

1 SB15
2 216846-3
3 By Senator Melson
4 RFD: Education Policy
5 First Read: 11-JAN-22
6 PFD: 12/07/2021

1 SB15

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the State Textbook Committee; to amend
12 Sections 16-36-60, 16-36-60.1, and 16-36-65, Code of Alabama
13 1975; and to add Section 16-36-73 to the Code of Alabama 1975;
14 to provide for appointees from each State Board of Education
15 District; to require publishers to provide evidence of
16 alignment correlation on forms provided by the State
17 Department of Education; to authorize the State Superintendent
18 of Education and the State Board of Education to establish
19 additional review criteria; to provide for other instructional
20 materials review committees to review and rate varying
21 instructional materials; to make nonsubstantive, technical
22 revisions to update the existing code language to current
23 style; and to amend Section 16-13B-2, Code of Alabama 1975, as
24 amended by Act 2021-485, 2021 Regular Session, to exempt the
25 purchase of certain instructional materials by the State
26 Department of Education; and in connection therewith to have
27 as its purpose or effect the requirement of a new or increased

1 expenditure of local funds within the meaning of Amendment 621
2 of the Constitution of Alabama of 1901, as amended by
3 Amendment 890, now appearing as Section 111.05 of the Official
4 Recompilation of the Constitution of Alabama of 1901, as
5 amended.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 16-36-60, 16-36-60.1, and
8 16-36-65 of the Code of Alabama 1975, are amended to read as
9 follows:

10 "§16-36-60.

11 "(a) The State Textbook Committee is created. The
12 committee shall consider the merit of textbooks offered for
13 use in the public elementary and high schools of the state and
14 make recommendations for approval or rejection, or both, to
15 the State Board of Education as hereinafter provided. In
16 making recommendations to the State Board of Education, the
17 State Textbook Committee shall also consider any
18 recommendations made by the State Courses of Study Committee
19 or by the State Superintendent of Education.

20 "(b) The State Textbook Committee shall be composed
21 of 23 members. Four of the members shall be secondary school
22 classroom teachers and four elementary school classroom
23 teachers. One of these eight members shall be appointed from
24 each of the ~~seven United States Congressional Districts, as~~
25 ~~such districts are constituted on July 1, 1998, and one shall~~
26 ~~be appointed statewide~~ eight State Board of Education
27 districts, as constituted on the effective date of the act

1 adding this language. Four members shall be appointed from the
2 state at large, and these four members may be either classroom
3 teachers or persons actively engaged in the supervisory or
4 administrative capacity in the field of education. Two members
5 of the committee shall be employees of state institutions of
6 higher learning. These 14 members of the State Textbook
7 Committee shall each be appointed by the State Board of
8 Education, upon nominations made by the State Superintendent
9 of Education. Nine members shall be appointed by the Governor,
10 subject to the confirmation of the Senate by April 1 of each
11 year, one from each of the ~~seven congressional districts, as~~
12 ~~such districts are constituted on July 1, 1998~~ eight State
13 Board of Education districts, as constituted on the effective
14 date of the act adding this language, and ~~two~~ one appointed
15 statewide and, ~~these two~~ who shall be ~~members~~ a member of a
16 local ~~boards~~ board of education at the time of ~~their~~
17 appointment. Two of the members appointed from the
18 ~~congressional districts~~ State Board of Education districts
19 shall be recommended by the State Superintendent of Education.
20 These nine additional members shall have general knowledge of
21 the subject area to be considered for textbook adoption and
22 ~~shall have,~~ a demonstrated ability to read and write at a post
23 high school level, and shall not be employed in education.
24 ~~Membership of the State Textbook Committee shall be inclusive~~
25 ~~and shall reflect the racial, gender, geographic, urban/rural,~~
26 ~~and economic diversity of the state~~ All appointing authorities
27 shall coordinate their appointments to assure the committee

1 membership is inclusive and reflects the racial, gender,
2 geographic, urban, rural, and economic diversity of the state.

3 "(c) All members of the State Textbook Committee
4 shall be appointed for terms of one year, beginning at the
5 call of the State Superintendent of Education. The committee
6 shall be subject to recall by the State Superintendent of
7 Education, thereby extending the length of the member's term,
8 until a new committee is appointed for consideration of the
9 same subject area or areas or grade or grades or any
10 combination thereof. Vacancies in the office of any of the
11 committee members shall be filled by the original appointing
12 authority, and the appointee shall hold office for the
13 unexpired term and until his or her successor is appointed and
14 qualified.

15 "(d) In order to qualify as a member of the State
16 Textbook Committee, each person appointed shall prepare an
17 affidavit to be filed with the State Board of Education within
18 10 days after notice of the member's appointment stating each
19 of the following:

20 "(1) The member agrees to discharge faithfully all
21 the duties imposed upon him or her as a member of the State
22 Textbook Committee.

23 "(2) The member has no interest, directly or
24 indirectly, in any contract that may be made under this
25 article.

1 "(3) The member has no interest as author, as
2 associate author, as publisher, or as a representative of the
3 author or publisher of any textbook.

4 "(4) The member has no pecuniary interest, directly
5 or indirectly, in the business or profits of any person, firm,
6 or corporation engaged in manufacturing, publishing, or
7 selling textbooks.

8 "(5) The member agrees not to accept any emolument
9 or promise of future reward of any kind from any publisher of
10 textbooks, the publisher's agents, or anyone interested in or
11 intending to bias the member's judgment in any way in the
12 selection of any textbook up for adoption.

13 "(6) The member agrees not to reveal to anyone,
14 except to the State Board of Education or the State
15 Superintendent of Education, or both, the findings, ratings,
16 or grading of the State Textbook Committee.

17 "(e) It shall be a Class C misdemeanor for any
18 member of the State Textbook Committee or the secretary of the
19 committee, or for any other person, to disclose ratings and
20 gradings of the committee to anyone except to the State Board
21 of Education or the State Superintendent of Education, or
22 both, until after the contracts are made. ~~Anyone found guilty
23 of doing so shall be fined not exceeding five hundred dollars
24 (\$500) and also may be imprisoned or sentenced to hard labor
25 for a term not exceeding six months~~ Nothing in this section
26 shall prevent the State Board of Education from making an
27 early disclosure of the ratings and gradings of the committee

1 after the State Board of Education has approved the final
2 textbook list.

3 "(f) The organizational meeting of each State
4 Textbook Committee shall be called by the State Superintendent
5 of Education and the committee shall meet thereafter on call
6 of the ~~chairperson~~ chair of the committee or of the State
7 Superintendent of Education. At the organizational meeting,
8 the State Textbook Committee shall elect one of its members to
9 act as ~~chairperson~~ chair of the committee and one of its
10 members as secretary of the committee. Other necessary
11 meetings shall be held as determined by the State Textbook
12 Committee or upon the call of the ~~chairperson~~ chair or the
13 State Superintendent of Education. The State Superintendent of
14 Education shall notify the members of the committee of each
15 meeting ~~by registered or certified mail~~ prior to the time of
16 the meeting.

17 "(g) The members of the State Textbook Committee, at
18 a minimum, shall be paid per diem expenses at the rate
19 provided by state law during the time they are engaged in ~~such~~
20 the work of the committee and in addition shall receive travel
21 expenses at the rate provided by state law for each mile
22 traveled from home to the place of meeting and return, to be
23 paid out of appropriations made to the State Department of
24 Education. Each member of the committee, before receiving per
25 diem for expenses, shall submit to the State Superintendent of
26 Education a notarized statement of the number of miles
27 traveled and the number of days engaged in ~~such~~ the work of

1 the committee. No member shall be paid for more than ~~25~~ 35
2 days in any school year.

3 "(h) The criteria used by the State Textbook
4 Committee shall be comprised of alignment with the courses of
5 study, instructional planning and support, and other criteria,
6 as determined by the State Superintendent of Education and the
7 State Board of Education. Publishers shall be provided with
8 standards alignment forms that list all of the standards in
9 the course of study for the subject area being reviewed and
10 shall provide specific evidence of how and where the standards
11 are addressed in the textbook. The committees may use the
12 standards alignment forms to determine the degree to which
13 content found in each textbook is aligned in thoroughness and
14 accuracy to the standards and may comment on content,
15 accuracy, bias, price, or other concerns resulting from their
16 reviews.

17 ~~(h)~~(i) The State Textbook Committee shall make
18 textbook recommendations to the State Board of Education in
19 writing, and both recommendations for approval or rejection,
20 or both, and any dissents therefrom shall be filed with the
21 State Board of Education and shall be made available for
22 public inspection upon filing. The State Textbook Committee
23 may recommend any ~~new~~ material which has been properly bid
24 pursuant to this article, which supports the Alabama course of
25 study for the specific subject, and which is defined as a
26 textbook as prescribed in the rules and regulations of the
27 State Board of Education. ~~New material is defined as material~~

1 ~~published within three years from the date the State Board of~~
2 ~~Education begins advertisement for bids for textbooks which~~
3 ~~shall be considered for adoption by the State Board of~~
4 ~~Education~~ Final ratings and reviews shall be made available to
5 the public on the State Department of Education website.

6 "§16-36-60.1.

7 "For the purposes of this article, the following
8 words shall have the following meanings:

9 "(1) INSTRUCTIONAL MATERIALS. Educational resources
10 that provide curriculum and instructional experiences for
11 public school students. The term includes any instructional
12 and related or supportive material, including materials using
13 advanced learning technology, in any area that is designed to
14 strengthen the academic foundation.

15 "~~(1)~~ (2) QUALIFIED DEPOSITORY FOR TEXTBOOKS or
16 QUALIFIED DEPOSITORY. A facility in the state responsible for
17 receiving orders for, storing of, and distribution of
18 textbooks pursuant to Section 16-36-71.

19 "~~(2)~~ (3) TEXTBOOK. Includes digital textbooks, as
20 defined in Section 16-16B-2. Digital textbooks shall be
21 recommended, adopted, and purchased in the same manner as
22 provided for textbooks under this article.

23 "§16-36-65.

24 "(a) The State Department of Education in
25 conjunction with the state Purchasing Agent shall furnish
26 contracts from which state-adopted textbooks for the pupils
27 and teachers in classrooms and schools operated under the

1 jurisdiction and supervision of the ~~Alabama Department of~~
2 ~~Mental Health~~ State Department of Education may be
3 purchased. These purchases shall be made from appropriations
4 to the ~~state Department of Mental Health~~ State Department of
5 Education. The State Board of Education may make and enforce
6 regulations for the proper care and accounting for such
7 textbooks.

8 "(b) The State Department of Education in
9 conjunction with the state Purchasing Agent shall furnish
10 contracts from which state-adopted textbooks for the pupils
11 and teachers in classrooms and schools operated under the
12 jurisdiction of the Alabama Institute for Deaf and Blind ~~can~~
13 may be purchased. These purchases shall be made from
14 appropriations to the Alabama Institute for Deaf and Blind.
15 The State Board of Education may make and enforce regulations
16 for the proper care and accounting for these textbooks and
17 shall not be required to purchase and furnish special books or
18 materials for the deaf and blind.

19 "(c) The State Department of Education in
20 conjunction with the state Purchasing Agent shall furnish
21 contracts from which state-adopted textbooks for the pupils
22 and teachers in classrooms and schools operated by the
23 Department of Youth Services ~~can~~ may be purchased. The cost of
24 the textbooks provided herein shall be paid from
25 appropriations to the Department of Youth Services. The State
26 Board of Education may make and enforce regulations for the
27 proper care and accounting for these textbooks and shall not

1 be required to purchase and furnish any special books or
2 materials under this section.

3 "(d) The State Board of Education shall have no
4 power or authority to enter into any contract or arrangement
5 for furnishing textbooks or providing a depository for
6 textbooks or delivering textbooks, but shall have the power
7 and authority to enter into any contract or arrangement
8 requiring the use of a qualified depository for textbooks.

9 "(e) Subject to appropriations from the Legislature,
10 the State Board of Education may pay a portion of a negotiated
11 textbook price in any contract with a publisher or a qualified
12 depository pursuant to this article or grant additional
13 textbook funds to local boards of education, who purchase high
14 quality textbooks, as determined by the State Board of
15 Education."

16 Section 2. Section 16-36-73 is added to the Code of
17 Alabama 1975, to read as follows:

18 §16-36-73.

19 (a) In addition to the use of textbook materials
20 review committees as provided in subsection (h) of Section
21 16-36-60, the State Superintendent of Education may convene
22 educators and other experts for instructional materials review
23 committees for the purpose of reviewing and rating evidence on
24 the quality and alignment of other specific materials and
25 publishing their findings for educators. The State
26 Superintendent of Education may also utilize other methods to
27 conduct reviews, such as contracting or consulting with

1 experts. The State Superintendent of Education and State Board
2 of Education, as necessary, may develop guidelines for the
3 review of other specific instructional materials pursuant to
4 this section, to support districts and ensure the utilization
5 of state funds for the purchase of high quality materials. The
6 process shall include, but not be limited to, publishing
7 statewide lists of vetted and approved instructional
8 materials.

9 (b) Instructional materials approved by the State
10 Department of Education pursuant to this section, based on a
11 review completed by an instructional materials review
12 committee, may qualify for the State Department of Education
13 to enter a statewide master service agreement designed to
14 streamline the procurement process for schools and school
15 districts that adopt those instructional materials.

16 (c) Subject to appropriations, members appointed to
17 other instructional materials review committees may be paid
18 per diem and travel expenses in the same manner as State
19 Textbook Committee members under subsection (g) of Section
20 13-36-60. Nothing in this section shall limit payment for
21 reviews under State Department of Education contracts or other
22 consulting methods.

23 (d) Guidelines developed for the review of other
24 specific instructional materials by instructional materials
25 review committees pursuant to this section, shall be separate
26 from the State Textbook Committee process provided by this
27 article.

1 Section 3. Section 16-13B-2 of the Code of Alabama
2 1975, is amended to read as follows:

3 "§16-13B-2.

4 "(a) Competitive bids shall not be required for
5 utility services for county or city boards of education, the
6 rates for which are fixed by law, regulation, or ordinance,
7 and the competitive bidding requirements of this chapter shall
8 not apply to:

9 "(1) The purchase of insurance.

10 "(2) Contracts for securing services of attorneys,
11 physicians, architects, teachers, superintendents of
12 construction, artists, appraisers, engineers, consultants,
13 certified public accountants, public accountants, or other
14 individuals possessing a high degree of professional skill
15 where the personality of the individual plays a decisive part.

16 "(3) Contracts of employment in the regular civil
17 service.

18 "(4) Contracts for fiscal or financial advice or
19 services.

20 "(5) Purchases of products made or manufactured by
21 blind or visually impaired individuals under the direction or
22 supervision of the Alabama Institute for Deaf and Blind in
23 accordance with Sections 21-2-1 to 21-2-4, inclusive.

24 "(6) Purchases of maps or photographs from any
25 federal agency.

26 "(7) Purchases of manuscripts, books, instructional
27 materials, maps, pamphlets, or periodicals, or the electronic

1 version thereof. The exemption for the purchase of
2 instructional materials shall only include those purchases
3 from a current vetted and approved list published by the State
4 Department of Education.

5 "(8) The selection of paying agents and trustees for
6 any security issued by a public body.

7 "(9) Existing contracts up for renewal for
8 sanitation or solid waste collection, recycling, or disposal
9 and those providing the service.

10 "(10) Purchases of computer and word processing
11 hardware when the hardware is the only type that is compatible
12 with hardware already owned by the entity taking bids and
13 custom software.

14 "(11) Contractual services and purchases of
15 commodities for which there is only one vendor or supplier and
16 contractual services and purchases of personal property which
17 by their very nature are impossible to award by competitive
18 bidding.

19 "(12) Contractual services and purchases of products
20 related to, or having an impact upon, security plans,
21 procedures, assessments, measures, or systems, or the security
22 or safety of persons, structures, facilities, or
23 infrastructures.

24 "(13) Purchases, leases, or lease/purchases of goods
25 or services, other than voice or data wireless communication
26 services, made as a part of any purchasing cooperative
27 sponsored by the National Association of Counties, its

1 successor organization, or any other national or regional
2 governmental cooperative purchasing program. The purchases,
3 leases, or lease/purchases may only be made if all of the
4 following occur:

5 "a. The goods or services being purchased, including
6 those purchased through a lease/purchase agreement, or leased
7 are available as a result of a competitive bid process
8 approved by the Department of Examiners of Public Accounts for
9 each bid.

10 "b. The goods or services are either not at the time
11 available to local boards of education on the state purchasing
12 program or are available at a price equal to or less than that
13 on the state purchasing program.

14 "c. The purchase, lease, or lease/purchase is made
15 through a participating Alabama vendor holding an Alabama
16 business license if such a vendor exists.

17 "(14) Purchases of unprocessed agricultural products
18 as defined in subsection (b) of Section 16-1-46 and the cost
19 of the food purchased is equal to or less than the federal
20 simplified acquisition threshold set in 2 C.F.R. § 200.88.

21 "(15) Purchase of goods or services, other than
22 voice or data wireless communication services, from vendors
23 that have been awarded a current and valid general services
24 administration contract. Prices paid for the goods or services
25 may not exceed the lowest competitively bid price for these
26 goods or services, other than voice or data wireless

1 communication services, and may not exceed the price on an
2 existing state purchasing program.

3 "(b) This chapter shall not apply to:

4 "(1) Any purchases of products where the price of
5 the products is already regulated and established by state
6 law.

7 "(2) Purchases made by individual schools of the
8 county or municipal public school systems from ~~moneys~~ monies
9 other than those raised by taxation or received through
10 appropriations from state or county sources.

11 "(c) The city and county boards of education shall
12 establish and maintain the purchasing facilities and
13 procedures as may be necessary to carry out the intent and
14 purpose of this chapter by complying with the requirements for
15 competitive bidding in the operation and management of each
16 city and county board of education.

17 "(d) Contracts entered into in violation of this
18 chapter shall be void, and any person who violates this
19 chapter shall be guilty of a Class C felony."

20 Section 4. Although this bill would have as its
21 purpose or effect the requirement of a new or increased
22 expenditure of local funds, the bill is excluded from further
23 requirements and application under Amendment 621, as amended
24 by Amendment 890, now appearing as Section 111.05 of the
25 Official Recompilation of the Constitution of Alabama of 1901,
26 as amended, because the bill defines a new crime or amends the
27 definition of an existing crime.

1 Section 5. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Education Policy..... 11-JAN-22

Read for the second time and placed on the calen-
dar with 1 substitute and..... 02-FEB-22

Read for the third time and passed as amended 09-FEB-22

Yeas 29
Nays 0

Patrick Harris,
Secretary.