

By the Committee on Education/K-12 and Representative  
Murman

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"; amending s.  
5           233.09, F.S.; eliminating the requirements for  
6           providing weighted and unweighted aggregations;  
7           amending s. 233.16, F.S.; revising the  
8           timeframe for opening bids; revising references  
9           from the Department of Education to the  
10          Commissioner of Education with respect to the  
11          selection and adoption of instructional  
12          materials; eliminating a condition for  
13          rejecting bids; amending s. 233.17, F.S.;  
14          authorizing the Commissioner of Education to  
15          establish the term of adoption of instructional  
16          materials; eliminating the optional escalator  
17          clause in certain contracts; amending s.  
18          233.22, F.S.; requiring that each student be  
19          provided instructional materials; providing a  
20          timeframe for the requisition of certain  
21          materials; allowing the superintendent to  
22          requisition certain materials; amending s.  
23          233.25, F.S.; authorizing the Commissioner of  
24          Education to waive the depository requirement  
25          under certain circumstances; amending s.  
26          233.34, F.S.; requiring school districts to  
27          purchase instructional materials in core  
28          courses within a specified time; providing  
29          exceptions; amending s. 233.37, F.S.; providing  
30          for the disposal of unserviceable instructional  
31          materials and those no longer on state

1 contract; authorizing the district school board  
2 to prescribe policies for destroying  
3 instructional materials; requiring that certain  
4 moneys be deposited in the district school fund  
5 and added to the district appropriation for  
6 instructional materials; eliminating contracts  
7 between the Department of Education and  
8 recycling firms; repealing s. 233.38, F.S.,  
9 relating to the exchange of textbooks by  
10 certain districts; amending s. 233.43, F.S.;  
11 requiring district school board policies to  
12 include the superintendent's responsibilities  
13 for keeping certain records; requiring reports;  
14 amending s. 233.46, F.S.; requiring district  
15 school board policies to include policies  
16 relating to lost or damaged books; amending s.  
17 229.512, F.S.; conforming a cross reference;  
18 requiring a study and report relating to the  
19 instructional materials acquisition process and  
20 technology materials; providing an effective  
21 date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Subsection (7) of section 230.23, Florida  
26 Statutes, 1998 Supplement, is amended to read:

27 230.23 Powers and duties of school board.--The school  
28 board, acting as a board, shall exercise all powers and  
29 perform all duties listed below:

30 (7) COURSES OF STUDY AND OTHER INSTRUCTIONAL  
31 AIDS.--Provide adequate instructional aids for all children as

1 follows and in accordance with the requirements of chapter  
2 233. For purposes of this subsection, "adequate instructional  
3 materials" means each student is provided with a textbook or  
4 set of materials serving as the basis for instruction in the  
5 core courses, as defined by the district school board, unless  
6 the school advisory council approves the use of a program that  
7 does not include a textbook as a major tool of instruction.

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

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

20 (c) Other instructional aids.--Provide such other  
21 teaching accessories and aids as are needed to carry out the  
22 program.

23 (d) School library media services; establishment and  
24 maintenance.--Establish and maintain school library media  
25 centers, or school library media centers open to the public,  
26 and, in addition thereto, such traveling or circulating  
27 libraries as may be needed for the proper operation of the  
28 district school system. Establish and maintain a program of  
29 school library media services for all public schools.

30 Section 2. Paragraph (f) of subsection (4) of section  
31 233.09, Florida Statutes, is amended to read:

1           233.09 Duties of each state instructional materials  
2 committee.--The duties of each state instructional materials  
3 committee shall be:

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

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

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

26           233.16 Powers and duties of Department of Education in  
27 selecting and adopting instructional materials.--The powers  
28 and duties of the Department of Education in selecting and  
29 adopting instructional materials shall be:

30           (2) SELECTION AND ADOPTION OF INSTRUCTIONAL  
31 MATERIALS.--The Department of Education shall notify all

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

1 cases, bids or proposals shall be accompanied by a cash  
2 deposit or certified check of from \$500 to \$2,500, as the  
3 Commissioner of Education ~~department~~ may direct. The  
4 Commissioner of Education ~~department~~, in adopting  
5 instructional materials, shall give due consideration both to  
6 the prices bid for furnishing instructional materials and to  
7 the report and recommendations of the state instructional  
8 materials committee. When the Commissioner of Education  
9 ~~department~~ has finished with the report of the state  
10 instructional materials committee, the report shall be filed  
11 and preserved in the office of the Department of Education and  
12 shall be available at all times for public inspection.

13 Section 4. Section 233.17, Florida Statutes, is  
14 amended to read:

15 233.17 Term of adoption for instructional materials.--

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

28 ~~(2) Any contract placing an instructional material on~~  
29 ~~adoption for 4 or more years shall provide that a publisher or~~  
30 ~~manufacturer of instructional materials may, at the end of the~~  
31 ~~third year during the term of the contract, upon giving 60~~

1 ~~days' notification, increase such contract price to the~~  
2 ~~publisher's or manufacturer's then-current lowest wholesale~~  
3 ~~price at which the materials are then being offered to any~~  
4 ~~state or school district in the United States, except that~~  
5 ~~such adjustment shall not exceed the percentage by which the~~  
6 ~~consumer price index as determined by the United States~~  
7 ~~Department of Labor has increased during the time the contract~~  
8 ~~has been in force. Such price increase shall remain in effect~~  
9 ~~for the remaining term of the contract, unless the contract~~  
10 ~~price is increased as permitted above.~~

11 (2)~~(3)~~ The department shall publish annually an  
12 official schedule of subject areas to be called for adoption  
13 for each of the succeeding 2 years, and a tentative schedule  
14 for years 3, 4, 5, and 6. If extenuating circumstances  
15 warrant, the Commissioner of Education may order the  
16 department to add one or more subject areas to the official  
17 schedule, in which event the commissioner shall develop  
18 criteria for such additional subject area or areas pursuant to  
19 s. 229.512(15) and make them available to publishers as soon  
20 as practicable. Notwithstanding the provisions of s.  
21 229.512(15), the criteria for such additional subject area or  
22 areas may be provided to publishers less than 24 months before  
23 the date on which bids are due. The schedule shall be  
24 developed so as to promote balance among the subject areas so  
25 that the required expenditure for new instructional materials  
26 is approximately the same each year in order to maintain  
27 curricular consistency.

28 Section 5. Section 233.22, Florida Statutes, is  
29 amended to read:

30 233.22 Requisition of instructional materials from  
31 publisher's depository.--

1           (1) The superintendent shall requisition adopted  
2 instructional materials from the depository of the publisher  
3 with whom a contract has been made. Each student shall be  
4 provided a textbook or other materials which serve as the  
5 major tool of instruction in core courses. However, these  
6 materials shall be requisitioned within the first 2 years of  
7 the adoption cycle, except for instructional materials related  
8 to growth of student membership or instructional materials  
9 maintenance needs which may be purchased during the remaining  
10 years of the contract.

11           (2) The superintendent shall verify that such  
12 requisition is complete and accurate and order the depository  
13 to forward to him or her the adopted instructional materials  
14 shown by the requisition. The depository shall prepare an  
15 invoice of the materials shipped, including shipping charges,  
16 and mail it to the superintendent to whom the shipment is  
17 being made. The superintendent shall pay the depository  
18 within 60 days after receipt of the requisitioned materials  
19 from the appropriation for the purchase of adopted  
20 instructional materials.

21           Section 6. Subsection (12) of section 233.25, Florida  
22 Statutes, is amended to read:

23           233.25 Duties, responsibilities, and requirements of  
24 publishers and manufacturers of instructional  
25 materials.--Publishers and manufacturers of instructional  
26 materials, or their representatives, shall:

27           (12) Maintain, or contract with, a depository in the  
28 state and maintain there an inventory sufficient to receive  
29 and fill orders for instructional materials. The Commissioner  
30 of Education may waive the requirement for maintenance of a  
31



1 depository in the state if the bid reflects a cost savings  
2 from direct shipment by the vendor.

3 Section 7. Subsections (2) and (3) of section 233.34,  
4 Florida Statutes, are renumbered as subsections (3) and (4)  
5 and amended, subsections (4) through (6) are renumbered as  
6 subsections (5) through (7), respectively, and a new  
7 subsection (2) is added to said section, to read:

8 233.34 Use of instructional materials allocation;  
9 instructional materials, library books, and reference books;  
10 repair of books; exceptions.--

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. Such purchase must be made within  
15 the first 2 years of the effective date of the adoption cycle.

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

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

26 (b) However, up to 50 percent of the annual allocation  
27 may be used for the purchase of instructional materials,  
28 including library and reference books and nonprint materials,  
29 not included on the state-adopted list and for the repair and  
30 renovation of textbooks and library books.

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1           (c) Notwithstanding the provisions of this subsection,  
2 school districts may use 100 percent of that portion of the  
3 annual allocation which is designated by the district for the  
4 purchase of instructional materials for kindergarten, and 75  
5 percent of that portion of the annual allocation which is  
6 designated for the purchase of instructional materials for  
7 first grade, to purchase materials not on the state-adopted  
8 list.

9           (4)~~(3)~~ Notwithstanding the definition of instructional  
10 materials in s. 233.07(4), the funds described in subsection  
11 ~~(3)~~(2) which school districts may use to purchase materials  
12 not on the state adopted list may be used for the purchase of  
13 instructional materials or other items having intellectual  
14 content which assist in the instruction of a subject or  
15 course. These items may be available in bound, unbound, kit,  
16 or package form and may consist of hardbacked or softbacked  
17 textbooks, replacements for items which were part of  
18 previously purchased instructional materials, consumables,  
19 learning laboratories, manipulatives, electronic media,  
20 computer courseware or software, and other commonly accepted  
21 instructional tools as prescribed by school board policy. The  
22 funds available to school districts for the purchase of  
23 materials not on the state adopted list may not be used to  
24 purchase electronic or computer hardware even if such hardware  
25 is bundled with software or other electronic media, nor may  
26 such funds be used to purchase equipment or supplies. However,  
27 when authorized to do so in the General Appropriations Act, a  
28 school or school district may use a portion of the funds  
29 available to it for the purchase of materials not on the state  
30 adopted list to purchase science laboratory materials and  
31 supplies.

1 Section 8. Section 233.37, Florida Statutes, is  
2 amended to read:

3 233.37 Disposal of instructional materials.--

4 (1) Under policy rules of the commissioner, or rules  
5 ~~of the district school board which have been approved by the~~  
6 ~~commissioner, the district school board may dispose of the~~  
7 ~~instructional materials of an old adoption when they have~~  
8 ~~become unserviceable or are no longer on state contract by any~~  
9 of the following means:

10 (a) Giving the materials to other public education  
11 programs within the district or state.

12 (b) Giving the materials to the teachers to use in  
13 developing supplementary teaching materials.

14 (c) Giving the materials to students or others.

15 (d) Giving the materials to any charitable  
16 organization, governmental agency, private school, or state.

17 (e) Selling the materials to used book dealers,  
18 recycling plants, pulp mills, or other persons, firms, or  
19 corporations upon such terms as are most economically  
20 advantageous to the district school board.

21 (2) The district school board may prescribe by policy  
22 the manner for destroying instructional materials that cannot  
23 be disposed of as provided in subsection (1).

24 (3) All moneys received by reason of sale, exchange,  
25 or other disposition of instructional materials shall be  
26 deposited in the district school fund and added to the  
27 district appropriation for instructional materials., upon such  
28 ~~terms and conditions as will yield their fair salvage value.~~  
29 ~~The Department of Education shall enter into one or more~~  
30 ~~contracts with recycling firms for periodic pickup in school~~  
31 ~~districts of obsolete or unusable materials to be salvaged.~~

1           Section 9. Section 233.38, Florida Statutes, is  
2 repealed.

3           Section 10. Section 233.43, Florida Statutes, is  
4 amended to read:

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

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

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

28           (2) MONEY COLLECTED FOR LOST OR DAMAGED BOOKS;  
29 ENFORCEMENT.--It shall be the duty and responsibility of each  
30 principal to collect from each pupil or the pupil's parent the  
31 purchase price of any instructional material the pupil has

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

14 Section 12. Subsection (15) of section 229.512,  
15 Florida Statutes, is amended to read:

16 229.512 Commissioner of Education; general powers and  
17 duties.--The Commissioner of Education is the chief  
18 educational officer of the state, and has the following  
19 general powers and duties:

20 (15) To develop criteria for use by state  
21 instructional materials committees in evaluating materials  
22 submitted for adoption consideration. The criteria shall, as  
23 appropriate, be based on instructional expectations reflected  
24 in curriculum frameworks and student performance standards.  
25 The criteria for each subject or course shall be made  
26 available to publishers of instructional materials at least 24  
27 months prior to the date on which bids are due as provided by  
28 s. 233.14, except as otherwise permitted under s.  
29 233.17(2)(3). It is the intent of the Legislature that  
30 publishers have ample time to develop instructional materials  
31 designed to meet requirements in this state.

1           Section 13. The Commissioner of Education shall  
2 conduct a study relating to the instructional materials  
3 acquisition process. The study shall include, but not be  
4 limited to, an in-depth examination of instructional materials  
5 contract and bid protocols, most favored nation issues,  
6 alternative pricing schemes, the effects of various states'  
7 curriculum requirements on the availability and pricing of  
8 instructional materials, and the availability of technological  
9 alternatives to conventional print materials. Additionally,  
10 the study shall examine the feasibility of the use of laptop  
11 computers by students in Florida public schools, including  
12 available hardware and software, competitive pricing relative  
13 to print materials, durability, subject matter and grade  
14 levels for which such technology is appropriate, repair or  
15 replacement of damaged units, and restitution for lost or  
16 stolen materials. The report shall be submitted to the  
17 President of the Senate and the Speaker of the House of  
18 Representatives no later than March 1, 2000.

19           Section 14. This act shall take effect upon becoming a  
20 law.

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