

STORAGE NAME: h2065.edk

DATE: April 13, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION K-12
ANALYSIS**

BILL #: HB 2065

RELATING TO: Instructional Materials

SPONSOR(S): Representative Murman

COMPANION BILL(S): CS/SB 1006

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) EDUCATION K-12
 - (2) EDUCATION APPROPRIATIONS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill requires school districts to requisition state-adopted instructional materials in the core subject areas of mathematics, language arts, science, social studies, reading, and literature within two years of an original contract for such materials. Materials needed for responding to student population growth and maintenance may be purchased through the sixth year of the contract. The provision will not apply to contracts in existence before April 1, 1999, or to purchases made in response to student population growth or for maintenance. School districts that meet the requirement to purchase within two years will be allowed to use five percent of certain funds, as prescribed in the General Appropriations Act, to purchase laptop computers for use as readers. School districts operating under an instructional materials waiver granted by the Commissioner of Education under the provisions of s. 229.592(6), F.S., expiring on June 30, 2001, are not subject to the two year limit but may choose to comply, thereby making them eligible to purchase laptops. School districts will be prohibited from purchasing non-state-adopted instructional materials in the core areas with state funds; such purchases will be authorized only if local funds are used.

The bill requires publishers and manufacturers of instructional materials to maintain a sufficient inventory in a depository of core subject materials for the first two years of a contract period, and for growth and maintenance during the third through sixth year of the original contract period.

The bill revises the current provisions for the disposal of instructional materials that have become unserviceable or that are no longer on state contract. It reiterates that funds generated from the disposal of these materials be deposited into the district school fund as an addition to the district's appropriation for instructional materials, a requirement that is currently prescribed in s. 233.46(4), F.S. The bill repeals s. 233.38, F.S., relating to the exchange of textbooks. It requires school superintendents to keep records and accounts for moneys collected from the sale, exchange, loss, or damage of instructional materials. It requires that the duties and responsibilities of principals relating to the collecting of moneys for lost or damaged books be included in school board policy.

The bill defines the phrase "contract period" to mean a six year period beginning on: April 1, 2000 for science in grades K-12; April 1, 2001 for social studies and language arts in grades K-12; April 1, 2002 for reading in grades K-12; April 1, 2003 for mathematics in grades 9-12 and literature in grades 6-12; and April 1, 2004 for social studies and science in grades 6-12 and mathematics in grades K-8.

The bill requires the Florida Department of Education (DOE) to review contracts used for core subject areas and prepare a report that includes recommendations for needed changes. The report must be submitted to the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of each house by January 1, 2000. The bill requires the Executive Office of the Governor and the Secretary of State to renegotiate any contract relating to instructional materials for the core areas of mathematics and social studies in grades 9-12 and for language arts in grades 6-12 in existence on the effective date of the act.

The fiscal impact of this bill is expected to be negligible.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Senate Interim Project on Public School Instructional Materials, Including Technology

The Senate Education Committee conducted an interim study (Report # 98-17) to examine why, despite dramatic increases in funding, public school children in Florida do not always have access to the textbooks and other instructional materials essential for a quality education. The interim report noted that many districts cited the need for additional funding or greater latitude for the expenditure of existing funds to purchase software and hardware.

Allocation of funds

Section 233.07(4), F.S., defines "instructional materials" as items having intellectual content that, by design, serve as a major tool for assisting in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form, and may consist of hardbacked or softbacked textbooks, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software. The term does not include electronic or computer hardware even if it is bundled with software or other electronic media.

Section 236.122, F.S., authorizes the DOE to allocate and distribute to each district funds to be used for instructional materials for public school students enrolled in basic and special programs in grades K-12. The department distributes to each district an amount, calculated by formula, which provides for growth of student membership in basic and special programs in the district and for instructional material maintenance needs. Instructional materials are funded as a categorical item in the GAA.

Use of the instructional materials allocation

Statutory guidelines for the use of the instructional materials allocation are established in s. 233.34, F.S., and s. 236.081(5), F.S. The instructional materials allocation is to be used for the purchase of instructional materials on the state-adopted list and certain materials not included on the state-adopted list. Districts must spend at least 50 percent of their annual instructional materials allocation on state adopted materials to purchase items which will be used to provide instruction at the level or levels for which they were designed. The 1998-1999 Florida Catalog of State-Adopted Instructional Materials contains the following examples of instructional materials: software packages and site license packages; outline, wall, and desk maps; writing folders and process posters; transparencies; videos; CD-ROM student, classroom, and lab packages; and cassettes.

Thresholds for spending on materials not on the state adopted list are statutorily prescribed. Up to 50 percent of the annual allocation may be used to purchase instructional materials (including library and reference books and nonprint materials) not on the state adopted list and for the repair and renovation of textbooks and library books. For kindergarten, all of the allocation may be spent on materials not on the state-adopted list. For grade one, up to 75 percent of the allocation may be spent on materials not on the state-adopted list. Remaining funds may be used to purchase instructional materials or other items having intellectual content which assist in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, replacements for items which were part of previously purchased instructional materials, consumables, learning laboratories, manipulatives, electronic media, computer courseware or software, and other commonly accepted instructional tools as prescribed by school board policy.

Instructional materials allocations cannot be used to purchase items not on the state adopted list for hardware, even if the hardware is bundled with software or other electronic media. Further, these funds may not be used to purchase equipment or supplies. However, when authorized to do so in the GAA, a school or school district *may* use a portion of the funds available to it for the purchase of materials not on the state adopted list to purchase science laboratory materials and supplies.

Section 233.34(6), F.S., requires that when a school district's total allocation has not been expended or obligated prior to June 30 in any year, the unobligated amount must be carried forward and added to the next year's allocation.

Florida's instructional materials selection and adoption process

All instructional materials submitted for consideration must be evaluated based on their ability to best implement the selection criteria developed by the Commissioner of Education and those curricular

objectives included within applicable performance standards in s. 229.565, F.S. State instructional materials committees, which are annually appointed by the Commissioner, are responsible for studying and evaluating the instructional materials submitted for adoption and for recommending to the Commissioner, in the form of a report, recommendations for each grade and subject field in the curriculum of public elementary and secondary schools in which adoptions are to be made. Each school year the Commissioner of Education determines the areas in which instructional materials shall be submitted for adoption and appoints state instructional materials committees. School districts have the opportunity to evaluate materials submitted for adoption and to submit their recommendations to the state instructional materials committees. The Commissioner determines the number of titles to be adopted in each area.

Terms of adoption for instructional materials

The term of adoption of any instructional material must be for an *8-year period*, except for the core subject areas. The term of adoption for core subject areas (including math, science, social studies, reading, and literature) is limited to a *6-year period*. The Commissioner may approve terms of adoption for less than 8 years for materials in content areas that require more frequent revision.

The department must annually publish an official schedule of subject areas to be adopted for each of the succeeding 2 years, and a tentative schedule for years 3, 4, 5, and 6. The Commissioner is authorized to add subject areas to the official schedule based on extenuating circumstances. The purpose of the schedule is to promote balance among the subject areas in order for expenditures for new instructional materials to be approximately the same each year for the maintenance of curricular consistency.

Contracts

The Department of Legal Affairs must prepare a contract with each successful bidder. The contract is executed by the Governor and the Secretary of State. After considering the districts' comments and with the publisher's agreement, the department may extend or shorten the contract period for no more than 2 years. The terms of the amended contract, however, remain the same as in the original contract.

Contracts placing instructional materials on adoption for 4 or more years must contain an escalator clause that provides a publisher or manufacturer with the discretion to increase the contract price within a specified threshold. The publisher can increase the contract price to the publisher's or manufacturer's then-current lowest wholesale price at which the materials are then being offered to any state or school district in the U.S. However, the adjustment cannot exceed the percentage by which the consumer price index (as determined by the U.S. Department of Labor) has increased during the time the contract has been force. The price increase remains in effect for the remaining term of the contract, unless the contract price is increased as allowed.

Publisher/Manufacturer Bids and the Depository

Section 233.14, F.S., prescribes requirements relating to proposals or bids for state-adopted instructional materials. Such bids or proposals must state the lowest wholesale price at which the materials will be furnished at the time of the adoption period provided in the contract begins, delivered f.o.b. to the Florida depository of the publisher, manufacturer, or bidder. The duties and responsibilities for publishers and manufacturers include providing materials at a price, inclusive of transportation costs to their depositories, that does not exceed the lowest price offered for adoption or sale to any state or school district in the U.S. Publishers and manufacturers must maintain or contract with a depository in the state. The Florida School Book Depository in Jacksonville is the single depository located in Florida.

An inventory must be maintained in the depository that is sufficient to receive and fill orders. Section 233.25, F.S., specifies penalties for publishers and manufacturers who willfully fail to comply with statutory provisions regarding the bid process. In general, the publisher is liable for three times the amount of a detected overcharge or three times the value of materials provided at some cost but at "no charge" to other districts or states.

Section 233.22, F.S., requires school district superintendents to requisition adopted instructional materials from the depository under contract with the publisher.

Exchange of textbooks and the disposal of instructional materials

Section 233.38, F.S., provides for the exchange of textbooks among several districts of the state for use in the public schools. The stated purpose of this provision is to achieve the economical and expeditious distribution of textbooks. DOE is directed to arrange for the exchange in accordance with district needs. The superintendents in these districts must, at the department's direction, crate and ship designated books to certain districts. The department determines the districts that receive shipments. The department is also authorized to direct the shipment of surplus books in any district to some central point for holding or distribution as the need arises.

Section 233.37, F.S., authorizes district school boards to dispose of instructional materials of an old adoption when they become unserviceable, based on terms and conditions that result in a fair salvage value. The disposal is permitted by rules of either the Commissioner or rules of a district school board. The school board rules must be approved by the Commissioner. The department must contract with recycling firms for the pickup of obsolete or unusable materials for salvage.

Rule 6A-7.074, F.A.C., implements the provisions of s. 233.37, F.S. Useable and obsolete instructional materials that are no longer on contract to the state must be carried on inventory for at least one year to permit full use of state adopted instructional materials. The rule allows the disposal of surplus materials. However, the disposal is conditioned upon notifying the Deputy Commissioner for Educational Programs, in order to make every effort to provide the available surplus materials to other districts. The Deputy Commissioner must make each district's listing of surpluses available to all the other districts for a period of 30 days. The rule provides for the disposal of material which cannot be used in inter-district exchange programs. All monies received by sale, exchange or other disposition of instructional materials must be deposited in the district school fund and added to the district appropriation for instructional materials.

Lost or stolen textbooks

The powers and duties of school boards are set forth in s. 230.23, F.S., and include providing adequate instructional aids for all children in accordance with the provisions of subsection (7) and chapter 233, F.S. School boards are responsible for the proper requisition, distribution, accounting, storage, care and use of all textbooks and other books furnished by the state.

Section 233.47, F.S., provides that all instructional materials purchased under chapter 233, F.S., are the property of the school district. The materials, when distributed to students, are on loan during the course of study and must be returned at the direction of the principal or teacher in charge. Instructional materials for dually enrolled students are the property of the board against which the purchase is charged. Section 233.46(3), F.S., provides for the principal to sell to parents, upon request, any instructional materials used in the school.

A parent, guardian, or other person in charge of the student to whom materials have been issued are liable for any loss, destruction, or unnecessary damage to these materials. The parent, guardian, or other person in charge is also responsible for the student's failure to return materials when directed to do so and is required to pay for the loss, destruction, or damage.

Principals are responsible for collecting the purchase price from the student or parents for lost, destroyed, or damaged materials. An amount within a specified range (between 50% and 75% of the purchase price of the book) must be collected for materials in school use for more than one year. The amount is based on the physical condition of the book. Funds must be sent to the superintendent for deposit in the district school board fund and added to the district's appropriation for instructional materials.

Failure to collect the amount due, after reasonable effort by the principal, may result in the student's suspension from participation in extracurricular activities or in the student's satisfaction of the debt through community service at the school, as determined by the principal.

The superintendent's duties and responsibilities for proper accountability of instructional materials must be established by district school board policy. Principals are required to ensure the accountability of all textbooks, as prescribed by local district school board rule. Rule 6A-1.001, F.A.C., requires district school superintendents to keep adequate records and accounts of all financial transactions.

Waivers

Section 229.592(6), F.S., provides exceptions to statutorily prescribed mandates, including those relating to instructional materials acquisition. To facilitate innovative practices and to allow local selection of educational methods, the Commissioner may waive, upon a school board's request, requirements of chapters 230 through 239 of the Florida School Code that relate to instruction and school operations, with the exception of those pertaining to civil rights, and student health, safety, and welfare. In addition, waivers may not be granted for the following:

- allocation and appropriation of state and local funds for public education;
- election, compensation, and organization of school board members and superintendents;
- graduation and state accountability standards;
- financial reporting requirements;
- public meetings;
- public records; or
- due process hearings governed by chapter 120, F.S.

Waivers approved by the Commissioner are effective for a 5-year period. The Commissioner may, upon written request, waive State Board of Education rules. The Commissioner must ensure the protection of students' health, safety, welfare, and civil rights, as well as the protection of the public's interest when considering any waiver, and must specify the grounds or basis for a denial of a waiver request.

Fourteen districts applied for and received waivers from the instructional materials requirements in s. 233.34(2), F.S. -- Okaloosa (4 elementary schools), Orange, Charlotte, Indian River, Baker, Leon, Palm Beach, Hendry, Hillsborough, Polk, Osceola, Hardee, Suwannee, and P.K. Yonge (University of Florida demonstration research school). These waivers expire on June 30, 2001. As of February 8, 1999, no further waivers had been granted for this purpose.

School Improvement Plans and School Advisory Councils

Section 229.58, F.S., requires school boards to establish a school advisory council for each school in the district, but gives smaller school districts (those with 10,000 or fewer students) the option of establishing a district advisory council. Each school advisory council must be composed of the school's principal and an appropriately balanced number of teachers, education support employees, students, parents, and other business and community members who are representative of the ethnic, racial, and economic community served by the school. Each school advisory council assists in preparing and evaluating the school's improvement plan and assists in preparing the school's annual budget. Also, each school advisory council must perform those functions prescribed by school board regulation. Section 229.58(2), F.S., specifies that no school advisory council shall have any of the powers and duties now reserved by law to the school board. School improvement plans (beginning in 1999-2000) must address specific issues, including instructional materials. Beginning in 1999-2000, school boards must adopt policies that encourage maximum decision making appropriate to the school site. The policies must include guidelines for schools in the adoption and purchase of district and school site instructional materials and technology. School boards must adopt waiver process policies to enable all schools to exercise flexibility and notify school advisory councils about the waiver process for school district and state policies.

B. EFFECT OF PROPOSED CHANGES:

Requirement to purchase within 2 years

The bill requires school districts to requisition state-adopted instructional materials in the core subject areas of mathematics, language arts, science, social studies, reading, and literature within 2 years of an original contract for such materials. Materials needed for responding to student population growth and maintenance may be purchased through the sixth year of the contract. The provision will not apply to contracts in existence before April 1, 1999, or to purchases made in response to student population growth or for maintenance. School districts that meet the requirement to purchase within 2 years will be allowed to use 5 percent of certain funds, as prescribed in the GAA, to purchase laptop computers for use as readers. School districts operating under an instructional materials waiver granted by the Commissioner of Education under the provisions of s. 229.592(6), F.S., expiring on June 30, 2001, are not subject to the 2 year limit but may choose to comply, thereby making them eligible to purchase laptops. School districts will be *prohibited from purchasing non-state-adopted instructional materials in the core areas* with state funds; such purchases will be authorized only if local funds are used.

Depository inventory requirements

The bill requires publishers and manufacturers of instructional materials to maintain a sufficient inventory in a depository of core subject materials for the first 2 years of a contract period, and for growth and maintenance during the third through sixth year of the original contract period.

Disposal of instructional materials

The bill revises the current provisions for the disposal of instructional materials that have become unserviceable or that are no longer on state contract. It reiterates that funds generated from the disposal of these materials be deposited into the district school fund as an addition to the district's appropriation for instructional materials, a requirement that is currently prescribed in s. 233.46(4), F.S. The bill repeals s. 233.38, F.S., relating to the exchange of textbooks. It requires school superintendents to keep records and accounts for moneys collected from the sale, exchange, loss, or damage of instructional materials. It requires that the duties and responsibilities of principals relating to the collecting of moneys for lost or damaged books be included in school board policy.

Definition of "contract period"

The bill defines the phrase "contract period" to mean a 6-year period beginning on: April 1, 2000 for science in grades K-12; April 1, 2001 for social studies and language arts in grades K-12; April 1, 2002 for reading in grades K-12; April 1, 2003 for mathematics in grades 9-12 and literature in grades 6-12; and April 1, 2004 for social studies and science in grades 6-12 and mathematics in grades K-8.

The bill requires DOE to review contracts used for core subject areas and prepare a report that includes recommendations for needed changes. The report must be submitted to the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of each house by January 1, 2000.

The bill requires the Executive Office of the Governor and the Secretary of State to renegotiate any contract relating to instructional materials for the core areas of mathematics and social studies in grades 9-12 and for language arts in grades 6-12 in existence on the effective date of the act.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

An agency or program is not eliminated or reduced.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

The bill does not purport to provide services to families or children.

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

The bill does not create or change a program providing services to families or children.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

The bill amends ss. 233.22, 233.25, 233.34, 233.37, 233.43, 233.46, F.S., and repeals 233.38, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 233.22, F.S., to require school districts to requisition state-adopted instructional materials in the core subject areas of mathematics, language arts, science, social studies, reading, and literature within 2 years of an original contract for such materials. Materials needed for responding to student population growth and maintenance may be purchased through the sixth year of the contract.

Section 2 amends s. 233.25, F.S., to require publishers and manufacturers of instructional materials to maintain a sufficient inventory of core subject materials for the first 2 years of a contract period, and for growth and maintenance during the third through sixth year of the original contract period.

Section 3 amends s. 233.34, F.S., to reiterate that school districts must purchase state-adopted materials in core subject areas within 2 years of an original contract. The provision will not apply to

contracts in existence before April 1, 1999, or to purchases made in response to student population growth or for maintenance. School districts that meet the requirement to purchase within 2 years will be allowed to use 5 percent of certain funds, as prescribed in the GAA, to purchase laptop computers for use as readers. The section prohibits the use of state funds to purchase non-state-adopted materials in the core subject areas. Districts will only be able to use local funds for such purposes.

Section 4 amends s. 233.37, F.S., to revise current provisions for the disposal of instructional materials that have become unserviceable or that are no longer on state contract. It specifically authorizes districts to give the materials to: other public education programs within the district or state; teachers to use to develop supplementary teaching materials; students or others; or any charitable organization, governmental agency, private school, or state. Districts may also sell the materials to used book dealers, recycling plants, pulp mills, or other persons, firms, or corporations. School boards may prescribe by rule the manner in which otherwise nondisposable materials are to be destroyed. It reiterates that funds generated from the disposal of these materials be deposited into the district school fund as an addition to the district's appropriation for instructional materials, a requirement that is currently prescribed in s. 233.46(4), F.S.

Section 5 repeals s. 233.38, F.S., relating to the exchange of textbooks.

Section 6 amends s. 233.43, F.S., to require school superintendents to keep records and accounts for moneys collected from the sale, exchange, loss, or damage of instructional materials. Each superintendent will be required to provide an annual report on funds collected from the sale, exchange, loss, or damage of instructional materials to the Legislature and to DOE. DOE will be required to, in turn, review the reports and prepare a report with recommendations for change to the Legislature.

Section 7 amends s. 233.46, F.S., to require that the duties and responsibilities of principals relating to the collecting of moneys for lost or damaged books be included in school board policy.

Section 8 defines the phrase "contract period" to mean a 6-year period beginning on: April 1, 2000 for science in grades K-12; April 1, 2001 for social studies and language arts in grades K-12; April 1, 2002 for reading in grades K-12; April 1, 2003 for mathematics in grades 9-12 and literature in grades 6-12; and April 1, 2004 for social studies and science in grades 6-12 and mathematics in grades K-8.

Section 9 specifies that school districts operating under an instructional materials waiver granted by the Commissioner of Education under the provisions of s. 229.592(6), F.S., expiring on June 30, 2001, are not subject to the 2 year limit for purchasing instruction materials. Such districts may choose to comply, thereby making them eligible to purchase laptops.

Section 10 requires DOE to review contracts used for core subject areas and prepare a report that includes recommendations for needed changes. The report must be submitted to the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of each house by January 1, 2000.

Section 11 requires the Executive Office of the Governor and the Secretary of State to renegotiate any contract relating to instructional materials for the core areas of mathematics and social studies in grades 9-12 and for language arts in grades 6-12 in existence on the effective date of the act.

Section 12 provides that the bill will be effective upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. **COMMENTS:**

State and federal constitutional impairment of contract clauses (Article 1, section 10 of the U.S. Constitution and Article 1, section 10 of the Florida Constitution) prohibit the passage of laws that impair contractual obligations. The bill states that it does not apply to contracts in effect prior to April 1, 1999. However, the bill requires the renegotiation of contracts for instructional materials adopted in the areas of mathematics and social studies (grades 9-12) and language arts (grades 6-12) that are in effect on the date the bill becomes law. It is assumed that the purpose of the renegotiation is to incorporate the new requirements into new contracts and to provide an opportunity for districts to become eligible for technology purchases as soon as possible. It is not clear whether the required renegotiation of the contract would be considered an impairment of an established contract.

According to DOE, all contracts for public school instructional materials contain a provision that subordinates the contract to the right of the Legislature to alter or repeal any of the statutes related to instructional materials for the public schools. The provision further states that when the terms of the contract conflict with subsequent legislation on the subject of instructional materials, the terms of the contract are abrogated and of no effect. The contract further notes that if any material change is made to the law which is to either party's disadvantage to continue under the current contract, either party may rescind the contract, upon written notice within 90 days after the statute takes effect.

VI. **AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

N/A

VII. **SIGNATURES:**

COMMITTEE ON EDUCATION K-12:

Prepared by:

Staff Director:

Terri J. Chasteen

Patricia W. Levesque