

By the Committees on Education and Education

304-1658B-99

1 A bill to be entitled
2 An act relating to instructional materials;
3 amending s. 230.23, F.S.; defining the term
4 "adequate instructional materials" to mean
5 providing each student with a textbook or
6 certain other materials; amending s. 233.09,
7 F.S.; eliminating the requirements for
8 providing weighted and unweighted aggregations;
9 amending s. 233.16, F.S.; changing the
10 reference from the Department of Education to
11 the Commissioner of Education with respect to
12 certain duties in selecting and adopting
13 instructional materials; eliminating a
14 condition for rejecting bids; amending s.
15 233.17, F.S.; eliminating the optional
16 escalator clause in certain contracts; amending
17 s. 233.22, F.S.; requiring the superintendent
18 to requisition certain materials; allowing the
19 superintendent to requisition certain
20 materials; amending s. 233.25, F.S.; requiring
21 publishers and manufacturers to retain
22 instructional materials in a depository for a
23 specified period of time and to ensure the
24 availability of materials; authorizing the
25 Commissioner of Education to accept certain
26 submissions under certain circumstances;
27 amending s. 233.34, F.S.; requiring school
28 districts to purchase instructional materials
29 in core courses of subject areas within a
30 specified time; providing exceptions; allowing
31 school districts to make certain purchases when

1 authorized in the General Appropriations Act;
2 amending s. 233.37, F.S.; providing for the
3 disposal of unserviceable instructional
4 materials and those no longer on state
5 contract; eliminating contracts between the
6 Department of Education and recycling firms;
7 authorizing the district school board to
8 prescribe policies for destroying instructional
9 materials; requiring that certain moneys be
10 deposited in the district school fund and added
11 to the district appropriation for instructional
12 materials; repealing s. 233.38, F.S., relating
13 to the exchange of textbooks by certain
14 districts; amending s. 233.43, F.S.; requiring
15 district school board policies to include the
16 superintendent's responsibilities for keeping
17 records pursuant to s. 233.46(4), F.S.;
18 requiring reports; amending s. 233.46, F.S.;
19 requiring policies by district school boards
20 related to lost or damaged books; requiring a
21 report by the Department of Education;
22 requiring that the Executive Office of the
23 Governor and the Secretary of State renegotiate
24 existing contracts for certain instructional
25 materials in core subject areas; providing an
26 effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

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30 Section 1. Subsection (7) of section 230.23, Florida
31 Statutes, 1998 Supplement, is amended to read:

1 230.23 Powers and duties of school board.--The school
2 board, acting as a board, shall exercise all powers and
3 perform all duties listed below:

4 (7) COURSES OF STUDY AND OTHER INSTRUCTIONAL
5 AIDS.--Provide adequate instructional aids for all children as
6 follows and in accordance with the requirements of chapter
7 233. For purposes of this subsection, adequate instructional
8 materials means providing each student with a textbook or set
9 of materials serving as the basis for instruction in the core
10 courses of mathematics, language arts, social studies,
11 science, reading, and literature, unless the school advisory
12 council approves the use of a program that does not include a
13 textbook as a major tool of instruction.

14 (a) Courses of study; adoption.--Adopt courses of
15 study for use in the schools of the district.

16 (b) Textbooks.--Provide for proper requisitioning,
17 distribution, accounting, storage, care, and use of all
18 textbooks and other books furnished by the state and furnish
19 such other textbooks and library books as may be needed. The
20 school board is responsible for assuring that instructional
21 materials used in the district are consistent with the
22 district goals and objectives and the curriculum frameworks
23 approved by the State Board of Education, as well as with the
24 state and district performance standards provided for in ss.
25 229.565 and 232.2454.

26 (c) Other instructional aids.--Provide such other
27 teaching accessories and aids as are needed to carry out the
28 program.

29 (d) School library media services; establishment and
30 maintenance.--Establish and maintain school library media
31 centers, or school library media centers open to the public,

1 and, in addition thereto, such traveling or circulating
2 libraries as may be needed for the proper operation of the
3 district school system. Establish and maintain a program of
4 school library media services for all public schools.

5 Section 2. Paragraph (f) of subsection (4) of section
6 233.09, Florida Statutes, is amended to read:

7 233.09 Duties of each state instructional materials
8 committee.--The duties of each state instructional materials
9 committee shall be:

10 (4) EVALUATION OF INSTRUCTIONAL MATERIALS.--To
11 evaluate carefully all instructional materials submitted, to
12 ascertain which instructional materials, if any, submitted for
13 consideration best implement the selection criteria developed
14 by the Commissioner of Education and those curricular
15 objectives included within applicable performance standards
16 provided for in s. 229.565.

17 (f) When recommending instructional materials for use
18 in the schools, each committee shall have the recommendations
19 of all districts which submit evaluations on the materials
20 submitted for adoption in that particular subject area
21 aggregated and presented to the members to aid them in the
22 selection process; ~~however, such aggregation shall be~~
23 ~~weighted in accordance with the full-time equivalent student~~
24 ~~percentage of each district. Each committee shall prepare an~~
25 ~~additional aggregation, unweighted, with~~ Each district
26 recommendation shall be given equal consideration. No
27 instructional materials shall be evaluated or recommended for
28 adoption unless each of the district committees shall have
29 been loaned the specified number of samples.

30 Section 3. Subsection (2) of section 233.16, Florida
31 Statutes, is amended to read:

1 233.16 Powers and duties of Department of Education in
2 selecting and adopting instructional materials.--The powers
3 and duties of the Department of Education in selecting and
4 adopting instructional materials shall be:

5 (2) SELECTION AND ADOPTION OF INSTRUCTIONAL
6 MATERIALS.--The Department of Education shall notify all
7 publishers or manufacturers of instructional materials who
8 have submitted bids that within 3 weeks after the deadline for
9 receiving bids, at a designated time and place, it will open
10 bids and proposals which have been submitted and deposited
11 with the Department of Education. At the time and place
12 designated, the bids or proposals shall be opened, read, and
13 tabulated in the presence of the bidders or their
14 representatives. No one may revise his or her bid after the
15 bids have been filed. When all bids or proposals have been
16 carefully considered, the Commissioner of Education ~~department~~
17 shall, from the list of suitable, usable, and desirable
18 instructional materials reported by the state instructional
19 materials committee, select and adopt instructional materials
20 for each grade and subject field in the curriculum of public
21 elementary and secondary schools in the state in which
22 adoptions are made and in the subject areas designated in the
23 advertisement, which adoption shall continue for the period
24 specified in the advertisement, to begin on the ensuing April
25 1. Such adoption shall not prevent the extension of a
26 contract as provided in subsection (3). The Commissioner of
27 Education ~~department~~ shall always reserve ~~to itself~~ the right
28 to reject any and all bids or proposals ~~if it is of the~~
29 ~~opinion that any or all bids, for any reason, should be~~
30 ~~rejected~~. The Commissioner of Education ~~department~~ may ask for
31 new sealed bids from publishers or manufacturers whose

1 instructional materials were recommended by the state
2 instructional materials committee as suitable, usable, and
3 desirable; specify the dates for filing such bids and the date
4 on which they shall be opened; and proceed in all matters
5 regarding the opening of bids and the awarding of contracts as
6 required by the terms and provisions of this chapter. In all
7 cases, bids or proposals shall be accompanied by a cash
8 deposit or certified check of from \$500 to \$2,500, as the
9 Commissioner of Education ~~department~~ may direct. The
10 department, in adopting instructional materials, shall give
11 due consideration both to the prices bid for furnishing
12 instructional materials and to the report and recommendations
13 of the state instructional materials committee. When the
14 Commissioner of Education ~~department~~ has finished with the
15 report of the state instructional materials committee, the
16 report shall be filed and preserved in the office of the
17 Department of Education and shall be available at all times
18 for public inspection.

19 Section 4. Section 233.17, Florida Statutes, is
20 amended to read:

21 233.17 Term of adoption for instructional materials.--

22 (1) The term of adoption of any instructional
23 materials must be an 8-year period beginning on April 1
24 following the adoption, except for the core subject areas
25 which include mathematics, science, social studies, reading,
26 and literature which shall be for a term not to exceed 6 years
27 beginning on April 1 following the adoption. Any contract for
28 instructional materials may be extended as prescribed in s.
29 233.16(2). The Commissioner of Education may approve terms of
30 adoption of less than 8 years for materials in content areas
31 which require more frequent revision.

1 ~~(2) Any contract placing an instructional material on~~
2 ~~adoption for 4 or more years shall provide that a publisher or~~
3 ~~manufacturer of instructional materials may, at the end of the~~
4 ~~third year during the term of the contract, upon giving 60~~
5 ~~days' notification, increase such contract price to the~~
6 ~~publisher's or manufacturer's then-current lowest wholesale~~
7 ~~price at which the materials are then being offered to any~~
8 ~~state or school district in the United States, except that~~
9 ~~such adjustment shall not exceed the percentage by which the~~
10 ~~consumer price index as determined by the United States~~
11 ~~Department of Labor has increased during the time the contract~~
12 ~~has been in force. Such price increase shall remain in effect~~
13 ~~for the remaining term of the contract, unless the contract~~
14 ~~price is increased as permitted above.~~

15 (2)~~(3)~~ The department shall publish annually an
16 official schedule of subject areas to be called for adoption
17 for each of the succeeding 2 years, and a tentative schedule
18 for years 3, 4, 5, and 6. If extenuating circumstances
19 warrant, the Commissioner of Education may order the
20 department to add one or more subject areas to the official
21 schedule, in which event the commissioner shall develop
22 criteria for such additional subject area or areas pursuant to
23 s. 229.512(15) and make them available to publishers as soon
24 as practicable. Notwithstanding the provisions of s.
25 229.512(15), the criteria for such additional subject area or
26 areas may be provided to publishers less than 24 months before
27 the date on which bids are due. The schedule shall be
28 developed so as to promote balance among the subject areas so
29 that the required expenditure for new instructional materials
30 is approximately the same each year in order to maintain
31 curricular consistency.

1 Section 5. Section 233.22, Florida Statutes, is
2 amended to read:

3 233.22 Requisition of instructional materials from
4 publisher's depository.--

5 (1) The superintendent shall requisition adopted
6 instructional materials from the depository of the publisher
7 with whom a contract has been made. However, the
8 superintendent shall requisition current instructional
9 materials to provide each student with a textbook or other
10 materials as a major tool of instruction in core courses of
11 the subject areas in s. 233.34(2). These materials must be
12 requisitioned within the first 2 years of the adoption cycle,
13 except for instructional materials related to growth of
14 student membership or instructional-materials-maintenance
15 needs. The superintendent may requisition instructional
16 materials in the core subject areas in s. 233.34(2) that are
17 related to growth of student membership or
18 instructional-materials-maintenance needs during the 3rd, 4th,
19 5th, and 6th years of the original contract period.

20 (2) The superintendent shall verify that such
21 requisition is complete and accurate and order the depository
22 to forward to him or her the adopted instructional materials
23 shown by the requisition. The depository shall prepare an
24 invoice of the materials shipped, including shipping charges,
25 and mail it to the superintendent to whom the shipment is
26 being made. The superintendent shall pay the depository within
27 60 days after receipt of the requisitioned materials from the
28 appropriation for the purchase of adopted instructional
29 materials.

30 Section 6. Subsections (8) and (12) of section 233.25,
31 Florida Statutes, are amended, present subsections (13) and

1 (14) of that section are redesignated as subsections (16) and
2 (17), respectively, and new subsections (13), (14), and (15)
3 are added to that section, to read:

4 233.25 Duties, responsibilities, and requirements of
5 publishers and manufacturers of instructional
6 materials.--Publishers and manufacturers of instructional
7 materials, or their representatives, shall:

8 (8) Provide any instructional materials free of charge
9 in the state to the same extent as that received by any state
10 or school district in the United States. The commissioner may
11 accept submissions that reflect a charge for ancillary
12 materials provided free of charge in other states' contracts
13 if the publisher can reduce the total program cost to Florida
14 school districts.

15 (12) Maintain, or contract with, a depository in the
16 state ~~and maintain there an inventory sufficient to receive~~
17 ~~and fill orders for instructional materials.~~

18 (13) For the core subject areas in s. 233.34(2),
19 maintain in the depository for the first 2 years of the
20 contract an inventory of instructional materials that is
21 sufficient to receive and fill orders.

22 (14) For the core subject areas in s. 233.34(2),
23 ensure the availability of an inventory sufficient to receive
24 and fill orders for instructional materials for growth,
25 including the opening of a new school, and replacement during
26 the 3rd, 4th, 5th, and 6th years of the original contract
27 period.

28 (15) For all other subject areas, maintain in the
29 depository an inventory of instructional materials that is
30 sufficient to receive and fill orders.

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1 Section 7. Section 233.34, Florida Statutes, is
2 amended to read:

3 233.34 Use of instructional materials allocation;
4 instructional materials, library books, and reference books;
5 repair of books; exceptions.--

6 (1) On or before July 1 each year, the commissioner
7 shall certify to the superintendent of each district the
8 estimated allocation of state funds for instructional
9 materials, computed pursuant to the provisions of chapter 236
10 for the ensuing fiscal year.

11 (2)(a) Each school district must purchase current
12 instructional materials to provide each student with a
13 textbook or other instructional materials as a major tool of
14 instruction in core courses of the subject areas of
15 mathematics, language arts, science, social studies, reading,
16 and literature for kindergarten through grade 12. Such
17 purchase must be made within the first 2 years of the
18 effective date of the adoption cycle.

19 (b) The requirement in paragraph (a) does not apply to
20 contracts in existence prior to April 1, 1999, or to a
21 purchase related to growth of student membership in the
22 district or for instructional-materials-maintenance needs.

23 (c) Any school district that meets the requirement in
24 paragraph (a) may use 5 percent of the following funds to
25 purchase laptop computers for use as readers when authorized
26 to do so in the General Appropriations Act:

27 1. Instructional materials funds, notwithstanding the
28 definition of instructional materials in s. 233.07(4) or the
29 provisions in s. 233.34(3); or

30 2. Public school technology funds.

31

1 (d) The exceptions in subsections (3) and (4) for the
2 use of the annual allocation do not apply to this subsection.

3 ~~(3)(a)(2)~~ Each school district shall use the annual
4 allocation for the purchase of instructional materials
5 included on the state-adopted list. No less than 50 percent
6 of the annual allocation shall be used to purchase items which
7 will be used to provide instruction to students at the level
8 or levels for which the materials are designed.

9 (b) However, up to 50 percent of the annual allocation
10 may be used for the purchase of instructional materials,
11 including library and reference books and nonprint materials,
12 not included on the state-adopted list and for the repair and
13 renovation of textbooks and library books.

14 (c) Notwithstanding the provisions of this subsection,
15 school districts may use 100 percent of that portion of the
16 annual allocation which is designated by the district for the
17 purchase of instructional materials for kindergarten, and 75
18 percent of that portion of the annual allocation which is
19 designated for the purchase of instructional materials for
20 first grade, to purchase materials not on the state-adopted
21 list.

22 ~~(4)(3)~~ Notwithstanding the definition of instructional
23 materials in s. 233.07(4), the funds described in subsection
24 ~~(3)(2)~~ which school districts may use to purchase materials
25 not on the state adopted list may be used for the purchase of
26 instructional materials or other items having intellectual
27 content which assist in the instruction of a subject or
28 course. These items may be available in bound, unbound, kit,
29 or package form and may consist of hardbacked or softbacked
30 textbooks, replacements for items which were part of
31 previously purchased instructional materials, consumables,

1 learning laboratories, manipulatives, electronic media,
2 computer courseware or software, and other commonly accepted
3 instructional tools as prescribed by school board policy. The
4 funds available to school districts for the purchase of
5 materials not on the state adopted list may not be used to
6 purchase electronic or computer hardware even if such hardware
7 is bundled with software or other electronic media, nor may
8 such funds be used to purchase equipment or supplies. However,
9 when authorized to do so in the General Appropriations Act, a
10 school or school district may use a portion of the funds
11 available to it for the purchase of materials not on the state
12 adopted list to purchase science laboratory materials and
13 supplies.

14 (5)~~(4)~~ Each district school board shall adopt
15 policies, and each superintendent shall implement procedures,
16 that will assure the maximum use by the students of the
17 materials herein authorized.

18 (6)~~(5)~~ District school boards are authorized to issue
19 purchase orders subsequent to March 15 in an aggregate amount
20 which does not exceed 20 percent of the current year's
21 allocation, and subsequent to May 1 in an aggregate amount
22 which does not exceed 90 percent of the current year's
23 allocation, for the purpose of expediting the delivery of
24 instructional materials which are to be paid for from the
25 ensuing year's allocation.

26 (7)~~(6)~~ In any year in which the total allocation for a
27 district has not been expended or obligated prior to June 30,
28 the district shall carry forward such unobligated amount and
29 shall add this amount to the next year's allocation.

30 Section 8. Section 233.37, Florida Statutes, is
31 amended to read:

1 233.37 Disposal of instructional materials.--
2 (1) Under policy rules of the commissioner, or rules
3 of the district school board ~~which have been approved by the~~
4 ~~commissioner~~, the district ~~school board~~ may dispose of the
5 instructional materials ~~of an old adoption~~ when they have
6 become unserviceable or are no longer on state contract by any
7 of the following means:
8 (a) Giving the materials to other public education
9 programs within the district or state.
10 (b) Giving the materials to the teachers to use in
11 developing supplementary teaching materials.
12 (c) Giving the materials to students or others.
13 (d) Giving the materials to any charitable
14 organization, governmental agency, private school, or state.
15 (e) Selling the materials to used book dealers,
16 recycling plants, pulp mills, or other persons, firms, or
17 corporations upon such terms as are most economically
18 advantageous to the district school board.
19 (2) The district school board may prescribe by policy
20 the manner for destroying instructional materials that cannot
21 be disposed of as provided in subsection (1).
22 (3) All moneys received by reason of sale, exchange,
23 or other disposition of instructional materials shall be
24 deposited in the district school fund and added to the
25 district appropriation for instructional materials., upon such
26 ~~terms and conditions as will yield their fair salvage value.~~
27 ~~The Department of Education shall enter into one or more~~
28 ~~contracts with recycling firms for periodic pickup in school~~
29 ~~districts of obsolete or unusable materials to be salvaged.~~
30 Section 9. Section 233.38, Florida Statutes, is
31 repealed.

1 Section 10. Section 233.43, Florida Statutes, is
2 amended to read:

3 233.43 Duties of superintendent relating to
4 instructional materials.--The duties and responsibilities of
5 each superintendent for the requisition, purchase, receipt,
6 storage, distribution, use, conservation, records, and reports
7 of, and management practices and property accountability
8 concerning, instructional materials shall be prescribed by
9 policies of the district school board. Such policies shall
10 also provide for an evaluation of any instructional materials
11 to be requisitioned that have not been used previously in the
12 schools of the district. The duties and responsibilities shall
13 include keeping adequate records and accounts for all
14 financial transactions for funds collected pursuant to s.
15 233.46(4). Each superintendent shall provide an annual report
16 on the funds collected from the sale, exchange, loss, or
17 damage of instructional materials under s. 233.46(4) to the
18 Department of Education. The Department of Education shall
19 annually review these reports and prepare a report to the
20 Legislature, including recommendations for any needed changes.

21 Section 11. Subsection (2) of section 233.46, Florida
22 Statutes, is amended to read:

23 233.46 Duties of principals.--The duties and
24 responsibilities of principals for instructional materials
25 management and care include:

26 (2) MONEY COLLECTED FOR LOST OR DAMAGED BOOKS;
27 ENFORCEMENT.--It shall be the duty and responsibility of each
28 principal to collect from each pupil or the pupil's parent the
29 purchase price of any instructional material the pupil has
30 lost, destroyed, or unnecessarily damaged and to report and
31 transmit such amounts so collected to the superintendent. If

1 such material so lost, destroyed, or damaged has been in
2 school use for more than 1 year, a sum ranging between 50 and
3 75 percent of the purchase price of the book shall be
4 collected. Such sum shall be determined by the physical
5 condition of the book. The failure to collect such sum upon
6 reasonable effort by the principal may result in the
7 suspension of the pupil from participation in extracurricular
8 activities or satisfaction of the debt by the pupil through
9 community service activities at the school site as determined
10 by the principal. The provisions of this subsection must be
11 included in the policies of the district school board.

12 Section 12. The Department of Education shall review
13 the contracts used for the core subject areas and prepare a
14 report that includes recommendations for any needed changes.
15 The department shall provide a copy of the report to the
16 President of the Senate, the Speaker of the House of
17 Representatives, and the minority leader of each house by
18 January 1, 2000.

19 Section 13. The Executive Office of the Governor and
20 the Secretary of State shall renegotiate any contracts in
21 existence on the effective date of this act which provides for
22 instructional materials for the core subject areas of
23 mathematics and social studies for grades 9 through 12 and
24 language arts for grades 6 through 12.

25 Section 14. This act shall take effect upon becoming a
26 law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 1006

4 The committee substitute amends s. 233.37, F.S., to allow
5 district school boards to prescribe policy, rather than adopt
6 rules, for the disposal of instructional materials. The bill
7 removes the requirements for weighting district
8 recommendations in the selection process for instructional
9 materials and requires each district recommendation to be
10 given equal consideration. The references to the Department of
11 Education are replaced with references to the Commissioner of
12 Education in certain provisions of s. 233.16, F.S., that
13 relate to the selection and adoption of instructional
14 materials. The committee substitute also removes a condition
15 for rejecting bids.

16 The committee substitute removes the provision in s. 233.17,
17 F.S., that requires contracts placing instructional materials
18 on adoption for 4 or more years to have an adjusted price
19 increase. The Commissioner of Education is authorized in s.
20 233.25, F.S., to accept submissions of bids or proposals that
21 reflect a charge for ancillary materials provided free of
22 charge in other states' contracts if the publisher can reduce
23 the total program cost to Florida school districts.

24 Under new provisions of s. 233.34, F.S., each school district
25 must buy current instructional materials to provide each
26 student with a textbook or other instructional materials as a
27 major tool of instruction in the core courses of specified
28 subject areas for kindergarten through grade 12. The purchase
29 must be made within the first 2 years of the effective date of
30 the adoption cycle. The school superintendent must obtain
31 current instructional materials to provide each student with a
textbook or other materials as a major tool of instruction in
core courses in the designated subject areas. The materials
must be obtained within the first 2 years of the adoption
cycle, except for materials related to growth and maintenance.

The committee substitute removes the restriction on the use of
state funds for instructional materials and eliminates the
required report to the Legislature, as well as the references
to specific contracts. The option is removed for the
districts with waivers to participate in the incentive
provisions of the bill. The committee substitute defines
adequate instructional materials in s. 230.23, F.S. Finally,
the committee substitute corrects a technical reference
related to the use of the instructional materials allocation.