

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1298

By: Boyd (Betty)

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 1991, Sections 16-101, as amended by Section 9, Chapter 364, O.S.L. 1992 (70 O.S. Supp. 1992, Section 16-101), 16-101.1, 16-102, 16.102.1, 16-103, 16-104, 16-106, 16-107, 16-108, 16-109, 16-110, 16-111, 16-111.1, 16-113, 16-114, 16-115, 16-117, 16-118, 16-119, 16-121, 16-122, 16-123 and 16-124, which relate to textbooks; modifying requirement for membership on the State Textbook Committee; deleting obsolete language; changing textbook committee meeting date; modifying selection cycle of textbooks; changing definition of a textbook; deleting the maximum number of adopted textbooks; changing time of public hearing; deleting bond requirement for bidders; requiring an anti-collusion statement with bids; deleting definition of a textbook; deleting use of consultants by the textbook committee; deleting adoption of textbooks on a provisional basis; providing for the price of textbooks for pending contracts; modifying bond requirements for bidders awarded contracts; providing for approval of contracts; deleting reference to county superintendents' duties; requiring publishers to provide examination copies to local textbook committees; deleting distribution

of samples through depository; deleting references to requisition system; allowing certain purchases of supplementary materials; clarifying language relating to requisition system; deleting certain individual bond requirements; modifying textbook repair duty of State Board of Education; changing power to recover on a contract; modifying issuance of certification; deleting certain language relating to allocation of funds; deleting language referring to ownership of textbooks; repealing 70 O.S. 1991, Sections 16-105, 16-112 and 16-116, which relate to certain textbook adoption procedures; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 1991, Section 16-101, as amended by Section 9, Chapter 364, O.S.L. 1992 (70 O.S. Supp. 1992, Section 16-101), is amended to read as follows:

Section 16-101. There is hereby created the State Textbook Committee, which shall be composed of two members from each congressional district, appointed by the Governor with the advice and consent of the Senate and one member, appointed by the Governor with the advice and consent of the Senate, who shall be a lay citizen ~~educator~~ not having a teaching certificate and having at least one child in the Oklahoma Public School System. A majority of the twelve members appointed from the congressional districts shall be classroom teachers. The regular terms of all members shall be for three (3) years. ~~Provided, that all members of the State Textbook Committee currently appointed and serving shall serve as~~

~~members of the State Textbook Committee created by this section, for the terms for which they were appointed.~~ No member shall be eligible to succeed himself. At no time shall more than one member of the State Textbook Committee be an employee of the same school district. Each member appointed from a congressional district shall have had not less than five (5) years' teaching or supervisory experience in the public schools of Oklahoma at the time of ~~his~~ appointment, and shall be actively employed in the public schools of Oklahoma during the term of ~~his~~ service on said Committee. The State Superintendent of Public Instruction or a designated member of ~~his~~ the staff shall serve as Secretary of ~~said~~ the Committee and vote only when there is a tie vote in the membership of the Committee. Each member shall receive necessary traveling expenses while in the performance of his duties pursuant to the State Travel Reimbursement Act.

~~Within one (1) week after the first day of February of each year, said~~ The Committee may meet at the call of the State Superintendent of Public Instruction at the State Capitol and elect by secret written ballot a ~~chairman~~ chairperson and ~~vice-chairman~~ vice-chairperson from its membership to serve for the year. The terms for which new members from the congressional districts are appointed shall be staggered by the Governor in making ~~his~~ appointments ~~to the end that the~~ The terms of four members shall expire each year. ~~Provided, that the~~ The four new members appointed each year shall be certified in one of the curriculum areas in which the textbooks will be adopted that ensuing fiscal year.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 16-101.1, is amended to read as follows:

Section 16-101.1 The lay citizen ~~educator~~ appointed shall be appointed for a term of three (3) years.

SECTION 3. AMENDATORY 70 O.S. 1991, Section 16-102, is amended to read as follows:

Section 16-102. A. The State Textbook Committee shall meet at the call of the ~~chairman~~ chairperson as often as necessary, with two (2) weeks' public notice, to discharge its responsibilities. Not later than the first day of December of each year the State Textbook Committee shall meet at the call of the ~~chairman~~ chairperson at the State Capitol and select textbooks for subjects taught in the public schools of the state up to and including the twelfth grade, which selections shall be for not more than ~~five (5)~~ six (6) years for every textbook. "Textbooks", as used in Sections 16-101 through 16-124 of this title, ~~may also include instructional computer software complimentary to achieving learner outcomes prescribed by the State Board of Education including, but not limited to, applications using computer assisted instruction, interactive videodisc, other computer courseware, and magnetic media~~ means instructional materials that are designed for use by pupils as a learning resource. Instructional materials may be printed or nonprinted and may include textbooks, technology-based and other educational materials. Technology-based materials do not include the equipment required to make use of those materials. Said Committee shall select ~~ten~~ textbooks or series of ~~books~~ textbooks for each subject, ~~but if there are not ten books satisfactory to the Committee, then it may select only such books as~~ which are in its judgement satisfactory ~~for such subject.~~ The State Textbook Committee may determine that unusual or extraordinary circumstances exist in a particular subject area during the period for which textbooks have been selected for that subject area. Unusual or extraordinary circumstances shall include but not be limited to significant new techniques of teaching in a particular subject area or significant new findings or discoveries in a particular subject area. Upon a determination by three-fourths (3/4) of the members of the State Textbook Committee that unusual or extraordinary circumstances exist in a particular subject area, the Committee may select one or more textbooks in that

subject area for the remainder of the adoption period
~~notwithstanding the maximum limitation on the number of textbooks
selected for a subject area.~~

~~The increase in the number of textbooks or series of textbooks
from seven to ten shall be implemented at a time when the State
Textbook Committee deems appropriate.~~

B. The board of education of a school district may petition the
State Department of Education to use the state textbook funds
allocated to the district for the purchase of materials not approved
by the State Textbook Committee.

SECTION 4. AMENDATORY 70 O.S. 1991, Section 16-102.1, is
amended to read as follows:

Section 16-102.1 The State Textbook Committee shall conduct a
public hearing in the ~~final~~ first two (2) weeks of October each year
for the purpose of gathering public testimony concerning the various
textbooks being considered for adoption by the Committee. Any
person wishing to be heard at the public hearing shall register with
the secretary of the State Textbook Committee at least two (2) weeks
prior to the date set for the public hearing. The registration
shall be accompanied by a typed summary detailing the nature of the
testimony which will be presented at the public hearing. All
testimony shall pertain to a specific textbook or textbooks for
which the State Textbook Committee has received bids. The time and
number of people testifying for any one organization may be limited
by the State Textbook Committee. The Committee, in its discretion,
may conduct additional public hearings. The date of the public
hearing shall be set by the Committee when the advertisement for
bids for books is issued.

SECTION 5. AMENDATORY 70 O.S. 1991, Section 16-103, is
amended to read as follows:

Section 16-103. The State Textbook Committee shall advertise
for books in all basic subjects in such manner and for such time as

it may deem best. Prior to June 1 of each year, the Committee shall advertise for sealed bids from publishers of textbooks for furnishing textbooks for the public schools of this state. Each bid shall state specifically and clearly the price at which each book will be furnished FOB the bidder's depository or delivered to any ordering school district in this state, and the price the books may be sold for through local retail book dealers, and shall be accompanied by a sample copy of each book offered in such bid, together with any teacher edition or teacher aids used with such book. A copy of each textbook for which a bid has been accepted by the Committee shall be displayed in at least one library or institution of higher education within each Congressional District in this state. The facility shall have free public access. The textbooks shall be displayed from the time they are accepted by the Committee until their final selection or rejection. A record of all the books delivered direct to any school district shall be immediately furnished by the shipper and the school district to the State Board of Education. ~~It shall be required that each bidder deposit with the State Treasurer such sums of money as the Committee may require, which shall be not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Five Hundred Dollars (\$2,500.00).~~ Each bid shall be accompanied by a written statement as set forth in Section 108 of Title 61 of the Oklahoma Statutes and a sworn statement specifically:

1. Stating whether the publisher is the owner of any interest or share in any other textbook publishing houses and, if so, giving the names and addresses thereof;

2. Showing whether any member of the Committee is in any manner interested, directly or indirectly, in such person, firm, or corporation submitting such bid; and

3. Showing the name and address of every committee, public official, or individual in this state who has been furnished, within

the preceding twelve (12) months, any copy of the textbook or textbooks or any edition thereof included in the bid, together with the numbers and titles thereof furnished to each recipient. If the fact shall be disclosed that any member of the Committee, State Textbook Director, or any employee of that office is interested in the bidder, it shall work a disqualification of such member, and ~~he~~ the member shall not be permitted to serve on the Committee, and the bidder shall be disqualified. If it shall be disclosed that such sworn statement does not accurately and completely give the information required, the State Textbook Committee shall disregard the bid. Oklahoma authors of school textbooks shall be permitted to receive the customary royalty, regardless of employment. ~~The words "textbook" or "book" as used in this article shall include all printed materials intended for use in teaching.~~ Only materials approved by the State Textbook Committee shall be purchased from State Textbook Funds.

SECTION 6. AMENDATORY 70 O.S. 1991, Section 16-104, is amended to read as follows:

Section 16-104. All bids shall be sealed and delivered to the secretary of the State Textbook Committee, to be delivered by ~~him~~ the secretary to the Committee for the purpose of considering the bids. The committee shall meet prior to August 15 of each year at the time and place mentioned in the advertisement, ~~and then and there~~ to open and examine the sealed bids received, and make a full and complete investigation of all books and the bids accompanying the same. ~~The Committee may use regular classroom teachers as consultants, who shall receive the same compensation and expenses as members of the Committee, but not more than five such consultants shall be used for any subject for which a book is to be adopted.~~ The books shall be selected after careful consideration of all the books presented, and the books selected for adoption shall be those which, in the opinion of the Committee, are best suited for the

public schools in this state. The Committee shall give consideration to any legislative resolution concerning textbook content and the testimony received at public hearings when making the selections. The Committee shall proceed without delay to select, for use of the public schools of this state, textbooks ~~in the grades~~ as specified in this article and shall notify publishers to whom contracts are awarded. ~~If the State Textbook Committee determines that significant inaccuracies exist in the contents of a textbook which has been bid or that information contained in the textbook is not current, the Committee may adopt the book on a provisional basis. Final adoption of the textbook and use of textbook money shall be contingent upon the publisher providing a modified or revised textbook which is acceptable by the State Textbook Committee.~~

SECTION 7. AMENDATORY 70 O.S. 1991, Section 16-106, is amended to read as follows:

Section 16-106. A. All contracts with publishers shall be signed by the ~~chairman~~ chairperson and secretary of the State Textbook Committee on behalf of the state. Each contract shall stipulate the price at which each textbook will be sold to the State of Oklahoma, and that all copies supplied to the State of Oklahoma will be equal to or better than the official copy filed with the secretary of the Committee. The State Textbook Committee may approve the substitution of a later edition in lieu of the textbook originally selected. The publisher shall stipulate in the contract that ~~the~~ the:

1. The price for which the textbook is to be furnished will be the lowest at which the same textbook will be sold or offered for sale for the purpose of securing a state or local selection or adoption elsewhere in the United States during the six (6) months prior to the date of the execution of the contract; ~~that he~~

2. It will reduce the contract price of the textbook, if the price of the same textbook is reduced below such contract price elsewhere in the United States, and that ~~he~~ it will file with the secretary of the Committee a sworn statement of such reduction made elsewhere; ~~that if he~~

3. If it prepares any supplementary or abridged or special editions of any of the textbooks, and shall sell such editions elsewhere at a lower price than that stipulated in the contract, ~~he~~ it will file copies of any and all such editions, together with the prices thereof, with the secretary of the Committee; ~~that he~~

4. It has not entered into any understanding, agreement or combination to control the prices or restrict competition in the sale of textbooks; ~~that he~~

5. It will furnish the textbooks to the State of Oklahoma during the term of the contract in such amounts as may be required~~;~~ and ~~that he~~

6. It will furnish for a like period in lieu of the corresponding textbooks under contract any other books listed in any annual statement subsequently filed by ~~him~~ it during the term of the contract to any school district at the lowest new prices contained in such statement, and that ~~he~~ it will maintain said prices uniformly through the state.

B. Textbooks ~~that have been~~ selected by the State Textbook Committee may be purchased by school districts at the prices for which contracts have been awarded, pending the effective dates of the contracts, ~~if the State Board of Education determines that any school district or districts will be at an educational disadvantage by waiting until the effective dates of the contracts to get needed textbooks.~~

SECTION 8. AMENDATORY 70 O.S. 1991, Section 16-107, is amended to read as follows:

Section 16-107. A. In the event that a publisher whose bid has been accepted shall publish at any time before the expiration of the adoption period a new or revised edition of the adopted textbook, the State Textbook Committee may require such publisher to substitute such new or revised edition for the adopted edition at a price to be mutually agreed upon by the publisher and the State Textbook Committee, but not in excess of the lowest price at which the same textbook will be sold or offered for sale for the purpose of securing a state or local selection or adoption elsewhere in the United States during the twelve (12) months preceding the date of submitting such new or revised edition. A contract shall be made for such new or revised edition as for any other selection. Each bidder shall expressly agree to this provision as a part of ~~his~~ the bid and the contract awarded if successful.

B. In the event that a publisher shall publish a textbook for a subject during the period for which adoptions for that subject have not expired, such publisher may submit a bid for such textbook at the time and in the manner other bids are submitted. ~~If fewer than seven textbooks for such subject have been adopted, then the~~ The State Textbook Committee may adopt such book for the balance of the adoption period and thereafter local textbook committees may adopt such book.

SECTION 9. AMENDATORY 70 O.S. 1991, Section 16-108, is amended to read as follows:

Section 16-108. The bidder to whom ~~any contract~~ one or more contracts may be awarded shall make and execute a good and sufficient surety bond, payable to the State of Oklahoma, in a sum not less than Two Thousand Dollars (\$2,000.00), nor more than Ten Thousand Dollars (\$10,000.00), to be fixed by the Committee, conditioned that the contractor shall perform all of the conditions of the contract. ~~The~~ Prior to acceptance, the contract and bond shall be ~~prepared~~ approved by ~~the Attorney General~~ an attorney for

the State Department of Education and shall be in conformity with, and subject to, all of the provisions of this article, ~~and shall be payable in Oklahoma County.~~ The bond shall not be exhausted by a single recovery thereon but may be sued upon until the full amount thereof is recovered; and the Committee may, after twenty (20) days' notice, require a new bond to be given, and in the event the contractor shall fail to furnish such new bond, such contract may at the option of the Committee be forfeited.

SECTION 10. AMENDATORY 70 O.S. 1991, Section 16-109, is amended to read as follows:

Section 16-109. The State Textbook Committee shall have and reserve the right to reject any and all bids, if ~~said~~ the Committee ~~be is~~ of the opinion that for any reason any or all bids should, ~~for any reason,~~ be rejected; ~~and in case it.~~ If the Committee fails, from among the proposals submitted, to select sufficient books upon any of the branches of study provided for herein, it may advertise for sealed bids under the same terms as before, and proceed in its investigation in all respects as it did in the first instance.

SECTION 11. AMENDATORY 70 O.S. 1991, Section 16-110, is amended to read as follows:

Section 16-110. As soon as any contract ~~shall have been~~ is entered into for the furnishing of textbooks for use in the public schools of the state, the secretary of the State Textbook Committee shall send a list of the textbooks selected by the State Textbook Committee to every ~~county superintendent of schools, district~~ superintendent of schools and local textbook committee in the state, which list shall show the respective prices of such textbooks and contain such other information as the secretary shall deem advisable, ~~and he.~~ The secretary shall annually publish and distribute a list of all textbooks that have been selected and that are then in force.

SECTION 12. AMENDATORY 70 O.S. 1991, Section 16-111, is amended to read as follows:

Section 16-111. A. The superintendent of schools of each ~~independent~~ school district in the state shall appoint a local textbook committee consisting of not fewer than three nor more than nine members. Each committee shall have one lay member, with the remainder of the members being teachers employed in the public schools of the district, a majority of whom shall be classroom teachers. The superintendent of schools or a designee who shall be a principal or a curriculum specialist shall serve as ~~chairman~~ chairperson of such local textbook committee.

B. ~~The county superintendent of schools or acting county superintendent of schools of each county shall upon receipt of a request in writing from the school boards of a majority of the elementary school districts in the county appoint a local textbook committee to serve the elementary school districts in the county. Such local textbook committee shall consist of not fewer than three nor more than nine members. Each committee shall have one lay member, with the remainder of the members being teachers employed in the elementary school districts of the county, a majority of whom shall be classroom teachers. The county superintendent of schools shall serve as chairman of such local textbook committee~~ Upon the written request of any duly appointed local textbook coordinator, the publisher of a textbook selected by the State Textbook Committee shall furnish at least one examination copy of the textbook and the teacher edition of the textbook, if one is published, and a demonstration disk of software, if available, to the school district so that the local textbook committee may examine any or all new adoptions in the subjects taught or to be taught in schools in the district.

C. ~~The publisher of a textbook selected by the State Textbook Committee shall deposit with the publisher's Oklahoma depository~~

~~sufficient copies of each approved textbook so that each local textbook committee may examine any or all new adoptions. Upon receiving a written request therefor from a local textbook committee, the State Board of Education shall instruct the proper depository to furnish to the local textbook committee a reasonable number of examination copies of each textbook selected by the State Textbook Committee, in the subjects taught or to be taught in schools under their jurisdiction. The cost of each advanced copy shall be charged against the value of textbooks allowed any school district retaining or using the same; provided, that any such advance copy in new condition may be returned to the control of the publisher's Oklahoma depository, within five (5) months after receipt thereof, if there is no longer a need therefor, for credit of the value previously charged against said district. The publisher may, at his discretion, upon the written request of any duly appointed local textbook committee, furnish to such local textbook committee examination copies of such textbook, the teacher edition of such textbook, if one is published, and any teaching aids used with such textbook, free of charge.~~

~~D.~~ On or before a date to be fixed by the State Board of Education, each local textbook committee shall adopt textbooks from the multiple list selected by the State Textbook Committee in such manner as shall be prescribed by the State Board of Education. Each local textbook committee shall serve without compensation and shall cease to exist when local adoptions have been completed and shall be replaced by another local textbook committee appointed in the same manner as herein provided.

~~E.~~ ~~On or before a date to be fixed by the State Board of Education, the superintendent of schools of each independent school district and the county superintendent of schools of each county shall submit to the State Board of Education a requisition for all of the textbooks adopted by the local textbook committee that will~~

~~be needed for the ensuing year in the school or schools for which such adoptions were made, and immediately upon receipt of such requisitions it shall be the duty of the State Board of Education to make requisitions on the proper depository or depositories for such textbooks. Provided, that the State Board of Education may, for good cause, permit supplemental requisitions to be submitted, and may fill such requisitions after the date specified. Any local adopting unit may requisition any textbooks placed on the official multiple textbook list, if such requisition does not exceed the allocation for each school district as provided herein.~~

SECTION 13. AMENDATORY 70 O.S. 1991, Section 16-111.1, is amended to read as follows:

~~Section 16-111.1 Satisfactory proof that a school district has issued to every child in said school district a complete set of currently adopted basic textbooks for his grade, as established by the State Department of Education, for his personal use, shall constitute compliance with Section 16-121 of Title 70, of the Oklahoma Statutes. The State Board of Education may authorize a school district, for the purpose of instruction, to select and use and to purchase not to exceed twenty Twenty percent (20%) of state textbook monies the funds allocated for textbooks in Section 16-114 of this title may be used by a school district for supplementary textbooks and other instructional materials other than those selected and listed by the State Textbook Committee; ~~provided, however, that such supplementary textbooks and other instructional materials shall be approved by the State Department of Education. Textbooks which have previously been rejected for state adoption by the State Textbook Committee shall not be approved for purchase under this section unless subsequently approved by the State Textbook Committee. For the purpose of purchasing such supplementary textbooks and other instructional materials, the State Superintendent of Public Instruction shall make available to each~~~~

~~school district requesting to use a portion of their allocated textbook funds in this manner, the amount of money approved for such purposes by the State Board of Education. These funds are to be deposited with the treasurer of such district and accounted for in the same manner as other public school monies. The State Superintendent of Public Instruction shall require each such school district to submit to him a complete accounting of all such supplemental textbooks and other instructional materials purchased with state textbook funds, together with the vendor and unit price of each item. Use of these funds for any purpose other than the purchase of supplemental textbooks and other instructional materials shall subject that school district to the withholding of future textbook allocations in an amount equal to the sum of the previously misused allocations.~~

SECTION 14. AMENDATORY 70 O.S. 1991, Section 16-113, is amended to read as follows:

Section 16-113. The cost of textbooks to be distributed to the several districts of the state shall be paid from funds appropriated for such purposes upon claims approved by the State Board of Education. The price to be paid shall be that stipulated in the contract with the publisher. Upon receipt of a proper ~~requisition~~ claim for textbooks, it shall be the duty of the State Board of Education to cause the textbooks ~~requisitioned~~ to be delivered to the school district ~~entitled to the same~~ in an amount not more than the total of their allocation. ~~No textbooks shall be ordered delivered to a school district or purchased by the State Board of Education unless proper requisition therefor has been made from the local adopting unit. The State Board of Education shall require a bond, in an amount not to exceed Fifty Thousand Dollars (\$50,000.00), of the individual charged with the duty of honoring requisitions.~~

The State Board of Education shall provide sufficient office space, equipment, records and supplies necessary for a proper performance of the duties and functions vested in it and the State Textbook Committee, and the State Board of Education shall appoint and fix the compensation and duties of necessary personnel to assist the State Board of Education in performing its said duties and functions.

The State Board of Education may provide a repair service for printed textbooks distributed to school districts. ~~Whenever textbooks, through usage or for other reasons, arrive at a state of deterioration where it is no longer advisable to continue them in use, such textbooks shall be sent to a bindery provided or designated by the State Board of Education, and freight costs shall be paid by the bindery. All such damaged textbooks shall undergo a process of reconditioning and rebinding, including the removal of pencil marks, dirty spots, smudges and ink spots, when same can be accomplished without destruction of the reading contents. All torn pages shall be mended or replaced, missing pages shall be replaced, edges retrimmed, each book shall be thoroughly resealed, flyleaves replaced, and new pages, covers and state labels shall be added, whenever necessary.~~ The State Board of Education shall prescribe rules ~~and regulations~~ for how textbooks are to be repaired and for the distribution of ~~such~~ repaired textbooks. Nothing herein shall require the State Board of Education to repair textbooks which in its judgment cannot be economically reconditioned.

SECTION 15. AMENDATORY 70 O.S. 1991, Section 16-114, is amended to read as follows:

Section 16-114. Based upon legislative appropriations, the State Board of Education shall determine the textbook allocation to be distributed to each school district in the state. Except as otherwise provided for in this section, the amount allowed each school district shall be based on the legal average daily attendance

of the school district for the second preceding school year as certified by the State Board of Education multiplied by Twenty-five Dollars (\$25.00). For any school district with an increase in membership pursuant to the provisions of subsection C of Section 18-200 of this title, the allocation shall be based upon an average daily attendance which is equivalent to the membership as determined pursuant to the provisions of subsection C of Section 18-200 of this title. ~~Provided, that any~~ Any unused portion of the value of textbooks allowed to a school district shall be cumulative and shall be allowed to such school district the following fiscal year, in addition to the allocation it is entitled to receive during such fiscal year. When it is determined by the State Board of Education that a surplus of textbooks exists in any school district in the state, the State Board of Education shall have the authority to transfer any or all surplus textbooks to another district or districts where the same are needed. Provided, further, that all textbooks distributed to a school district that have been destroyed by fire or other hazard shall be replaced by the State Board of Education. The total cost of all additional textbooks delivered to school districts to replace those destroyed by fire or other hazard shall not exceed, for the entire state in any fiscal year, the aggregate sum of One Hundred Thousand Dollars (\$100,000.00), which sum shall be reserved for such purpose from any appropriation made to carry out the provision of this article for any fiscal year.

SECTION 16. AMENDATORY 70 O.S. 1991, Section 16-115, is amended to read as follows:

Section 16-115. All contractors shall establish and maintain a suitable and convenient depository or depositories in the State of Oklahoma where a stock of their books to supply all immediate demands shall be kept. Said depository or depositories may be operated jointly with other contractors. Each contractor shall maintain at his depository a sufficient supply of textbooks for

individuals or boards of education desiring to purchase the same and shall be required to sell such books to any individual or board of education at the same price at which the textbook is sold to the State of Oklahoma plus cost of transportation to the individual or board of education purchasing the textbook. Upon the failure of any contractor to carry a sufficient stock of books at his depository to take care of all immediate demands of the State of Oklahoma and others requesting the same, or to furnish the textbooks as required by his contract, ~~the county superintendent of schools of the county wherein such books have not been furnished shall report the facts to the Attorney General, who shall bring suit on account of such failure in the name of the State of Oklahoma in the district court of Oklahoma County, and shall recover on the bond given by such contractor for the full value of the books not furnished as required, and in addition thereto the sum of One Hundred Dollars (\$100.00), and each day of failure to furnish the books shall constitute a separate offense, and the amount so recovered shall be placed to the credit of the General Revenue Fund of the state, and in addition thereto the State Board of Education shall have power to recover on the bond given by such contractor for the full value of the books not furnished as required by the contract and terminate~~ said contract.

SECTION 17. AMENDATORY 70 O.S. 1991, Section 16-117, is amended to read as follows:

Section 16-117. Each person, firm or corporation offering textbooks for sale in the State of Oklahoma shall list with the secretary of the State Textbook Committee the names and addresses of its agents or representatives, ~~and the secretary of said Committee shall issue to each such agent and representative, without charge, a certificate which will authorize such agent or representative to represent such person, firm or corporation in the State of Oklahoma; provided, not more than four authorized agents or representatives~~

~~may be listed at any one time for any person, firm or corporation.~~
~~Provided, further, each such list~~ which shall be a matter of public record in the office of the secretary of the State Textbook Committee.

SECTION 18. AMENDATORY 70 O.S. 1991, Section 16-118, is amended to read as follows:

Section 16-118. The State Board of Education shall adopt rules ~~and regulations~~ for the issuance of textbooks to school children and for the preservation of such textbooks, and all rules ~~and regulations~~ it deems necessary to carry out its duties and functions, and all such rules ~~and regulations~~ shall apply alike to all school districts. It shall prescribe the form of all reports and applications, and ~~county superintendents of schools, district superintendents of schools,~~ and boards of education shall be required to make such reports fully and completely at the time and in the manner prescribed by the State Board of Education. The State Board of Education shall keep an exact account of the cost of books distributed to each school district, together with the proper proportion of transportation and accounting charges.

The State Textbook Committee shall also have the power to adopt such rules ~~and regulations~~ as it deems necessary to enable it to perform its functions and duties.

SECTION 19. AMENDATORY 70 O.S. 1991, Section 16-119, is amended to read as follows:

Section 16-119. All advance or sample copies of textbooks or any edition thereof furnished to any member of the State Textbook Committee, or to any individual for the purpose of obtaining a selection of the textbook by the State Textbook Committee, shall not be sold by the recipient thereof, but shall be disposed of as may be prescribed by the rules ~~and regulations~~ of the State Board of Education. Any advance or sample textbook or any edition thereof furnished to a member of a local textbook committee, or to any

school official or individual for the purpose of obtaining a local adoption of the textbook, may be ~~retained for the use of the school district involved, or~~ returned to the publisher for credit if the cost of such book was charged against the value of textbooks allowed such school district. Publishers shall pay the cost of shipment on returned samples. All publishers having contracts to furnish textbooks to the State of Oklahoma shall be required to file with the State Board of Education, not later than the first day of January and the first day of July of each year following the dates of their respective contracts, a sworn statement showing the names and addresses of all persons to whom they have furnished, during the preceding six (6) months, any advance or sample copies of such textbooks, or any edition thereof, together with the numbers and titles of such textbooks furnished to each such recipient, and a failure to do so, or to give accurate and complete information concerning the same, shall authorize the State Board of Education to cancel the contract of such publisher.

SECTION 20. AMENDATORY 70 O.S. 1991, Section 16-121, is amended to read as follows:

Section 16-121. A. All textbooks adopted, purchased and distributed to school districts shall be furnished free of cost to the school children of such districts and shall be owned by such districts and each district shall mark each textbook with an appropriate number or other identification as deemed necessary to maintain proper records thereof. ~~Every child shall be issued a complete set of textbooks for his grade, for his personal use, and the State Board of Education shall maintain a replacement program so that each child shall have, at all times, textbooks that are in satisfactory condition, and so that worn-out textbooks or textbooks that are in an unsanitary condition will not be used. All such textbooks shall be requisitioned, and no money allocated for the purchase of such textbooks shall be sent directly to a school~~

~~district. The State Board of Education shall issue purchase orders for books to the Oklahoma depository of the publisher of the books, immediately upon receipt of requisitions therefor which are not in excess of the allocations for the district for the current or ensuing fiscal year. Nothing herein shall prevent the purchase, from local school district funds, of any adopted textbook or any additional and supplementary textbooks if the board of education of any school district deems it necessary to make such purchases in order to establish and maintain the highest standards of excellence of its schools. Provided, that the chairman and secretary of the State Textbook Committee, on the advice and approval of the Attorney General, are hereby authorized and directed, with the consent of any holders of state textbook contracts, to change said contracts to conform to the provisions of this article. Provided, further, that all officially selected textbooks bearing the state stamp as previously required by law may be purchased by the State Board of Education even though the said stamp has not been removed. Provided, further, that all officially selected textbooks which have been purchased by the State Board of Education are hereby made the property of the school district now in possession of said textbooks.~~

B. 1. Each school child who has been issued a set of textbooks pursuant to this section, and the parents or legal guardian of such child shall be responsible to the school district for the return of or payment for such textbook issued to the child which is not returned to the school.

2. The State Board of Education is authorized to promulgate rules ~~and regulations~~ requiring the return of or payment for any textbook used by a school child which is not returned to the school. Such rules ~~and regulations~~ shall provide for certain exceptions to such policies. Local boards shall include considerations for the inability to pay for the textbook, and reasons for the nonreturn of the textbook. A local school board is authorized to withhold

transcripts, or other records of the school relating to any school child who fails to return a textbook or make payment for the textbook if not returned. For the purpose of this subsection, the term "transcript" shall include any record of a grade or grades given to a student by a teacher.

3. The provisions of this subsection shall not authorize the State Board of Education to prevent any school child from actually receiving a grade he is otherwise entitled to for completion of a course of study, from graduating upon completion of the requirements, or from obtaining any records or information supplied to the school or otherwise owned by the child.

SECTION 21. AMENDATORY 70 O.S. 1991, Section 16-122, is amended to read as follows:

Section 16-122. Any person who directly or indirectly promises or offers to give, or causes to be promised, offered or given, any money, books, bribe, present or reward or any valuable thing whatsoever to any member of the State Board of Education, the State Textbook Committee, or a local textbook committee, or any member of a board of education, teacher or other person with the intent to influence ~~his or her~~ a decision on any question, matter, cause or proceeding in the selection or adoption of any textbooks, or series of textbooks, upon conviction, shall be guilty of a felony and punishable as such. Any teacher in the public schools of Oklahoma, ~~any county superintendent of schools,~~ any superintendent ~~of schools~~ of a school district or any employee of a school district who shall in any way be interested in the profits, proceeds or sale of any school textbook used in the public schools under ~~his~~ such person's charge, or with which ~~he~~ such person is connected in any official capacity, upon conviction, shall be guilty of a misdemeanor, and ~~upon conviction thereof,~~ shall be punished by a fine of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars

(\$200.00), and shall in addition thereto forfeit ~~his~~ the office or position.

SECTION 22. AMENDATORY 70 O.S. 1991, Section 16-123, is amended to read as follows:

Section 16-123. Any member of the State Board of Education and any member of the State Textbook Committee who directly or indirectly solicits, receives or agrees to receive any money, goods, bribe, present, reward or any valuable thing whatsoever with the intent, and which will have the effect, to influence ~~his or her~~ a decision on any question, matter, cause or proceeding in the selection or adoption of any textbook or series of textbooks provided for in this article, upon conviction, shall be guilty of a felony and punishable as such.

~~Any county superintendent of schools, district superintendent of schools,~~ any member of a board of education, and any member of a local textbook committee who directly or indirectly solicits, receives or agrees to receive any money, goods, bribe, present, reward or any valuable thing whatsoever with the intent and which will have the effect to influence ~~his or her~~ a decision on any question, matter, cause or proceeding in the selection or adoption of any textbook or series of textbooks, upon conviction, shall be guilty of a misdemeanor, and ~~upon conviction thereof~~ shall be punished by a fine of not to exceed Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for a term of not to exceed six (6) months, or both such fine and imprisonment.

SECTION 23. AMENDATORY 70 O.S. 1991, Section 16-124, is amended to read as follows:

Section 16-124. Any person, firm or corporation that violates any of the provisions of this article, or any of the rules ~~or regulations~~ of the State Board of Education or the State Textbook Committee adopted pursuant to the provisions of this article, the penalty for violation thereof not otherwise being provided herein,

upon conviction, shall be guilty of a misdemeanor and ~~upon conviction thereof~~ shall be punished by a fine of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not less than ninety (90) days and not more than one (1) year, or by both such fine and imprisonment. Any public official or public employee violating any of the provisions of this article or any of such rules ~~and regulations~~ shall be subject to the foregoing penalties and in addition thereto shall forfeit ~~his~~ the position or office. Any officer or employee of the State Board of Education or of the State Textbook Committee who knowingly or willingly apports or disburses any money appropriated to carry out the provisions hereof, contrary to the provisions hereof, shall be subject to the foregoing penalties and in addition thereto shall forfeit ~~his~~ the office or position.

SECTION 24. REPEALER 70 O.S. 1991, Sections 16-105, 16-112 and 16-116, are hereby repealed.

SECTION 25. This act shall become effective July 1, 1993.

SECTION 26. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-5218 KB 12-21-92