board.~~

36 ~~(F) At the end of each fiscal year of the contract, the~~

1 publisher shall submit a certified list of all state contracts made during  
 2 the fiscal year just closed on all books or other instructional materials for  
 3 which the publisher has a contract in this state.

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

7 (H) If any publisher makes a contract on a special or  
 8 state edition in another state after the date of the contract in Arkansas,  
 9 the state board is authorized to require the publisher to supply the special  
 10 or state edition to the schools of Arkansas at the contract price in other  
 11 states.

12 (I) The state board is authorized to require a publisher  
 13 to bid an exchange price on all basal or supplementary textbooks bids, and  
 14 all the price regulations in this subchapter applying to regular contracts  
 15 shall also apply to exchange prices; and

16 (2)(A) The person, company, or corporation shall deposit a copy  
 17 of each textbook and other instructional material in printed or manuscript  
 18 form in the office of the commissioner.

19 (B)(b) All publishers doing business in the State of Arkansas shall  
 20 maintain one (1) or more book depositories at the publisher's expense in  
 21 Arkansas this state.

22 (C) All items offered for sale in Arkansas pursuant to  
 23 this subchapter shall be equal in quality to those deposited in the office of  
 24 the commissioner and shall meet the minimum standards and specifications set  
 25 forth by the state board.

26  
 27 SECTION 6. Arkansas Code § 6-21-407 is repealed.

28 ~~6-21-407. Contracts with publishers.~~

29 (a) The State Board of Education shall make and execute contracts with  
 30 all publishers whose books, series of books, or instructional materials have  
 31 been recommended by the state.

32 (b)(1)(A) The state board shall determine the contract period,  
 33 provided no contract period shall be for less than three (3) years nor more  
 34 than five (5) years for courses subject to rapid knowledge base changes.

35 (B) For courses determined by the state board to be free  
 36 of rapid knowledge base changes, the contract period may be for a maximum of

1 ~~ten (10) years.~~

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

5 ~~(c) If during the first two (2) years of any contract, the consumer~~  
 6 ~~price index has increased by twelve percent (12%) or more, the state board is~~  
 7 ~~authorized to renegotiate with the contract holder the prices contained in~~  
 8 ~~the contract. The state board may grant a price increase in the last three~~  
 9 ~~(3) years of the contract, provided the publisher certifies that the price is~~  
 10 ~~no higher than the lowest contract prices the product is currently bid in any~~  
 11 ~~other state.~~

12 ~~(d) The state board is authorized to renew or extend contracts for no~~  
 13 ~~less than one (1) year nor more than two (2) years. This provision shall be~~  
 14 ~~made a part of the publisher's contract, and the state board may exercise the~~  
 15 ~~provision by notifying the publisher no less than one (1) year prior to the~~  
 16 ~~expiration of the original contract.~~

17  
 18 SECTION 7. Arkansas Code § 6-21-408 is repealed.

19 ~~6-21-408. Exchange regulations.~~

20 ~~(a) The State Board of Education shall make and enforce the necessary~~  
 21 ~~exchange regulations that will guarantee the payment of exchange prices and~~  
 22 ~~govern the exchange on basal and supplementary textbooks.~~

23 ~~(b) The state board is authorized to incorporate any exchange~~  
 24 ~~provision it approves in the contract of the publisher, and the publisher~~  
 25 ~~shall be bound by such exchange provision of the contract as if it were a~~  
 26 ~~part of this subchapter.~~

27  
 28 SECTION 8. Arkansas Code § 6-21-409 is amended to read as follows:

29 6-21-409. Assessment of damages for publisher's failure to comply.

30 (a) The State Board of Education is authorized to assess any publisher  
 31 any amount of damages to the State of Arkansas for failure to comply with the  
 32 terms of ~~the publisher's contract~~ this subchapter or any published regulation  
 33 of the state board, provided that the publisher has been given a hearing  
 34 before the state board regarding the assessment of damages.

35 (b) ~~Failure~~ If a publisher fails to reimburse the state within six (6)  
 36 months after notice of assessment has been served on the publisher, ~~shall~~

1 ~~give the state board the right to cancel all of the contracts of the~~  
 2 ~~publisher involved and to forbid the publisher to bid in any future adoptions~~  
 3 the state board may prohibit the publisher from selling instructional  
 4 materials in Arkansas for a maximum period of five (5) years from the date  
 5 that damages are assessed under this section.

6  
 7 SECTION 9. Arkansas Code § 6-21-410(b)(1), concerning illegal acts  
 8 involving school officials, is amended to read as follows:

9 (b)(1) It shall be illegal for any teacher in the public schools of  
 10 Arkansas or any person connected with the public school system of Arkansas in  
 11 any capacity to have any interest in the profits, proceeds, or sale of any  
 12 ~~school textbooks or other~~ instructional materials used in the schools of  
 13 Arkansas under his or her charge or with which he or she is connected in any  
 14 official capacity. However, this provision shall not apply nor have any  
 15 reference to royalties or ~~fee~~ fees received by a person from the sale of  
 16 ~~school books or other~~ instructional materials of which he or she is the  
 17 author.

18  
 19 SECTION 10. Arkansas Code § 6-21-410(c)(1), concerning illegal acts  
 20 involving school officials, is amended to read as follows:

21 (c)(1) It shall be illegal for any person directly or indirectly to  
 22 promise or offer to give or cause to be promised, offered, or given any  
 23 money, good, bribe, present, reward, or any valuable thing whatsoever to the  
 24 commissioner, his or her assistants, or any other employee of the Department  
 25 of Education, the Director of the Department of ~~Workforce~~ Career Education,  
 26 his or her assistants or any other employee of the Department of ~~Workforce~~  
 27 Career Education, any school board members, teachers, or other persons with  
 28 the intent of influencing their decisions on any questions, matters, causes,  
 29 or proceedings in the selection of ~~any textbooks or other~~ instructional  
 30 materials.

31  
 32 SECTION 11. Arkansas Code § 6-21-412 is repealed.

33 ~~6-21-412. Distributions of textbooks, materials, or funds.~~

34 ~~The State Board of Education shall distribute textbooks, instructional~~  
 35 ~~materials, or textbook funds to the school districts in the state upon any~~  
 36 ~~common and equitable basis adopted by the state board.~~

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

6-21-413. ~~Local~~ Instructional materials selection committee.

(a) Each school district shall select ~~a textbook~~ an instructional materials selection committee ~~to be composed of a~~.

(b) A majority of of its members shall be certified licensed personnel, which shall include classroom teachers.

**APPROVED: 03/26/2013**