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3 SENATE EDUCATION POLICY COMMITTEE SUBSTITUTE FOR SB15
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8 SYNOPSIS: Existing law provides for a State Textbook
9 Committee process to consider the merit of
10 textbooks offered for use in the public elementary
11 and high schools of the state and make
12 recommendations for approval or rejection to the
13 State Board of Education.

14 This bill would require publishers to
15 provide evidence of standards alignment on forms
16 provided by the State Department of Education.

17 This bill would authorize the State
18 Superintendent of Education and the State Board of
19 Education to establish additional textbook review
20 criteria.

21 This bill would provide for the State Board
22 of Education to approve guidelines for other
23 instructional materials review committees to review
24 and rate other varying instructional materials.

25 This bill would also exempt the purchase of
26 certain instructional materials by the State

1 Department of Education from the competitive
2 bidding process.

3 Amendment 621 of the Constitution of Alabama
4 of 1901, as amended by Amendment 890, now appearing
5 as Section 111.05 of the Official ReCompilation of
6 the Constitution of Alabama of 1901, as amended,
7 prohibits a general law whose purpose or effect
8 would be to require a new or increased expenditure
9 of local funds from becoming effective with regard
10 to a local governmental entity without enactment by
11 a 2/3 vote unless: it comes within one of a number
12 of specified exceptions; it is approved by the
13 affected entity; or the Legislature appropriates
14 funds, or provides a local source of revenue, to
15 the entity for the purpose.

16 The purpose or effect of this bill would be
17 to require a new or increased expenditure of local
18 funds within the meaning of the amendment. However,
19 the bill does not require approval of a local
20 governmental entity or enactment by a 2/3 vote to
21 become effective because it comes within one of the
22 specified exceptions contained in the amendment.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 Relating to the State Textbook Committee; to amend
2 Sections 16-36-60, 16-36-60.1, and 16-36-65, Code of Alabama
3 1975; and to add Section 16-36-73 to the Code of Alabama 1975;
4 to provide for appointees from each State Board of Education
5 District; to require publishers to provide evidence of
6 alignment correlation on forms provided by the State
7 Department of Education; to authorize the State Superintendent
8 of Education and the State Board of Education to establish
9 additional review criteria; to provide for other instructional
10 materials review committees to review and rate varying
11 instructional materials; to make nonsubstantive, technical
12 revisions to update the existing code language to current
13 style; and to amend Section 16-13B-2, Code of Alabama 1975, as
14 amended by Act 2021-485, 2021 Regular Session, to exempt the
15 purchase of certain instructional materials by the State
16 Department of Education; and in connection therewith to have
17 as its purpose or effect the requirement of a new or increased
18 expenditure of local funds within the meaning of Amendment 621
19 of the Constitution of Alabama of 1901, as amended by
20 Amendment 890, now appearing as Section 111.05 of the Official
21 Recompilation of the Constitution of Alabama of 1901, as
22 amended.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 16-36-60, 16-36-60.1, and
25 16-36-65 of the Code of Alabama 1975, are amended to read as
26 follows:

27 "§16-36-60.

1 "(a) The State Textbook Committee is created. The
2 committee shall consider the merit of textbooks offered for
3 use in the public elementary and high schools of the state and
4 make recommendations for approval or rejection, or both, to
5 the State Board of Education as hereinafter provided. In
6 making recommendations to the State Board of Education, the
7 State Textbook Committee shall also consider any
8 recommendations made by the State Courses of Study Committee
9 or by the State Superintendent of Education.

10 "(b) The State Textbook Committee shall be composed
11 of 23 members. Four of the members shall be secondary school
12 classroom teachers and four elementary school classroom
13 teachers. One of these eight members shall be appointed from
14 each of the ~~seven United States Congressional Districts, as~~
15 ~~such districts are constituted on July 1, 1998, and one shall~~
16 ~~be appointed statewide~~ eight State Board of Education
17 districts, as constituted on the effective date of the act
18 adding this language. Four members shall be appointed from the
19 state at large, and these four members may be either classroom
20 teachers or persons actively engaged in the supervisory or
21 administrative capacity in the field of education. Two members
22 of the committee shall be employees of state institutions of
23 higher learning. These 14 members of the State Textbook
24 Committee shall each be appointed by the State Board of
25 Education, upon nominations made by the State Superintendent
26 of Education. Nine members shall be appointed by the Governor,
27 subject to the confirmation of the Senate by April 1 of each

1 year, one from each of the ~~seven congressional districts, as~~
2 ~~such districts are constituted on July 1, 1998~~ eight State
3 Board of Education districts, as constituted on the effective
4 date of the act adding this language, and ~~two~~ one appointed
5 statewide and, ~~these two~~ who shall be ~~members~~ a member of a
6 local ~~boards~~ board of education at the time of ~~their~~
7 appointment. Two of the members appointed from the
8 ~~congressional districts~~ State Board of Education districts
9 shall be recommended by the State Superintendent of Education.
10 These nine additional members shall have general knowledge of
11 the subject area to be considered for textbook adoption and
12 ~~shall have,~~ a demonstrated ability to read and write at a post
13 high school level, and ~~shall~~ not be employed in education.
14 ~~Membership of the State Textbook Committee shall be inclusive~~
15 ~~and shall reflect the racial, gender, geographic, urban/rural,~~
16 ~~and economic diversity of the state~~ All appointing authorities
17 shall coordinate their appointments to assure the committee
18 membership is inclusive and reflects the racial, gender,
19 geographic, urban, rural, and economic diversity of the state.

20 "(c) All members of the State Textbook Committee
21 shall be appointed for terms of one year, beginning at the
22 call of the State Superintendent of Education. The committee
23 shall be subject to recall by the State Superintendent of
24 Education, thereby extending the length of the member's term,
25 until a new committee is appointed for consideration of the
26 same subject area or areas or grade or grades or any
27 combination thereof. Vacancies in the office of any of the

1 committee members shall be filled by the original appointing
2 authority, and the appointee shall hold office for the
3 unexpired term and until his or her successor is appointed and
4 qualified.

5 "(d) In order to qualify as a member of the State
6 Textbook Committee, each person appointed shall prepare an
7 affidavit to be filed with the State Board of Education within
8 10 days after notice of the member's appointment stating each
9 of the following:

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

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

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

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

23 "(5) The member agrees not to accept any emolument
24 or promise of future reward of any kind from any publisher of
25 textbooks, the publisher's agents, or anyone interested in or
26 intending to bias the member's judgment in any way in the
27 selection of any textbook up for adoption.

1 "(6) The member agrees not to reveal to anyone,
2 except to the State Board of Education or the State
3 Superintendent of Education, or both, the findings, ratings,
4 or grading of the State Textbook Committee.

5 "(e) It shall be a Class C misdemeanor for any
6 member of the State Textbook Committee or the secretary of the
7 committee, or for any other person, to disclose ratings and
8 gradings of the committee to anyone except to the State Board
9 of Education or the State Superintendent of Education, or
10 both, until after the contracts are made. ~~Anyone found guilty~~
11 ~~of doing so shall be fined not exceeding five hundred dollars~~
12 ~~(\$500) and also may be imprisoned or sentenced to hard labor~~
13 ~~for a term not exceeding six months~~ Nothing in this section
14 shall prevent the State Board of Education from making an
15 early disclosure of the ratings and gradings of the committee
16 after the State Board of Education has approved the final
17 textbook list.

18 "(f) The organizational meeting of each State
19 Textbook Committee shall be called by the State Superintendent
20 of Education and the committee shall meet thereafter on call
21 of the ~~chairperson~~ chair of the committee or of the State
22 Superintendent of Education. At the organizational meeting,
23 the State Textbook Committee shall elect one of its members to
24 act as ~~chairperson~~ chair of the committee and one of its
25 members as secretary of the committee. Other necessary
26 meetings shall be held as determined by the State Textbook
27 Committee or upon the call of the ~~chairperson~~ chair or the

1 State Superintendent of Education. The State Superintendent of
2 Education shall notify the members of the committee of each
3 meeting ~~by registered or certified mail~~ prior to the time of
4 the meeting.

5 "(g) The members of the State Textbook Committee, at
6 a minimum, shall be paid per diem expenses at the rate
7 provided by state law during the time they are engaged in ~~such~~
8 the work of the committee and in addition shall receive travel
9 expenses at the rate provided by state law for each mile
10 traveled from home to the place of meeting and return, to be
11 paid out of appropriations made to the State Department of
12 Education. Each member of the committee, before receiving per
13 diem for expenses, shall submit to the State Superintendent of
14 Education a notarized statement of the number of miles
15 traveled and the number of days engaged in ~~such~~ the work of
16 the committee. No member shall be paid for more than ~~25~~ 35
17 days in any school year.

18 "(h) The criteria used by the State Textbook
19 Committee shall be comprised of alignment with the courses of
20 study, instructional planning and support, and other criteria,
21 as determined by the State Superintendent of Education and the
22 State Board of Education. Publishers shall be provided with
23 standards alignment forms that list all of the standards in
24 the course of study for the subject area being reviewed and
25 shall provide specific evidence of how and where the standards
26 are addressed in the textbook. The committees may use the
27 standards alignment forms to determine the degree to which

1 content found in each textbook is aligned in thoroughness and
2 accuracy to the standards and may comment on content,
3 accuracy, bias, price, or other concerns resulting from their
4 reviews.

5 "~~(h)~~(i) The State Textbook Committee shall make
6 textbook recommendations to the State Board of Education in
7 writing, and both recommendations for approval or rejection,
8 or both, and any dissents therefrom shall be filed with the
9 State Board of Education and shall be made available for
10 public inspection upon filing. The State Textbook Committee
11 may recommend any ~~new~~ material which has been properly bid
12 pursuant to this article, which supports the Alabama course of
13 study for the specific subject, and which is defined as a
14 textbook as prescribed in the rules and regulations of the
15 State Board of Education. ~~New material is defined as material~~
16 ~~published within three years from the date the State Board of~~
17 ~~Education begins advertisement for bids for textbooks which~~
18 ~~shall be considered for adoption by the State Board of~~
19 ~~Education~~ Final ratings and reviews shall be made available to
20 the public on the State Department of Education website.

21 "§16-36-60.1.

22 "For the purposes of this article, the following
23 words shall have the following meanings:

24 "(1) INSTRUCTIONAL MATERIALS. Educational resources
25 that provide curriculum and instructional experiences for
26 public school students. The term includes any instructional
27 and related or supportive material, including materials using

1 advanced learning technology, in any area that is designed to
2 strengthen the academic foundation.

3 ~~"(1)~~ (2) QUALIFIED DEPOSITORY FOR TEXTBOOKS or
4 QUALIFIED DEPOSITORY. A facility in the state responsible for
5 receiving orders for, storing of, and distribution of
6 textbooks pursuant to Section 16-36-71.

7 ~~"(2)~~ (3) TEXTBOOK. Includes digital textbooks, as
8 defined in Section 16-16B-2. Digital textbooks shall be
9 recommended, adopted, and purchased in the same manner as
10 provided for textbooks under this article.

11 "§16-36-65.

12 "(a) The State Department of Education in
13 conjunction with the state Purchasing Agent shall furnish
14 contracts from which state-adopted textbooks for the pupils
15 and teachers in classrooms and schools operated under the
16 jurisdiction and supervision of the ~~Alabama Department of~~
17 ~~Mental Health can~~ State Department of Education may be
18 purchased. These purchases shall be made from appropriations
19 to the ~~state Department of Mental Health~~ State Department of
20 Education. The State Board of Education may make and enforce
21 regulations for the proper care and accounting for such
22 textbooks.

23 "(b) The State Department of Education in
24 conjunction with the state Purchasing Agent shall furnish
25 contracts from which state-adopted textbooks for the pupils
26 and teachers in classrooms and schools operated under the
27 jurisdiction of the Alabama Institute for Deaf and Blind ~~can~~

1 may be purchased. These purchases shall be made from
2 appropriations to the Alabama Institute for Deaf and Blind.
3 The State Board of Education may make and enforce regulations
4 for the proper care and accounting for these textbooks and
5 shall not be required to purchase and furnish special books or
6 materials for the deaf and blind.

7 "(c) The State Department of Education in
8 conjunction with the state Purchasing Agent shall furnish
9 contracts from which state-adopted textbooks for the pupils
10 and teachers in classrooms and schools operated by the
11 Department of Youth Services ~~can~~ may be purchased. The cost of
12 the textbooks provided herein shall be paid from
13 appropriations to the Department of Youth Services. The State
14 Board of Education may make and enforce regulations for the
15 proper care and accounting for these textbooks and shall not
16 be required to purchase and furnish any special books or
17 materials under this section.

18 "(d) The State Board of Education shall have no
19 power or authority to enter into any contract or arrangement
20 for furnishing textbooks or providing a depository for
21 textbooks or delivering textbooks, but shall have the power
22 and authority to enter into any contract or arrangement
23 requiring the use of a qualified depository for textbooks.

24 "(e) Subject to appropriations from the Legislature,
25 the State Board of Education may pay a portion of a negotiated
26 textbook price in any contract with a publisher or a qualified
27 depository pursuant to this article or grant additional

1 textbook funds to local boards of education, who purchase high
2 quality textbooks, as determined by the State Board of
3 Education."

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

6 §16-36-73.

7 (a) In addition to the use of textbook materials
8 review committees as provided in subsection (h) of Section
9 16-36-60, the State Superintendent of Education may convene
10 educators and other experts for instructional materials review
11 committees for the purpose of reviewing and rating evidence on
12 the quality and alignment of other specific materials and
13 publishing their findings for educators. The State
14 Superintendent of Education may also utilize other methods to
15 conduct reviews, such as contracting or consulting with
16 experts. The State Superintendent of Education and State Board
17 of Education, as necessary, may develop guidelines for the
18 review of other specific instructional materials pursuant to
19 this section, to support districts and ensure the utilization
20 of state funds for the purchase of high quality materials. The
21 process shall include, but not be limited to, publishing
22 statewide lists of vetted and approved instructional
23 materials.

24 (b) Instructional materials approved by the State
25 Department of Education pursuant to this section, based on a
26 review completed by an instructional materials review
27 committee, may qualify for the State Department of Education

1 to enter a statewide master service agreement designed to
2 streamline the procurement process for schools and school
3 districts that adopt those instructional materials.

4 (c) Subject to appropriations, members appointed to
5 other instructional materials review committees may be paid
6 per diem and travel expenses in the same manner as State
7 Textbook Committee members under subsection (g) of Section
8 13-36-60. Nothing in this section shall limit payment for
9 reviews under State Department of Education contracts or other
10 consulting methods.

11 (d) Guidelines developed for the review of other
12 specific instructional materials by instructional materials
13 review committees pursuant to this section, shall be separate
14 from the State Textbook Committee process provided by this
15 article.

16 Section 3. Section 16-13B-2 of the Code of Alabama
17 1975, is amended to read as follows:

18 "§16-13B-2.

19 "(a) Competitive bids shall not be required for
20 utility services for county or city boards of education, the
21 rates for which are fixed by law, regulation, or ordinance,
22 and the competitive bidding requirements of this chapter shall
23 not apply to:

24 "(1) The purchase of insurance.

25 "(2) Contracts for securing services of attorneys,
26 physicians, architects, teachers, superintendents of
27 construction, artists, appraisers, engineers, consultants,

1 certified public accountants, public accountants, or other
2 individuals possessing a high degree of professional skill
3 where the personality of the individual plays a decisive part.

4 "(3) Contracts of employment in the regular civil
5 service.

6 "(4) Contracts for fiscal or financial advice or
7 services.

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

12 "(6) Purchases of maps or photographs from any
13 federal agency.

14 "(7) Purchases of manuscripts, books, instructional
15 materials, maps, pamphlets, or periodicals, or the electronic
16 version thereof. The exemption for the purchase of
17 instructional materials shall only include those purchases
18 from a current vetted and approved list published by the State
19 Department of Education.

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

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

25 "(10) Purchases of computer and word processing
26 hardware when the hardware is the only type that is compatible

1 with hardware already owned by the entity taking bids and
2 custom software.

3 "(11) Contractual services and purchases of
4 commodities for which there is only one vendor or supplier and
5 contractual services and purchases of personal property which
6 by their very nature are impossible to award by competitive
7 bidding.

8 "(12) Contractual services and purchases of products
9 related to, or having an impact upon, security plans,
10 procedures, assessments, measures, or systems, or the security
11 or safety of persons, structures, facilities, or
12 infrastructures.

13 "(13) Purchases, leases, or lease/purchases of goods
14 or services, other than voice or data wireless communication
15 services, made as a part of any purchasing cooperative
16 sponsored by the National Association of Counties, its
17 successor organization, or any other national or regional
18 governmental cooperative purchasing program. The purchases,
19 leases, or lease/purchases may only be made if all of the
20 following occur:

21 "a. The goods or services being purchased, including
22 those purchased through a lease/purchase agreement, or leased
23 are available as a result of a competitive bid process
24 approved by the Department of Examiners of Public Accounts for
25 each bid.

26 "b. The goods or services are either not at the time
27 available to local boards of education on the state purchasing

1 program or are available at a price equal to or less than that
2 on the state purchasing program.

3 "c. The purchase, lease, or lease/purchase is made
4 through a participating Alabama vendor holding an Alabama
5 business license if such a vendor exists.

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

10 "(15) Purchase of goods or services, other than
11 voice or data wireless communication services, from vendors
12 that have been awarded a current and valid general services
13 administration contract. Prices paid for the goods or services
14 may not exceed the lowest competitively bid price for these
15 goods or services, other than voice or data wireless
16 communication services, and may not exceed the price on an
17 existing state purchasing program.

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

19 "(1) Any purchases of products where the price of
20 the products is already regulated and established by state
21 law.

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

26 "(c) The city and county boards of education shall
27 establish and maintain the purchasing facilities and

1 procedures as may be necessary to carry out the intent and
2 purpose of this chapter by complying with the requirements for
3 competitive bidding in the operation and management of each
4 city and county board of education.

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

8 Section 4. Although this bill would have as its
9 purpose or effect the requirement of a new or increased
10 expenditure of local funds, the bill is excluded from further
11 requirements and application under Amendment 621, as amended
12 by Amendment 890, now appearing as Section 111.05 of the
13 Official Recompilation of the Constitution of Alabama of 1901,
14 as amended, because the bill defines a new crime or amends the
15 definition of an existing crime.

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