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****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2000-291, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
EDUCATION INNOVATION
FINAL ANALYSIS**

BILL #: CS/CS/HB 1515 (passed as CS/SB 850)

RELATING TO: Instructional Materials

SPONSOR(S): Committees on Education Innovation, Education Appropriations and Representative Lynn

TIED BILL(S): N/A

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

- (1) EDUCATION INNOVATION YEAS 9 NAYS 0
- (2) EDUCATION APPROPRIATIONS YEAS 11 NAYS 0
- (3)
- (4)
- (5)

I. SUMMARY:

CS/CS/HB 1515 changes the term of adoption of instructional materials from an 8-year period to a 6-year period, defines "adequate instructional materials" which must be provided for each student and requires that these materials be purchased for each student during the first 2 years of the 6-year contract. It authorizes school boards to issue purchase orders after April 1 for instructional materials to be paid from the following fiscal year's budget. The aggregate amount of such purchase orders shall not exceed 90% of the current year state's appropriation for instructional materials.

The CS allows school districts to use public school technology funds to purchase electronic book readers when authorized to do so in the General Appropriations Act.

The CS allows district school boards to dispose of instructional materials when they become unserviceable, surplus or are no longer on the state contract.

The CS requires publishers and manufacturers to maintain for the first 2 years of the 6 year adoption cycle sufficient inventory of core subject instructional materials to receive and fill orders for the required purchases.

The CS requires publishers and manufacturers to give an accurate account of who actually authored a book.

The CS requires that, beginning with the 2002 adoption cycle, publishers and manufacturers must implement a pilot program to provide opportunities for at least one school district to order customized instructional materials adopted in one or more of the core subject areas of mathematics, language arts, social studies, and science.

The CS provides that unless specifically authorized in the General Appropriations Act, the cost of adopted instructional materials that a school board is required to purchase each two years under s. 233.24 (2) (a), F.S., shall not exceed the amount of the district's allocation for the previous two years from the annual appropriation for instructional materials as provided in s. 236.122, F.S.

The appropriation for instructional materials in the 2000-2001 General Appropriations Act is \$192 million.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

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, manipulative, 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.

Funding

Section 236.122, F.S., authorizes the Department of Education 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 General Appropriations Act.

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 fifty 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.

Up to fifty 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. The fifty percent that does not have to be spent on the state adopted list 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, manipulative, electronic media, computer courseware or software, and other commonly accepted instructional tools as prescribed by school board policy. They may not be spent on hardware, even if the hardware is bundled with software or other electronic media. They may not be used to purchase equipment or supplies. The one exception is when authorized to do so in the General Appropriations Act, 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.

When a school district's total allocation has not been expended or obligated prior to June 30 in any year, s. 233.34(6), F.S., requires the school district to carry forward the unobligated amount and add it to the next year's allocation.

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.

Term 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 allowed to order the department 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 in force. The price increase remains in effect for the remaining term of the contract, unless the contract price is increased as allowed.

Depository

Section 233.25, F.S., provides for bids and contracts and delineates the duties and responsibilities for publishers and manufacturers. Proposals or bids for state-adopted instructional materials must, pursuant to s. 233.14(2), F.S., 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 free on board (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. They must also maintain in the depository an inventory that is sufficient to receive and fill orders. Section 233.25(14), F.S., provides for liability and triple damages for publishers or manufacturers who wilfully fail to comply with the statutory duties and responsibilities.

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 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. The Department of Education 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., allows the district school board 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 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 surplus 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(9), F.S., provides that 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. 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;
- required reporting of out-of-field teaching assignments;
- 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 law also authorizes the commissioner to waive State Board of Education rules if the school board has submitted a written request to the commissioner. 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. The commissioner is required to state with particularity the ground or basis for a denial of a waiver request. The law provides for the commissioner to report on waivers to the Florida Legislature and the State Board of Education.

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 January 6, 2000, an additional waiver was granted to Columbia County School District for this purpose.

School Improvement Plans and School Advisory Councils

Section 229.58, F.S., requires the school board 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. Chapter 99-284, L.O.F., allows school boards to establish a district advisory council to develop and monitor a district school improvement plan for schools in the district that provide educational services to youth in Department of Juvenile Justice programs.

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.

The Legislature annually appropriates funds for school advisory councils to use for school improvement. From the school district's lump sum allocation of lottery funds, the 1999-2000 General Appropriations Act requires school boards to allocate at least \$10 per unweighted FTE student for purposes determined by each school's advisory council or, if there is no school advisory council, by the school's staff and parents. A portion of the funds must be used to implement the school improvement plan.

Section 230.23, F.S., requires school improvement plans (beginning in 1999-2000) to address specific issues, including technology and instructional materials. 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 are to 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.

Commissioner's Study Group on Instructional Materials

The Commissioner of Education appointed a study group in 1999 to address instructional materials issues and concerns in Florida. The study group focused on three areas:

- Instructional materials adoption process in Florida
- Adequacy of instructional materials
- Role of instructional technology

The final report contains recommendations for each of these areas, as well as a proposed revision of the adoption cycle for adoption years 2000-2001 through 2012-2013. The recommendations included: expanding the membership of state committees; adjusting the timelines for the adoption process; authorizing the commissioner to enforce the accuracy of instructional materials; requiring school districts to purchase state-adopted materials within the first 2 years of the adoption cycle; and establishing new provisions for the disposal of instructional materials.

Pilot Projects

In Texas, the term "textbook" includes an electronic textbook. An electronic textbook includes computer software, interactive videodisc, CD-ROM, magnetic media, computer courseware, on-line services, an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means.

In February 1999, the Texas Education Agency provided a report entitled *Report on the Computer Network Study Project* to the Texas Legislature as a result of a study to determine the costs and benefits of using computer networks, including the Internet, in public schools. (The report can be found at <http://www.tea.state.tx.us/Textbooks/cns.htm> or see *Technology in Public Education in the United States*, Texas Education Agency, February 1, 1999.) The report was to include the possibility of delivering, through a computer network, updated supplements to state-adopted textbooks. The report also addressed the feasibility and cost effectiveness of developing electronic textbooks that could be used by students who are blind or have other disabilities. According to a Texas report, a videodisc-based program (*Windows on Science*) became the first state-adopted electronic textbook in the nation in 1991 and subsequent electronic programs were adopted in chemistry, science, world geography, accounting, and economics. The report noted that ideally all electronic instructional materials should be made available to all students, including those with disabilities.

In the fall of 1999, Texas began developing pilot programs, Educational Technology Providing Increased Learning Opportunities for Texas Students (EdTech PILOTS), to use different types of technologies involving hardware and curriculum products from a variety of vendors. The initiative includes electronic books that can be read on portable display devices. Approximately \$2.25 million will be provided for an estimated 25 projects for

school years 1999-2000 and 2000-2001. The Texas Education Agency is currently finalizing the pilot sites. A status report on the pilot programs is due December 1, 2000.

According to staff for the Texas Education Agency, these pilot programs are not subject to the provisions of Texas law requiring publishers and manufacturers to furnish materials offered by them at a price in Texas which does not exceed the lowest price at which they offer these materials for adoption or sale in any state, public school, or school district in the United States. In certain states, including Texas and Florida, this provision is often referred to as the "most favored nation" clause.

C. EFFECT OF PROPOSED CHANGES:

Definition of "Adequate Instructional Materials"

CS/CS/HB 1515 defines "adequate instructional materials" to mean a sufficient number of textbooks or set of materials serving as the basis for instruction for each student in core courses of mathematics, language arts, social studies, science, reading, and literature, unless the school advisory council approves the use of a program that does not include a textbook as a major tool of instruction. The CS replaces the term "instructional aids" with the term "instructional materials".

State Instructional Materials Committee

The CS provides that there must be nine or more members on each state instructional materials committee and that the majority of the committee members must be classroom teachers. The CS also requires the membership to include a balanced representation from the state's geographic regions.

State and District Instructional Materials Committees

The CS allows for all meetings to be publicly announced in the *Florida Administrative Weekly* rather than through the news media of the state. The agenda will no longer be required to be printed in a news media announcement.

District instructional materials committees are eliminated.

The CS removes the authority of instructional materials committees to independently investigate the compliance of publishers to ensure compliance.

Training Programs for Instructional Materials Committees

The CS eliminates the summer inservice institutes training program.

Prohibited Acts

The CS prohibits school district and publisher participation in pilot programs of materials being considered for adoption during the 18 months prior to the official adoption of materials by the commissioner. Pilot programs within the first 2 years of an adoption must have prior approval of the commissioner.

Bids and Proposals

The CS allows for bid notification to be publicly advertised in the *Florida Administrative Weekly* rather than a newspaper published in Tallahassee.

Powers and Duties of the Department of Education (DOE)

The CS restructures duties and responsibilities of the Department of Education and the Commissioner of Education. After all bids are opened and carefully considered, the commissioner selects and adopts instructional materials for each grade and subject field. The commissioner has the right to reject any and all bids or proposals. The commissioner may ask for new sealed bids from publishers or manufacturers. The commissioner directs the amount from \$500 to \$2,500 in a cash deposit or certified check that must accompany all bids or proposals.

The commissioner, after giving due consideration to comments by the districts and with the agreement of the publisher, may extend or shorten a contract period for a period not to exceed 2 years. The commissioner determines the amount of the bond which any publisher or manufacturer to whom any contract is let must give.

By January 1, 2000, the DOE shall review the contracts used for the core subject areas, prepare a report that includes recommendations for any needed changes, and provide copies of the report to the President of the Senate, the Speaker of the House of Representatives, and the minority leader of each house.

Accuracy of Instructional Materials

CS/CS/HB 1515 provides that the publisher must accurately and fully disclose only the names of those persons who actually authored the instructional materials. The CS gives the commissioner the authority to determine the accuracy of the content of state-adopted instructional materials and to conduct investigations or have an independent investigation conducted. If errors are found, the publisher must provide each district which has purchased those materials with corrections in a format approved by the commissioner. The commissioner may remove those materials determined to contain errors if the publisher refuses to correct the error or errors. Additionally, the commissioner may remove materials from the list of state-adopted materials at the request of the publisher if, in the commissioner's opinion, there is no material impact on the education goals of the state.

Term of Adoption

The CS changes the term of adoption for *all* instructional materials from an 8-year period to a 6-year period. The CS removes the provision that requires contracts placing instructional materials on adoption for 4 or more years to have an adjusted price increase.

Requisition of Instructional Materials from Publisher's Depository

The CS requires the superintendent to requisition current instructional materials to provide each student with a textbook or other materials as a major tool of instruction in core courses of the subject areas. The materials must be requisitioned within the first 2 years of the adoption cycle except for instructional materials related to growth in the student membership or for maintenance needs which may be requisitioned during the years 3 through 6 of the original contract period.

Duties, Responsibilities, and Requirements of Publishers and Manufacturers

Publishers and manufacturers will no longer be required to lend instructional materials to districts participating in preadoption evaluations and to maintain an inventory sufficient to receive and fill orders for instructional materials. The CS does require them to maintain in the depository for the first 2 years of the contract period an inventory of core subject instructional materials sufficient to receive and fill orders. During the last 4 years of the contract, they are required to ensure the availability of a sufficient inventory of *core subject area* instructional materials to receive and fill orders due to growth, including the opening of a new school, and replacement. For all other subject areas, sufficient materials must be maintained in the depository to receive and fill orders.

The CS requires publishers and manufacturers to accurately and *fully* disclose the names of all persons who authored instructional materials. In addition to the penalties provided in existing statute for liability and triple damages for publishers or manufacturers who wilfully fail to comply with the statutory duties and responsibilities, the Commissioner may remove from the list those state-adopted instructional materials whose publishers or manufacturers mislead the purchaser by falsely representing genuine authorship.

The CS requires that, beginning with the 2002 adoption cycle, publishers and manufacturers must implement a pilot program to provide opportunities for at least one school district to order *customized* instructional materials adopted in one or more of the core subject areas of mathematics, language arts, social studies, and science. The school district will be determined by the state instructional materials committee in consultation with the publishing industry. The term "customized materials" means portions, sections, or chapters of state-adopted instructional materials which may be provided in electronic format, printed on demand, or reproduced using other innovative practices that allow for customization as determined by the publisher and the school district.

Use of Instructional Materials and Technology Funds

The CS requires that each school district purchase current instructional materials to provide each student with a textbook or other instructional materials as a major tool of instruction in core courses of the appropriate subject areas of mathematics, language arts, science, social studies, reading, and literature for grades K through 12. Purchases are required to be made within the first two years of the effective date of the adoption cycle and the cost may not exceed the amount of the districts's instructional materials allocation for the previous 2 years. The requirement does not apply to contracts in existence prior to April 1, 2000, or purchases related to growth and maintenance.

When authorized to do so in the General Appropriations Act, any school district that meets the requirements to provide each student with a textbook in core courses and purchase materials during the first two years of the effective date of the original contract period *may use at least 5 percent of public school technology funds* to purchase electronic book readers.

The district school board purchase order timeline is changed from March 15 to February 1 for purchase orders in an aggregate amount which does not exceed 20 percent of the current year's allocation. The timeline for an aggregate amount which does not exceed 90 percent of the current year's allocation is also changed from May 1 to April 1.

Disposal of Instructional Materials

The CS allows district school boards to establish policy to dispose of instructional materials when they become unserviceable, surplus or are no longer on state contract. The materials may be given or loaned to other public education programs within the district or state, to the teachers to use in developing supplementary teaching materials, to students or others, or to any charitable organization, governmental agency, private school, or state. The materials may also be sold to used book dealers, recycling plants, pulp mills, or other persons, firms, or corporations upon such terms as are most economically advantageous to the district school board. If the materials cannot be disposed of in these ways, the CS allows the school board to prescribe policy for the method for destruction.

All moneys received by reason of 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.

Exchange of Textbooks

The CS repeals the law which directed the Department of Education to arrange for exchange of books among districts. This language is no longer needed due to the new provisions in the CS regarding the disposal of instructional materials, which allows materials to be given, loaned or sold through school board policy.

Duties of Superintendent Relating to Instructional Materials

The CS specifies that the duties of the superintendent include keeping adequate records and accounts for all financial transactions for funds collected from the sale, exchange, loss, or damage of instructional materials. Such records and accounts will be included in the Office of Program Policy Analysis and Government Accountability (OPPAGA) best financial management practices review or a school district performance review. The Superintendent is required to notify the department by April 1 of each year on which state-adopted instructional materials will be requisitioned for use in the district. The notification must include a district plan for instructional materials use to assist in determining if adequate instructional materials have been requisitioned.

Duties of Principals

The CS assigns the responsibility of effectively communicating to parents how instructional materials are used to implement the curricular objectives of the school. However, the process for collecting money for lost and damaged books must be included in the policies of the district school board.

Best Financial Management Practices

Instructional materials and administrative and instructional technology are added to the list areas that the best financial management practices must address to instill public confidence.

D. SECTION-BY-SECTION ANALYSIS:

- Section 1** Amends s. 230.23, F.S., prescribing duty of school boards to provide instructional materials; defining “adequate instructional materials”.
- Section 2** Amends s. 233.07, F.S., revising the membership of instructional materials committees.
- Section 3** Amends s. 233.08, F.S., eliminating provisions regarding district instructional materials committees.
- Section 4** Amends s. 233.09, F.S., revising the method of public announcement of meetings, eliminating requirements for aggregating district recommendations.
- Section 5** Amends s. 233.095, F.S., deleting the requirement that instructional materials committee training be provided through summer institutes.
- Section 6** Amends s. 233.115, F.S., providing that no school district or publisher may participate in a pilot program of materials being considered for adoption during 18 months prior to adoption; requiring any pilot program during the first 2 years of adoption period have commissioner’s prior approval.
- Section 7** Amends s. 233.14, F.S., providing that announcement of requests for bids or proposals be advertised in *Florida Administrative Weekly* rather than newspaper published in Tallahassee.
- Section 8** Amends s. 233.16, F.S., deleting provisions relating to district instructional material committees; transfers certain duties relating to the selection and adoption of instructional materials from the Department of Education to the Commissioner of Education; eliminating a condition for rejecting bids.
- Section 9** Creates s. 233.167, F.S., establishing procedures for determining the accuracy of instructional materials, correcting errors in content, and removing inaccurate instructional materials from the state-adopted list.
- Section 10** Amends s. 233.17, F.S., changing the 8 year term of adoption of instructional materials to a 6 year term; eliminating the optional escalator clause in certain contracts.
- Section 11** Amends s. 233.22, F.S., requiring the superintendent of a school district to requisition current instructional materials to provide each student with a textbook or other materials for core courses; requires that materials be requisitioned within the first two years of the adoption cycle with an exception; allowing the superintendent of a school district to requisition instructional materials in the core area that are related to growth of student membership or instructional materials maintenance needs during the 3rd and subsequent years of the original contract period.
- Section 12** Amends s. 233.25, F.S., deleting provisions relating to the loan of instructional materials specimen copies to districts; requiring publishers and manufacturers to retain instructional materials in a depository for a specified period of time, to implement a pilot program to provide opportunities for at least one school

district to order customized materials in certain subject areas, and to accurately disclose certain information regarding the development of instructional materials; providing a penalty for noncompliance.

- Section 13** Amends s. 233.34, F.S., requiring school districts to purchase instructional materials in core courses of appropriate subject areas within the first 2 years of the adoption cycle; providing exceptions for contracts in existence before April 1, 2000, or to a purchase related to growth of student membership in the district or for instructional materials maintenance needs; allowing school districts to use at least 5 percent of public school technology funds to purchase electronic book readers when authorized in the General Appropriations Act; changes the district school board purchase order timeline.
- Section 14** Amends s. 233.37, F.S., providing for the disposal of unserviceable instructional materials and those no longer on state contract; eliminating contracts between the Department of Education and recycling firms; authorizing the district school board to prescribe policies for destroying instructional materials; requiring that moneys received from the disposition of instructional materials be deposited in the district school fund and added to the district appropriation for instructional materials.
- Section 15** Repeals s. 233.38, F.S., relating to the exchange of textbooks by school districts.
- Section 16** Amends s. 233.43, F.S., requiring district school board policies to include the superintendent's responsibilities for keeping records pursuant to s. 233.46(4), F.S.; requiring superintendents to make an annual report of funds collected from the sale, exchange, loss, or damage of instructional materials; requires Department of Education to review reports and report to Legislature with recommendations; requiring superintendent of schools notify the Department of Education by April 1 of each year of the state-adopted instructional materials that will be requisitioned for use.
- Section 17** Amends s. 233.46, F.S., requiring principals to communicate to parents the manner in which instructional materials are used to implement curricular objectives; requiring district school board policies to include provisions related to lost or damaged books.
- Section 18** Amends s. 233.48, F.S., revising expenses to be included in the legislative budget request for instructional materials.
- Section 19** Amends s. 229.512, F.S., correcting a cross reference.
- Section 20** Amends s. 230.23025, F.S., revising the best financial management practices review.
- Section 21** Amends s. 230.23025, F.S., requiring the Executive Office of the Governor and the Secretary of State to renegotiate certain contracts.
- Section 22** Provides an effective date upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

NA

2. Expenditures: The state appropriation for instructional materials has been as follows:

1995-96.....\$102 Million
1996-97.....\$140 Million
1997-98.....\$159 Million
1998-99.....\$184 Million
1999-00.....\$192 Million
2000-01.....\$192 Million----HB 2145

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

School districts received the amounts shown above as state expenditures.

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The inventory requirements in the CS affect future contracts for instructional materials in core subject areas. The contracts involve the state and publishers or manufacturers. The CS also affects future contracts between publishers and the depository. The Florida School Book Depository, Inc., is currently the primary depository. Future contracts will need to take into account the inventory requirements: maintain in the depository a sufficient inventory for all subject areas other than core areas; maintain in the depository an inventory of materials in the core subject areas for the first 2 years of the contract; ensure the availability of an inventory to accommodate orders related to growth and replacement for the remaining 4 years of the contract. The fiscal impact of renegotiated contracts between the state and publishers or manufacturers and the shortened term of adoptions is unknown. Publishers are subject to the new requirements related to accuracy and corrections. Under the provisions of the CS, the commissioner may remove instructional materials from the state adopted list if the content is in error and the publisher refuses to make the necessary corrections.

D. FISCAL COMMENTS:

CS/CS/HB 1515 changes the adoption cycle for instructional materials from an 8 year period to a 6 year period. In addition, the CS defines "adequate instructional materials" which must be provided for each student and requires that these materials must be purchased for each student during the first two years of the 6-year adoption cycle. The CS provides that the cost of adopted instructional materials that a school board is required to purchase during each two year period shall not exceed the district's allocation for the

previous two years from the annual appropriation for instructional materials as provided in s. 236.122, F. S.

The CS allows the use of at least 5 percent of public school technology funds for the purchase of electronic book readers. The costs for these readers can range from \$199 to \$1600 with possible additional costs associated with electronic book software and services.

The CS removes the provision that requires contracts placing instructional materials on adoption for 4 or more years to have an adjusted price increase (escalator clause). Although some publishers say this could cause increased bid prices, the publishers are required, pursuant to s. 233.25(6) and (7), F.S., to furnish materials at a price in Florida which (including all costs of transportation to depository) does not exceed the lowest price at which they offer these materials in any state or school district in the U.S. and they are obligated to automatically reduce the price of instructional materials to the extent that reductions are made elsewhere in the U.S.

If instructional materials committees are expanded to more than nine members, there will be additional costs for the reimbursement to district school boards for the actual cost of substitute teachers for each workday that a member of the instructional staff is absent for the purpose of the state instructional materials committee. Members of the committee are also reimbursed for travel expenses and per diem.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The CS does not require the county or municipality to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The CS does not reduce the revenue raising authority of counties or municipalities.

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

The CS does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Education Innovation unanimously (9 to 0) reported HB 1515 out of Committee on March 27, 2000 as a committee substitute.

On April 11, 2000 the Education Appropriations Committee considered CS/HB 1515 and passed it as a committee substitute. The difference in the CS/CS/HB 1515 is that it provides that the cost of adopted instructional materials that a school board is required to purchase each two year period shall not exceed the amount of the district's allocation for the previous two years from the annual appropriation for instructional materials as provided in s. 236.122, F. S.

A similar Senate companion, CS/SB 850, passed the Senate on March 29, 2000. On May 4, 2000, the House took up CS/SB 850 in lieu of CS/CS/HB 1515 and amended it with House language that:

- Adds requirements for the Department of Education to review the contracts and prepare a report with recommendations by January 1, 2001.
- Provides that a best financial management practices review include "instructional materials and administrative and instructional technology."
- Allows Executive Office of the Governor and the Secretary of State to renegotiate any contracts which are in existence on the effective date.

The Senate concurred with the House amendments and CS/SB 850 passed as amended with 36 yeas and 0 nays and was ordered enrolled. On June 15, 2000, CS/SB 850 was approved by the Governor.

CS/CS/HB 1515, subsequently died on the calendar.

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Staff Director:

Ouida Ashworth

Ouida Ashworth

AS REVISED BY THE COMMITTEE ON EDUCATION APPROPRIATIONS:

Prepared by:

Staff Director:

Cecil Golden

John Newman

STORAGE NAME: h1515s2z.ei

DATE: June 15, 2000

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Staff Director:

Alex Amengual

Ouida Ashworth