

Regular Session, 2014

SENATE BILL NO. 336

BY SENATORS APPEL AND JOHNS

TEXTBOOKS/MATERIALS. Revises the textbook adoption process. (gov sig)

1 AN ACT  
2 To amend and reenact R.S. 17:7(4), 8.3(G) and (H), 8.3(G) and (H), 22(2)(e), 1964(D)(9),  
3 1970.4(D)(2)(i), and 1970.24(E)(1)(h), to enact R.S. 17:351.1 and 355 and to repeal  
4 R.S. 17:8 through 8.2, 351, 352, and 415.1, relative to textbooks and other  
5 instructional materials for use in elementary and secondary schools; to provide  
6 relative to the duties, functions, and responsibilities of the State Board of Elementary  
7 and Secondary Education, the state Department of Education, and public school  
8 governing authorities; to provide relative to funding; to provide relative to the review  
9 of textbooks and other instructional materials by the state Department of Education,  
10 parents, and the public; to provide relative to contracts with publishers for the  
11 purchase, lease, and use of textbooks and other instructional materials; to provide  
12 relative to depositories for textbooks and other instructional materials; to provide  
13 relative to rules and regulations; to provide relative to the Task Force on Textbooks  
14 and Instructional Materials; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 17:7(4), 8.3(G) and (H), 8.3(G) and (H), 22(2)(e), 1964(D)(9),  
17 1970.4(D)(2)(i), and 1970.24(E)(1)(h) are hereby amended and reenacted and R.S. 17:351.1

1 and 355 are hereby enacted to read as follows:

2 §7. Duties, functions, and responsibilities of board

3 \* \* \*

4 (4) Prescribe ~~and adopt free school books~~ **a process for the review,**  
5 **adoption, procurement, and distribution of free textbooks** and other materials of  
6 instruction for the children of this state at the elementary and secondary levels and  
7 **at** all other schools and programs under its jurisdiction for which the legislature  
8 provides funds, in accordance with law.

9 \* \* \*

10 §8.3. Task Force on Textbooks and Instructional Materials

11 \* \* \*

12 G.**(1)** The task force shall submit a written report of its findings and  
13 recommendations for related policy and statutory changes to the Senate Committee  
14 on Education and the House Committee on Education not later than February 1,  
15 2014.

16 **(2) The task force shall meet at least once a year thereafter to assess the**  
17 **efficiency and effectiveness of the review and adoption process for textbooks**  
18 **and other instructional materials and shall submit a written report of its**  
19 **findings to the Senate Committee on Education and the House Committee on**  
20 **Education, not later than March first of each year.**

21 H. The task force shall terminate and all authority for its existence shall end  
22 June 30, ~~2014~~ **2016**.

23 \* \* \*

24 §22. Superintendent; functions and duties

25 The superintendent shall:

26 (1)

27 \* \* \*

28 (2) Provide the staff services for the board. In that regard the superintendent  
29 shall:



1 subject areas of English language arts, mathematics, science, and social studies  
2 and determine the degree to which each aligns with state content standards. The  
3 department may review textbooks and instructional materials in other subject  
4 matter areas as deemed necessary or upon request of a public school governing  
5 authority.

6 (2) The digital review process for textbooks and other instructional  
7 materials submitted to the department for review shall be conducted entirely  
8 online. Every aspect of the digital review process, including the textbooks and  
9 instructional materials under review and any and all comments submitted by  
10 reviewers, parents and other members of the public, and publishers and other  
11 content providers, shall be posted online and made readily accessible by all  
12 interested parties.

13 (3) The digital review process shall, at a minimum, provide for the  
14 following:

15 (a) Guidelines and timelines for the submission, review, comment, and  
16 evaluation of textbooks and other instructional materials.

17 (b) Establishment of review panels composed of educators and content  
18 experts who have knowledge of curriculum and the subject matter under  
19 consideration.

20 (c) Evaluation criteria and procedures to determine the extent to which  
21 textbooks and instructional materials submitted for review align with state  
22 content standards.

23 (d)(i) The opportunity for parents and the public to view and submit  
24 comments on all textbooks and instructional materials under review. A read-  
25 only copy of all textbooks and instructional materials under review shall be  
26 made readily available online for this purpose.

27 (ii) The opportunity for publishers and other content providers to  
28 submit comments in response to any review committee evaluation.

29 (iii) All comments submitted in relation to a reviewed textbook or

1 instructional material shall be posted online for ready access by any interested  
2 party.

3 (e) A requirement that all textbooks and instructional materials  
4 submitted for review be supplied in an electronic format that meets the National  
5 Instructional Materials Accessibility Standards and can be converted into  
6 specialized formats for children with disabilities and from which Braille and  
7 large-print textbooks can be produced for blind and visually impaired students.

8 (4)(a) The Department of Education shall provide the governing  
9 authority of each public elementary and secondary school with a list of all  
10 textbooks and other instructional materials reviewed by the department which  
11 includes information indicating the degree to which each aligns with state  
12 content standards. Such list shall also be posted online.

13 (b) The list of reviewed textbooks and other instructional materials shall  
14 include textbooks and instructional materials for each core subject at each  
15 grade level that are fully aligned with state content standards.

16 (c) Any list of reviewed textbooks and other instructional materials  
17 prepared by the department shall contain a statement to the effect that the  
18 textbooks and instructional materials contained therein were reviewed for the  
19 sole purpose of determining the degree of alignment with state content  
20 standards and it is the responsibility of each public school governing authority  
21 to determine if their use is appropriate to meet the educational needs of its  
22 students.

23 (d) Nothing in this Section shall be construed as prohibiting a public  
24 school or school district from purchasing or otherwise acquiring textbooks and  
25 instructional materials that are not included in the list of reviewed textbooks  
26 and instructional materials prepared by the Department of Education, provided  
27 the use of such textbooks and instructional materials is not prohibited by law  
28 or state board regulation.

29 C.(1) The governing authority of each public elementary and secondary

1 school shall adopt policies and regulations for the adoption and use of textbooks  
2 and other instructional materials that sufficiently support the needs of all  
3 students in meeting state content standards.

4 (2) The purchase and use of electronic textbooks, instructional  
5 materials, and other media or content shall be maximized to the greatest extent  
6 possible.

7 (3)(a) Such policies and regulations shall provide for the establishment  
8 of review committees composed of teachers, educators, parents, and other  
9 educational stakeholders who have interest in or knowledge of curriculum and  
10 the subject matter under consideration.

11 (b) Parents and other members of the public shall be afforded the  
12 opportunity to review and provide input relative to the textbooks and  
13 instructional materials under consideration prior to final adoption. Copies of  
14 all textbooks and instructional materials under consideration shall be made  
15 available to the public in a manner and to the extent feasible for the public  
16 school governing authority.

17 (c) Review committee evaluations and all public comments submitted for  
18 each textbook and instructional material under review shall be posted on the  
19 school governing authority's website and may be removed at the conclusion of  
20 the review and adoption process.

21 (4) Textbooks and instructional materials adopted for use in public  
22 elementary and secondary schools shall accurately reflect the contributions and  
23 achievements of people of differing races and promote an understanding of the  
24 history and values of the people of the United States and Louisiana, including  
25 the free enterprise system, private property, constitutional liberties, democratic  
26 values, and traditional standards of moral values.

27 (5) The governing authority of a public elementary or secondary school  
28 may establish the price and sell any textbook or library book no longer in use  
29 to any person or entity for private use.

1           **D.(1) The Department of Education shall support public school**  
2           **governing authorities in achieving maximum cost efficiencies in the purchase**  
3           **and acquisition of textbooks and other instructional materials by providing for**  
4           **bulk purchasing through state contracts, whenever possible and feasible.**

5           **(2) The governing authority of a public elementary or secondary school**  
6           **may purchase textbooks and other instructional materials through a state**  
7           **contract, through a school system purchasing cooperative, or may contract**  
8           **directly with a publisher or other content provider.**

9           **(3) Each contract between the state, a school system purchasing**  
10          **cooperative, or the governing authority of a public elementary and secondary**  
11          **school and a publisher or other content provider for textbooks and instructional**  
12          **materials shall:**

13           **(a) Be awarded on a competitive basis in accordance with applicable**  
14           **state law.**

15           **(b) Provide that the publisher, distributor, wholesaler, or retailer shall**  
16           **not charge the governing authority of a public school a purchase price, rental**  
17           **fee, or other fee for the purchase, lease, or use of a textbook or instructional**  
18           **material that exceeds the lowest price or fee charged to a school governing**  
19           **authority in any other state for the same textbook or instructional material.**

20          **E.(1) The state Department of Education shall provide for a central**  
21          **depository for textbooks and other instructional materials which are aligned to**  
22          **state content standards to facilitate the purchase and distribution of textbooks**  
23          **and instructional materials.**

24           **(2) The depository shall provide for the procurement of textbooks and**  
25           **instructional materials in all formats needed to support student learning,**  
26           **including Braille, large print, digital and print.**

27           **(3) The ordering system established for the depository shall include the**  
28           **reviews conducted pursuant to Subsection B of this Section and any comments**  
29           **submitted by parents, the public, and publishers and other content providers.**

\* \* \*

**§355. Rules**

**The State Board of Elementary and Secondary Education shall promulgate rules and regulations to implement the provisions of this Part in accordance with the Administrative Procedure Act.**

\* \* \*

§1964. Board of directors; creation; membership; terms; powers, duties, and functions; voting; compensation

\* \* \*

D. In addition to the authorities granted herein and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

\* \* \*

(9) Prescribe and select for use in the school free ~~school books~~ **textbooks** and other materials of instruction for children enrolled in the school and programs under its jurisdiction for which the legislature provides funds. ~~Wherever practical, the board shall select the same school books and other materials of instruction as are adopted by the state board.~~

\* \* \*

§1970.4. School board; creation; membership; terms; powers and duties; voting; compensation

\* \* \*

D.

\* \* \*

(2) The board shall:

\* \* \*

(i) Prescribe and select for use in the ~~school books~~ **textbooks** and other materials of instruction for children enrolled in the school and programs under its jurisdiction for which the legislature provides funds. ~~Wherever practical, the board shall select the same school books and other materials of instruction as are adopted by the state board.~~

\* \* \*

§1970.24. Board of directors; creation; membership; terms; powers and duties;  
voting; compensation

\* \* \*

E.(1) The board shall perform or direct the performance of all of the following in compliance with the provisions of this Part, including the expression of the intentions of the legislature:

\* \* \*

(h) Prescribe and select for use in the center free ~~school books~~ **textbooks** and other materials of instruction for children enrolled in the center and programs under its jurisdiction for which the legislature provides funds. ~~Wherever practical, the board shall select the same school books and other materials of instruction as are adopted by the state board.~~

\* \* \*

Section 2. R.S. 17:8 through 8.2, 351, 352, and 415.1 are hereby repealed.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jeanne C. Johnston.

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DIGEST

Appel (SB 336)

Proposed law significantly revises the procedures established in present law for the adoption, procurement, and distribution of textbooks and other instructional materials for use in elementary and secondary schools as follows:

**BESE's role in the textbook selection and distribution process**

Present law requires the State Board of Elementary and Secondary Education (BESE) to prescribe and adopt school books and other materials of instruction, which it shall supply free of charge to the children of this state at the elementary and secondary levels out of funds appropriated therefor by the legislature in accordance with the requirements of Article VIII, Section 13(A) of the Constitution of Louisiana.

Proposed law deletes the requirement that BESE adopt textbooks and instructional materials for use in the public schools and instead requires BESE to prescribe a process for the review, adoption, procurement, and distribution of free textbooks and other materials of instruction by the governing authority of each public elementary and secondary school, including special schools.

**Role of the state Dept. of Education in preparation of lists and reviews of textbooks**

Present law requires the state superintendent of education to prepare the list of free school books and other materials of instruction for BESE adoption.

Proposed law deletes this requirement and instead requires the state superintendent to administer the process prescribed by BESE for the review, adoption, procurement, and distribution of free textbooks and other instructional materials and to prepare lists of state reviewed textbooks and instructional materials.

Proposed law requires BESE to establish a transparent, digital process whereby the state Department of Education (DOE) shall review textbooks and other instructional materials as follows:

- (1) Requires DOE to review textbooks and instructional materials in the core subject areas of English language arts, mathematics, science, and social studies and determine the degree to which each aligns with state content standards.
- (2) Authorizes the DOE to review textbooks and instructional materials in other subject matter areas as deemed necessary or upon request of a public school governing authority.
- (3) Requires the digital review process for textbooks and other instructional materials submitted to the DOE for review to be conducted entirely online. Provides that every aspect of the digital review process, including the textbooks and instructional materials under review and any and all comments submitted by reviewers, parents and other members of the public, and publishers and other content providers, shall be posted online and readily accessible by all interested parties.
- (4) Provides that the digital review process shall, at a minimum, provide for the following:
  - (a) Guidelines and timelines for the submission, review, comment, and evaluation of textbooks and other instructional materials.
  - (b) Establishment of review panels composed of educators and content experts who have knowledge of curriculum and the subject matter under consideration.
  - (c) Evaluation criteria and procedures to determine the extent to which textbooks and instructional materials submitted for review align with state content standards.
  - (d) Provide the opportunity for parents and the public to view and submit comments on all textbooks and instructional materials under review. Further provides that a read-only copy of all textbooks and instructional materials under review shall be made readily available online for this purpose.
  - (e) Provide the opportunity for publishers and other content providers to submit comments in response to any review committee evaluation.
  - (f) Requires that all comments submitted in relation to a reviewed textbook or

instructional material shall be posted online for ready access by any interested party.

- (g) Requires that all textbooks and instructional materials submitted for review be supplied in an electronic format that meets the National Instructional Materials Accessibility Standards and can be converted into specialized formats for children with disabilities and from which Braille and large-print textbooks can be produced for blind and visually impaired students.
- (5) Requires DOE to provide the governing authority of each public elementary and secondary school with a list of all textbooks and other instructional materials reviewed by the department which includes information indicating the degree to which each aligns with state content standards. Such list shall also be posted online.
- (6) Requires that the list of reviewed textbooks and other instructional materials prepared by DOE include textbooks and instructional materials for each core subject at each grade level that are fully aligned with state content standards.
- (7) Provides that any list of reviewed textbooks and other instructional materials prepared by the department shall contain a statement to the effect that the textbooks and instructional materials contained therein were reviewed for the sole purpose of determining the degree of alignment with state content standards and it is the responsibility of each public school governing authority to determine if their use is appropriate to meet the educational needs of its students.

Proposed law authorizes each public school governing authority to purchase textbooks and other instructional materials of their own choosing. Further provides that nothing in proposed law shall be construed as prohibiting a public school or school district from purchasing or otherwise acquiring textbooks and instructional materials that are not included in the list of reviewed textbooks and instructional materials prepared by the Department of Education, provided the use of such textbooks and instructional materials is not prohibited by law or state board regulation.

#### **Role and responsibilities of public school governing authorities**

Proposed law requires the governing authority of each public school to adopt policies and regulations for the adoption and use of textbooks and other instructional materials that sufficiently support the needs of all students in meeting state content standards as follows:

- (1) Require that the purchase and use of electronic textbooks, instructional materials, and other media or content shall be maximized to the greatest extent possible.
- (2) Provide for the establishment of review committees composed of teachers, educators, parents, and other educational stakeholders who have interest in or knowledge of curriculum and the subject matter under consideration.
- (3) Afford parents and other members of the public the opportunity to review and provide input relative to the textbooks and instructional materials under consideration prior to final adoption. Copies of all textbooks and instructional materials under consideration shall be made available to the public in a manner and to the extent feasible for the public school governing authority.
- (4) Review committee evaluations and all public comments submitted for each textbook and instructional material under review shall be posted on the school governing authority's website. Allows the removal of such textbooks and materials from the website at the conclusion of the review and adoption process.

Present law requires that textbooks and instructional materials adopted for use in public

elementary and secondary schools shall accurately reflect the contributions and achievements of people of differing races and promote an understanding of the history and values of the people of the United States and Louisiana, including the free enterprise system, private property, constitutional liberties, democratic values, and traditional standards of moral values.

Proposed law retains these provisions.

Present law authorizes the governing authority of a public elementary or secondary school may establish the price and sell any textbook or library book no longer in use to any person or entity for private use.

Proposed law retains this provision.

Present law authorizes the La. School for Math, Science, and the Arts, the Louis Armstrong High School for the Arts, and the New Orleans Center for the Creative Arts the authority to prescribe and select textbooks and instructional materials for the children enrolled in each respective school but directed that, wherever practical, the school's board shall select textbooks and materials of instruction as adopted by BESE.

Proposed law deletes the preference for BESE adopted textbooks and materials.

#### **Review and inspection of textbooks by the public**

Present law requires that textbooks and materials be made available for public inspection at DOE during regular office hours. Provides for textbook review procedures, including citizen participation, the composition of textbook committees, and the placement of proposed textbooks in various public library branches throughout the state.

Proposed law repeals present law but provides that the public shall have the opportunity to view textbooks and instructional materials under review by DOE and school governing authorities and be afforded the opportunity to submit comments during the review process and prior to final adoption for use by a public school governing authority.

#### **Purchase of textbooks by public school governing authorities; contracts with publishers**

Present law encourages school boards to maximize the availability and accessibility of electronic versions of textbooks and other instructional materials and authorizes their purchase. Prohibits BESE from restricting the amount or percentage of state or local funds a board may expend on them.

Proposed law essentially retains present law and prohibits BESE from restricting the amount or percentage of state or local funds a public school governing authority may expend on the purchase or acquisition of textbooks and instructional materials in general.

Present law requires each contract with a publisher for school books to be awarded on a competitive basis and provides that such contracts contain specific provisions relative to termination rights, price controls and stability. Further requires that at least 80% of the books purchased be printed in La., provided 5,000 or more copies of such book are purchased in a single year.

Proposed law retains the requirement in present law for public bids, but otherwise repeals present law and instead provides as follows:

- (1) Requires DOE to support public school governing authorities in achieving maximum cost efficiencies in the purchase and acquisition of textbooks and other instructional materials by providing for bulk purchasing through state contracts, whenever possible and feasible.

- (2) Provides public school governing authorities may purchase textbooks and other instructional materials through a state contract, through a school system purchasing cooperative, or may contract directly with a publisher or other content provider.
- (3) Provides that each contract between the state, a school system purchasing cooperative, or the governing authority of a public elementary and secondary school and a publisher or other content provider for textbooks and instructional materials shall:
  - (a) Be awarded on a competitive basis in accordance with applicable state law.
  - (b) Provide that the publisher, distributor, wholesaler, or retailer shall not charge the governing authority of a public school a purchase price, rental fee, or other fee for the purchase, lease, or use of a textbook or instructional material that exceeds the lowest price or fee charged to a school governing authority in any other state for the same textbook or instructional material.

### **Textbook depository**

Present law designates DOE as the state depository for school books and authorizes the state superintendent to administer this function, including the authority to contract with a public or private agency to act as the depository.

Proposed law repeals present law and instead requires DOE to provide for a central depository for textbooks and other instructional materials which are aligned to state content standards to facilitate the purchase and distribution of textbooks and instructional materials. Requires the depository to provide for the procurement of textbooks and instructional materials in all formats needed to support student learning, including Braille, large print, digital and print. Further provides that the ordering system established for the depository shall include the reviews conducted pursuant to proposed law and any comments submitted by parents, the public, and publishers and other content providers.

### **Sale of school books no longer in use**

Present law authorizes a school board, with prior BESE approval, to sell any textbook or library book no longer in use to any person or entity for private use at a fee established by the school board. Limits use of funds from such sale to textbook or library book purchases. Proposed law deletes requirement for prior BESE approval and the limitation on the specific use of sale funds.

### **Textbooks for home study students**

Present law requires BESE to establish rules and procedures for supplying school books and other materials of instruction for children participating in approved home study programs when available. Additionally provides that such rules shall include a requirement that textbooks and instructional materials supplied to a student enrolled in a home study program shall be returned once the student has completed the coursework for which the textbooks and instructional materials were provided. Proposed law specifies that such materials shall be supplied through the local public school governing authority.

### **Miscellaneous provisions repealed by proposed law**

Present law:

- (1) Authorizes local school boards to use state funds to purchase computer hardware.
- (2) Provides relative to the donation and disposal of school books no longer in use.

- (3) Requires BESE to prescribe and adopt and exercise supervision and control over school books and other learning materials for postsecondary and vocational-technical schools and programs.
- (4) Requires BESE to require publishers to furnish computer diskettes for producing braille versions of textbooks.

Proposed law repeals present law in (1) through (4) above.

Proposed law requires BESE to adopt rules and regulations in accordance with the Administrative Procedure Act to implement proposed law.

Present law provides for the Task Force on Textbooks and Instructional Materials charged with the review and analysis of the processes utilized to select and approve textbooks and other instructional materials for use in the public schools. Requires the task force to submit a written report of its findings and recommendations to the Senate and House education committees not later than February 1, 2014. Further provides that the task force shall terminate on June 30, 2014.

Proposed law retains present law but extends the existence of the task force until June 30, 2016. Requires the task force to meet at least once a year until it terminates to assess the efficiency and effectiveness of the review and adoption process for textbooks and other instructional materials. Requires the task force to submit a written report of its findings to the Senate Committee on Education and the House Committee on Education, not later than March first of each year.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 17:7(4), 22(2)(e), 8.3 (G) and (H), 1964(D)(9), 1970.4(D)(2)(i), and 1970.24(E)(1)(h); adds R.S. 17:351.1 and 355; repeals R.S. 17:8 through 8.2, 351, 352, and 415.1)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Education to the original bill

1. Extends the termination date for the Task Force on Textbooks and Instructional Materials from 6/30/14 to 6/30/16. Requires annual report to Senate and House education committees.
2. Requires that textbooks/instructional materials supplied to home study students be returned when the student's coursework is completed.
3. Requires DOE lists of reviewed textbooks/instructional materials to contain a statement noting that textbooks/instructional materials have been reviewed only to determine alignment with state standards.
4. Allows school governing authorities to remove review committees evaluations and public comments received during the textbook/instructional material adoption process from website at the conclusion of the adoption process.
5. Allows school governing authorities to purchase textbooks/instructional materials through school system cooperatives.