

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

# A Bill

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

## Subtitle

14 "TO PROVIDE LOCAL SCHOOL DISTRICTS  
15 FLEXIBILITY IN PURCHASING TEXTBOOKS AND  
16 OTHER INSTRUCTIONAL MATERIALS."  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code Annotated § 6-21-402 is hereby amended to  
22 read 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  
26 printed and bound form; activity-oriented programs that may include  
27 manipulatives, hand-held calculators, or other hands-on materials; and  
28 technology-based materials that require the use of electronic equipment in  
29 order to be used in the learning process.

30 (b) Technology-based materials do not include the equipment required  
31 to make use of these materials."  
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33 SECTION 2. Arkansas Code Annotated § 6-21-403 is hereby amended to  
34 read as follows:

35 "6-21-403. Requirements generally.

1 (a) Public school districts shall provide textbooks and other  
2 instructional materials for all pupils attending the public schools of this  
3 state in grades kindergarten through twelve (K-12), inclusive, in all  
4 subjects taught in those grades, without cost to the pupils.

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

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

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

13 "6-21-404. Duties of State Board of Education generally.

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

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

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

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

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

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

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

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

34 "6-21-405. Determination of recommended instructional materials.

35 (a) By March 15 of each year, the Department of Education shall

1 prepare and distribute to school districts a recommended list of books,  
2 series of books, and other instructional materials for all subjects required  
3 by the Arkansas Standards for Accreditation.

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

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

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

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

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

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

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

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

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

1           (E) In the bid and contract form, the publisher shall certify  
2 the date on which the current wholesale prices were established and submit a  
3 list of all existing adoption bids showing such items as may be requested by  
4 the State Board of Education on an official form furnished by the State Board  
5 of Education.

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

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

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

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

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

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

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

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

35           "6-21-407. Contracts with publishers.

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

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

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

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

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

21 (d) The State Board of Education is authorized to renew or extend  
22 contracts for no less than one (1) year nor more than two (2) years. This  
23 provision shall be made a part of the publisher's contract, and the State  
24 Board of Education may exercise the provision by notifying the publisher no  
25 less than one (1) year prior to the expiration of the original contract."  
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27 SECTION 7. Arkansas Code Annotated § 6-21-408 is hereby amended to  
28 read as follows:

29 "6-21-408. Exchange regulations.

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

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

1 were a part of this subchapter."

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

5 "6-21-409. Assessment of damages for publishers\_ failure to comply.

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

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

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

20 "6-21-410. Illegal acts involving school officials.

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

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

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

33 (b)(1) It shall be illegal for any teacher in the public schools of  
34 Arkansas, any county supervisor or city superintendent of schools, any member  
35 of any school board or board of education, or any person connected with the

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

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

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

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

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

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

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28           SECTION 10. Arkansas Code Annotated § 6-21-411 is hereby amended to  
29 read as follows:

30           "6-21-411. Tax exemption.

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

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1 SECTION 11. Arkansas Code Annotated § 6-21-412 is hereby amended to  
2 read as follows:

3 "6-21-412. Distributions of textbooks, materials or funds.

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

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

9 "6-21-413. Local selection committee.

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

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

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

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

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

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

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*/s/Hardin et al*

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