

By Senator Cowin

11-115B-00

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

2 233.37, F.S.; providing for the disposal of
3 unserviceable instructional materials and those

5 contracts between the Department of Education
6 and recycling firms; authorizing the district

8 destroying instructional materials; requiring
9 that certain moneys be deposited in the

11 appropriation for instructional materials;
12 repealing s. 233.38, F.S., relating to the

14 amending s. 233.43, F.S.; requiring district
15 school board policies to include the

17 records pursuant to s. 233.46(4), F.S.;
18 requiring reports; amending s. 233.46, F.S.;

20 related to lost or damaged books; requiring a
21 report by the Department of Education;

23 Governor and the Secretary of State renegotiate
24 existing contracts for certain instructional

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

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

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

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

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

17 (b) Textbooks.--Provide for proper requisitioning,
18 distribution, accounting, storage, care, and use of all
19 instructional materials furnished by the state and furnish
20 such other instructional materials as may be needed. The
21 school board is responsible for assuring that instructional
22 materials used in the district are consistent with the
23 district goals and objectives and the curriculum frameworks
24 approved by the State Board of Education, as well as with the
25 state and district performance standards provided for in ss.
26 229.565 and 232.2454.

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

30 (d) School library media services; establishment and
31 maintenance.--Establish and maintain school library media

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

6 Section 2. Paragraph (f) of subsection (4) of section
7 233.09, Florida Statutes, is amended to read:

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

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

18 (f) When recommending instructional materials for use
19 in the schools, each committee shall have the recommendations
20 of all districts which submit evaluations on the materials
21 submitted for adoption in that particular subject area
22 aggregated and presented to the members to aid them in the
23 selection process. ~~however, such aggregation shall be~~
24 ~~weighted in accordance with the full-time equivalent student~~
25 ~~percentage of each district. Each committee shall prepare an~~
26 ~~additional aggregation, unweighted, with~~ Each district
27 recommendation must be given equal consideration. ~~No~~
28 Instructional materials may not ~~shall~~ be evaluated or
29 recommended for adoption unless each of the district
30 committees has ~~shall have~~ been loaned the specified number of
31 samples.

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

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

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

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

21 Section 4. Section 233.17, Florida Statutes, is
22 amended to read:

23 233.17 Term of adoption for instructional materials.--

24 (1) The term of adoption of any instructional
25 materials must be an 8-year period beginning on April 1
26 following the adoption, except for the core subject areas
27 which include mathematics, science, social studies, reading,
28 and literature which shall be for a term not to exceed 6 years
29 beginning on April 1 following the adoption. Any contract for
30 instructional materials may be extended as prescribed in s.
31 233.16(3). The Commissioner of Education may approve terms of

1 adoption of less than 8 years for materials in content areas
2 which require more frequent revision.

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

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

1 is approximately the same each year in order to maintain
2 curricular consistency.

3 Section 5. Section 233.22, Florida Statutes, is
4 amended to read:

5 233.22 Requisition of instructional materials from
6 publisher's depository.--

7 (1) The superintendent shall requisition adopted
8 instructional materials from the depository of the publisher
9 with whom a contract has been made. However, the
10 superintendent shall requisition current instructional
11 materials to provide each student with a textbook or other
12 materials as a major tool of instruction in core courses of
13 the subject areas specified in s. 233.34(2). These materials
14 must be requisitioned within the first 2 years of the adoption
15 cycle, except for instructional materials related to growth of
16 student membership or instructional-materials-maintenance
17 needs. The superintendent may requisition instructional
18 materials in the core subject areas specified in s. 233.34(2)
19 that are related to growth of student membership or
20 instructional-materials-maintenance needs during the 3rd, 4th,
21 5th, and 6th years of the original contract period.

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

1 Section 6. Subsections (8) and (12) of section 233.25,
2 Florida Statutes, are amended, present subsections (13) and
3 (14) of that section are redesignated as subsections (16) and
4 (17), respectively, and new subsections (13), (14), and (15)
5 are added to that section, to read:

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

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

17 (12) ~~Maintain~~^{or contract with} a depository in the
18 state ~~and maintain there an inventory sufficient to receive~~
19 ~~and fill orders for instructional materials.~~

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

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

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1 (15) For all other subject areas, maintain in the
2 depository an inventory of instructional materials which is
3 sufficient to receive and fill orders.

4 Section 7. Section 233.34, Florida Statutes, is
5 amended to read:

6 233.34 Use of instructional materials allocation;
7 instructional materials, library books, and reference books;
8 repair of books; exceptions.--

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

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

22 (b) The requirement in paragraph (a) does not apply to
23 contracts in existence before April 1, 2000, or to a purchase
24 related to growth of student membership in the district or for
25 instructional-materials-maintenance needs.

26 (c) Any school district that meets the requirement in
27 paragraph (a) may use at least 5 percent of public school
28 technology funds to purchase electronic book readers when
29 authorized to do so in the General Appropriations Act.

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

(3)(a)~~(2)~~

2 allocation for the purchase of instructional materials
3 included on the state-adopted list. No less than 50 percent
5 will be used to provide instruction to students at the level
6 or levels for which the materials are designed.

(b) However, up to 50 percent of the annual allocation

9 including library and reference books and nonprint materials,
10 not included on the state-adopted list and for the repair and

(c)

12 school districts may use 100 percent of that portion of the
13 annual allocation which is designated by the district for the
14
16 percent of that portion of the annual allocation which is
17 designated for the purchase of instructional materials for
19 list.

20 ~~___(3)~~ Notwithstanding the definition of instructional

22 (3)—which school districts may use to purchase materials
23 not on the state adopted list may be used for the purchase of
25 content which assist in the instruction of a subject or
26 course. These items may be available in bound, unbound, kit,
28 textbooks, replacements for items which were part of
29 previously purchased instructional materials, consumables,
31 computer courseware or software, and other commonly accepted

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

12 (5)~~(4)~~ Each district school board shall adopt
13 policies, and each superintendent shall implement procedures,
14 that will assure the maximum use by the students of the
15 materials herein authorized.

16 (6)~~(5)~~ District school boards are authorized to issue
17 purchase orders subsequent to March 15 in an aggregate amount
18 which does not exceed 20 percent of the current year's
19 allocation, and subsequent to May 1 in an aggregate amount
20 which does not exceed 90 percent of the current year's
21 allocation, for the purpose of expediting the delivery of
22 instructional materials which are to be paid for from the
23 ensuing year's allocation.

24 (7)~~(6)~~ In any year in which the total allocation for a
25 district has not been expended or obligated prior to June 30,
26 the district shall carry forward such unobligated amount and
27 shall add this amount to the next year's allocation.

28 Section 8. Section 233.37, Florida Statutes, is
29 amended to read:

30 233.37 Disposal of instructional materials.--
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1 (1) Under policy ~~rules of the commissioner, or rules~~
2 of the district school board ~~which have been approved by the~~
3 ~~commissioner~~, the district school board may dispose of the
4 instructional materials ~~of an old adoption~~ when they have
5 become unserviceable or surplus or are no longer on state
6 contract by:

7 (a) Giving or lending the materials to other public
8 education programs within the district or state, to the
9 teachers to use in developing supplementary teaching
10 materials, to students or others, or to any charitable
11 organization, governmental agency, private school, or state.

12 (b) Selling the materials to used book dealers,
13 recycling plants, pulp mills, or other persons, firms, or
14 corporations upon such terms as are most economically
15 advantageous to the district school board.

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

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

27 Section 9. Section 233.38, Florida Statutes, is
28 repealed.

29 Section 10. Section 233.43, Florida Statutes, is
30 amended to read:

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1 233.43 Duties of superintendent relating to
2 instructional materials.--The duties and responsibilities of
3 each superintendent for the requisition, purchase, receipt,
4 storage, distribution, use, conservation, records, and reports
5 of, and management practices and property accountability
6 concerning, instructional materials shall be prescribed by
7 policies of the district school board. Such policies shall
8 also provide for an evaluation of any instructional materials
9 to be requisitioned that have not been used previously in the
10 schools of the district. The duties and responsibilities
11 include keeping adequate records and accounts for all
12 financial transactions for funds collected pursuant to s.
13 233.46(4). Each superintendent shall provide an annual report
14 on the funds collected from the sale, exchange, loss, or
15 damage of instructional materials under s. 233.46(4) to the
16 Department of Education. The Department of Education shall
17 annually review these reports and compile a report to the
18 Legislature, including recommendations for any needed changes.

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

21 233.46 Duties of principals.--The duties and
22 responsibilities of principals for instructional materials
23 management and care include:

24 (2) MONEY COLLECTED FOR LOST OR DAMAGED BOOKS;
25 ENFORCEMENT.--It shall be the duty and responsibility of each
26 principal to collect from each pupil or the pupil's parent the
27 purchase price of any instructional material the pupil has
28 lost, destroyed, or unnecessarily damaged and to report and
29 transmit such amounts so collected to the superintendent. If
30 such material so lost, destroyed, or damaged has been in
31 school use for more than 1 year, a sum ranging between 50 and

1 75 percent of the purchase price of the book shall be
2 collected. Such sum shall be determined by the physical
3 condition of the book. The failure to collect such sum upon
4 reasonable effort by the principal may result in the
5 suspension of the pupil from participation in extracurricular
6 activities or satisfaction of the debt by the pupil through
7 community service activities at the school site as determined
8 by the principal. The provisions of this subsection must be
9 included in the policies of the district school board.

10 Section 12. The Department of Education shall review
11 the contracts used for the core subject areas and prepare a
12 report that includes recommendations for any needed changes.
13 The department shall provide a copy of the report to the
14 President of the Senate, the Speaker of the House of
15 Representatives, and the minority leader of each house by
16 January 1, 2001.

17 Section 13. The Executive Office of the Governor and
18 the Secretary of State shall renegotiate any contracts in
19 existence on the effective date of this act which provide for
20 instructional materials for the core subject area of science
21 for kindergarten and for grades 1 through 12.

22 Section 14. This act shall take effect upon becoming a
23 law.

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SENATE SUMMARY

Modifies the term "adequate instructional materials" for purposes of courses of study in the state's public schools. Deletes a requirement that state instructional materials committees provide weighted and unweighted aggregations of materials submitted for adoption. Transfers certain duties relating to selection and adoption of instructional materials from the Department of Education to the Commissioner of Education. Deletes authority for a publisher or manufacturer of instructional materials to increase the contract price of the materials under specified conditions. Requires a superintendent of a school district to requisition current instructional materials to provide each student with a textbook or other materials for core courses specified in s. 233.34(2), F.S., as amended by the act, within 2 years of the adoption cycle. Authorizes the requisition of such materials related to growth of student membership or instructional-materials-maintenance needs during the 3rd, 4th, 5th, and 6th years of the original contract period. Requires publishers and manufacturers to retain instructional materials in a depository for a specified period of time and to ensure the availability of materials. Authorizes the Commissioner of Education to accept certain submissions by a publisher or manufacturer that reflect a charge for ancillary materials provided free of charge in other states' contracts if the publisher can reduce the total program cost to the school districts. Requires school districts to purchase instructional materials in core courses of subject areas within a specified time. Provides exceptions. Allows school districts to make certain purchases when authorized in the General Appropriations Act. Provides for the disposal of unserviceable instructional materials and those no longer on state contract. Eliminates contracts between the Department of Education and recycling firms. Authorizes the district school board to prescribe policies for destroying instructional materials. Requires 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. Requires district school board policies to include the superintendent's responsibilities for keeping records. Requires superintendents to make an annual report of funds collected from the sale, exchange, loss, or damage of instructional materials. Requires the Department of Education to review these reports and report to the Legislature with its recommendations. Requires that procedures for collection of money for lost or damaged books be included in the policies of the district school boards. Requires the Department of Education to review contracts used for the core subject areas and prepare a report to the Legislature. Requires the Executive Office of the Governor and the Secretary of State to renegotiate contracts for instructional materials for the core subject area of science in existence on the effective date of this act. Repeals s. 233.38, F.S., relating to the exchange of textbooks among school districts.