

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 519
SENATE BILL 477

1 AN ACT TO AMEND AND REVISE ARTICLES 25 and 26 OF CHAPTER 115 OF THE
2 GENERAL STATUTES TO AUTHORIZE COUNTY AND CITY BOARDS OF
3 EDUCATION TO PROVIDE FOR THE SELECTION AND PROCUREMENT OF
4 SUPPLEMENTARY TEXTBOOKS, LIBRARY BOOKS, PUBLICATIONS, AND
5 OTHER INSTRUCTIONAL MATERIALS FOR THE PUBLIC SCHOOL SYSTEM.
6

7 WHEREAS, the State Board of Education has approved the recommendation of the
8 State Superintendent of Public Instruction that amendments be made to Articles 25 and 26 of
9 Chapter 115 of the General Statutes relating to the selection and adoption of textbooks, and to
10 the furnishing of basic and supplementary textbooks and instructional materials insofar as these
11 Articles relate to the adopting, warehousing, and distribution of supplementary books by the
12 State Board of Education and to the buying and selling of library books based on a list
13 recommended by the State Superintendent of Public Instruction; and

14 WHEREAS, it is desirable that the selection of supplementary instructional
15 materials be made by each school administrative unit and that State funds available for these
16 purposes be allotted to the school administrative units under the State Nine Months School
17 Fund; and

18 WHEREAS, in view of the wide variety of library books available to the public
19 schools that can be purchased by the school administrative units from large commercial
20 publishers and book jobbers at a price comparable to that charged by the State for the limited
21 number of titles that the State is able to warehouse and distribute; and

22 WHEREAS, it is the consensus that the limited jobbing service being performed by
23 the State Board of Education for library books is no longer needed by the school administrative
24 units, and that the time spent by the professional staff of the Department of Public Instruction
25 in selecting, processing and compiling a list of library books by title to be warehoused by the
26 State could better be spent in more productive instructional efforts; and

27 WHEREAS, the North Carolina public school system cannot now be properly
28 served under the present system of distributing supplementary text materials because of the
29 cumbersome and antiquated contract system which delays introduction into the classrooms of
30 the newest available materials and sometimes keeps items on contract that are no longer
31 appropriate, and since technological breakthroughs in the design and manufacture of
32 supplemental materials have placed an enormous volume and variety of materials within easy
33 reach of most local school systems; and

34 WHEREAS, the present system of distributing supplementary materials is also
35 limited because many of these materials can no longer be made available through the current
36 contract system because of the limitations placed on the contract system by publishers; and
37 since the local units should be encouraged to design and develop instructional programs that
38 will meet the specific needs of each child in every school situation, and since the limited
39 supplementary book list restricts and hinders the local school system in accomplishing the
40 goals and objectives for their programs; and

41 WHEREAS, the selection of library materials that should be purchased for inclusion
42 in a given school library or unit center should be done by the individual school faculty and at
43 the county and city administrative levels under the guidance of a professional school librarian,

and since the State Department of Public Instruction, through conferences and other in-service education activities can assist school administrative units in developing sound written selection policies and procedures;
NOW, THEREFORE,

The General Assembly of North Carolina do enact:

Section 1. A new Article, to be designated Article 25A and entitled "Textbooks and Instructional Material", shall be inserted in Chapter 115 of the General Statutes immediately following Article 24 and shall read as follows:

ARTICLE 25A. TEXTBOOKS AND INSTRUCTIONAL MATERIAL.

"Sec. 115-206.1. Textbook needs are determined by course of study. When the State Board of Education has adopted, upon the recommendation of the State Superintendent of Public Instruction, a standard course of study at each instructional level in the elementary school and the secondary school, setting forth what subjects shall be taught at each level, it shall proceed to select and adopt textbooks. Textbooks adopted in accordance with the provisions of this Article shall be used by the public schools of the State."

"Sec. 115-206.2. State Board of Education to select and adopt textbooks. The Board shall select and adopt for a period determined to be most advantageous to the State public school system for the exclusive use in the public schools of North Carolina the basic textbooks or series of books needed for instructional purposes at each instructional level on all subject matter required by law to be taught in elementary and secondary schools of North Carolina."

"Sec. 115-206.3. Appointment of Textbook Commission. Shortly after assuming office, the Governor, upon recommendation of the State Superintendent, shall appoint a Textbook Commission of twelve members who shall hold office for four years, or until their successors are elected and qualified. The Governor shall fill all vacancies by appointment for the unexpired term. Six of the members shall be teachers or principals in the elementary grades; five shall be teachers or principals in the high school grades; and one shall be a superintendent of a county or city school administrative unit. The Commission shall elect a chairman, subject to the approval of the State Superintendent. The members shall be entitled to compensation for each day spent on the work of the Commission as approved by the Board and to reimbursement for travel and subsistence expense incurred in the performance of their duties at rates specified in G.S. 138-5(b)."

"Sec. 115-206.4. Commission to evaluate books offered for adoption. The members of the Commission who are teachers or principals in the elementary grades shall evaluate all textbooks offered for adoption in the elementary grades. The members who are teachers or principals in the high schools shall evaluate all books offered for adoption in the high school grades.

Each member shall examine carefully and file a written evaluation of each book offered for adoption in the category for which he is responsible.

The evaluation report shall give special consideration to the suitability of the book to the instructional level for which it is offered, the content or subject matter, and other criteria prescribed by the Board.

Each evaluation report shall be signed by the member making the report and filed with the Board not later than a day fixed by the Board when the call for adoption is made."

"Sec. 115-206.5. Selection of textbooks by Board. At the next meeting of the Board after the reports have been filed, the Textbook Commission and the Board shall jointly examine the reports. From the books evaluated the Board shall select those that it thinks will meet the teaching requirements of the State public schools in the instructional levels for which they are offered. The Board shall then request sealed bids from the publishers on the selected books.

1 The Board shall make all necessary rules and regulations concerning requests for bids,
2 notification to publishers of calls for adoption, execution and delivery of contracts, requirement
3 of performance bonds, cancellation causes, and such other material matters as may affect the
4 validity of the contracts."

5 "Sec.115-206.6. Adoption of textbooks and contracts with publishers. The publishers'
6 sealed bids shall be opened in the Board's presence at the next regular meeting after the Board
7 has requested the submission of bids. The Board may then adopt the books required by the
8 courses of study and enter into contracts with the publisher of adopted books. It may refuse to
9 adopt any of the books offered at the prices bid and call for new bids. When bids are accepted
10 and a contract entered into, the contract may require, in the Board's discretion, that the total
11 sales of each book in the State of North Carolina be reported annually to the Board."

12 "Sec. 115-206.7. Continuance and discontinuance of contracts with publishers. When an
13 existing or future contract expires, the Board may, with the publisher's approval, continue the
14 contract for any particular book or books for a period not less than one or more than five years.
15 If a publisher desires to terminate a contract that has been extended beyond the original
16 contract period, he shall give notice to the Board ninety (90) days prior to May 1. The Board
17 may then proceed to a new adoption."

18 "Sec. 115-206.8. Procedure for change of textbook. The Superintendent may at any time
19 communicate to the Board that a particular book is unsatisfactory for the schools, whereupon
20 the Board may call for a new selection and adoption. If the Board votes to change a textbook, it
21 shall give the publisher ninety (90) days' notice prior to May 1, after which it may adopt a new
22 book or books on the subject for which a book is sought."

23 "Sec. 115-206.9. Advice from and suits by Attorney General. The form and legality of
24 contracts between the Board and publishers of textbooks shall be subject to the approval of the
25 Attorney General.

26 When requested by the Board, the Attorney General shall bring suit against any publisher
27 who fails to keep his contract as to prices, distribution, adequate supply of books in the edition
28 adopted, or in any other way violates the terms of his contract. The suit shall be brought for an
29 amount sufficient to enforce the contract or to compensate the State for any loss sustained by
30 the publisher's failure to keep his contract."

31 "Sec. 115-206.10. Publishers to register. Any publisher who submits books for adoption
32 shall register in the office of the State Superintendent of Public Instruction the names of all
33 agents or other employees authorized to represent that company in the State, and this
34 registration list shall be open to the public for inspection."

35 "Sec. 115-206.11. Sale of books at lower price reduces price to State. Every contract made
36 by the Board with the publisher of any school textbook on the State adopted list shall be
37 deemed to have written therein a condition providing that if that publisher, during the life of his
38 contract with this State, contracts with any other governmental unit or places that textbook on
39 sale anywhere in the United States for a price less than that stipulated in his contract with the
40 State of North Carolina, the publisher shall immediately furnish that textbook to this State at a
41 price not greater than that for which the book is furnished, sold, or placed on sale anywhere
42 else in the nation."

43 "Sec. 115-206.12. Powers and duties of the State Board of Education in regard to
44 textbooks. The children of the public elementary and secondary schools of the State shall be
45 provided with free basic textbooks within the appropriation of the General Assembly for that
46 purpose. The State Board of Education is directed to request sufficient appropriations from the
47 General Assembly to implement this directive.

48 "The State Board of Education shall administer a fund and establish rules and regulations
49 necessary to:

"(1) Acquire by contract such basic textbooks as are or may be on the adopted list of the State of North Carolina which the Board finds necessary to meet the needs of the State's Public School System and to carry out the provisions of this Article.

"(2) Provided a system of distribution of these textbooks and distribute the books that are provided without using any depository or warehouse facilities other than that operated by the State Board of Education.

"(3) Provide for the free use, with proper care and return, of elementary and secondary basic textbooks. The title of said books shall be vested in the State."

"Sec. 115-206.13. State Board of Education authorized to discontinue handling supplementary and library books. The State Board of Education may discontinue the adoption of supplementary textbooks and, at the expiration of existing contracts, may discontinue the purchase, warehousing, and distribution of supplementary textbooks. The Board may also discontinue the purchase and resale of library books. Funds appropriated to the State Board of Education for supplementary textbooks shall be transferred to the State Nine Months School Fund for allotment to each school administrative unit, based on its average daily membership, for the purchase of supplementary textbooks, library books, periodicals, and other instructional materials."

"Sec.115-206.14. Local boards of education to provide for local operation of the textbook program and the selection and procurement of other instructional materials, (a) Local boards of education shall adopt rules and regulations not inconsistent with the policies of the State Board of Education concerning the local operation of the textbook program.

"(b) Local boards of education shall adopt written policies concerning the procedures to be followed in its school administrative unit for the selection and procurement of supplementary textbooks, library books, periodicals, and other instructional materials needed for instructional purposes in the public schools of that unit. Supplementary books and other instructional materials shall neither displace nor be used to the exclusion of basic textbooks.

"(c) Funds allocated by the State Board of Education or appropriated in the current expense or capital outlay budgets of the school administrative units, may be used for the above-stated purposes."

"Sec. 115-206.15. Legal custodians of books furnished by State. Local boards of education are the custodians of all books furnished by the State. They shall provide adequate and safe storage facilities for the proper care of these books and emphasize to all students the necessity for proper care of textbooks."

"Sec. 115-206.16. Rental fees for textbooks prohibited: damage fees authorized. No local board of education may charge any pupil a rental fee for the use of textbooks. Damage fees may be charged for abuse or loss of textbooks under rules and regulations promulgated by the State Board of Education. All money collected on State-owned books as damage fees or from the sale of books under the provisions of this Article shall be paid quarterly as collected to the State Board of Education."

"Sec. 115-206.17. Duties and authority of superintendents of local administrative units. The superintendent of each administrative unit, as an official agent of the State Board of Education, shall administer the provisions of this Article and the rules and regulations of the Board insofar as they apply to his unit. The superintendent of each administrative unit shall have authority to require the cooperation of principals and teachers so that the children may receive the best possible service, and so that all the books and monies may be accounted for properly. If any principal or teacher fails to comply with the provisions of this Section, his superintendent shall withhold his salary vouchers until the duties imposed by this Section have been performed.

"If any superintendent fails to comply with the provisions of this Section, the State Superintendent, as secretary to the State Board of Education, shall notify the State Board of Education and the State Treasurer. The State Board and the State Superintendent shall withhold

1 the superintendent's salary vouchers, and the State Treasurer shall make no payment until the
2 State Superintendent notifies him that the provisions of this Section have been complied with."

3 "Sec. 115-206.18. Right to purchase. Any parent, guardian, or person in loco parentis may
4 purchase any instructional material needed for any child in the public schools of the State from
5 the board of education of the school administrative unit in which the child is enrolled or, in the
6 case of basic textbooks, from the State Board of Education."

7 **Sec. 2.** Article 25 and 26 of G.S. 115 are hereby repealed.

8 **Sec. 3.** All laws and clauses of laws in conflict with this Act are hereby repealed.

9 **Sec. 4.** This Act shall be in full force and effect from and after its ratification.

10 In the General Assembly read three times and ratified, this the 19th day of May,
11 1969.