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1 A bill to be entitled
2 An act relating to instructional materials for K-12
3 public education; amending s. 1006.28, F.S.; providing
4 district school board duties relating to the
5 collection of fees from publishers or manufacturers
6 and procedures for reviewing and approving
7 instructional materials; defining the term
8 "instructional materials" for purposes of review;
9 repealing s. 1006.282, F.S., relating to a pilot
10 program for the transition to electronic and digital
11 instructional materials; amending s. 1006.29, F.S.;
12 providing for Department of Education instructional
13 materials reviewers; providing procedures for
14 department review and approval of instructional
15 materials; authorizing the department to compensate
16 reviewers; deleting provisions relating to adoption of
17 instructional materials; requiring the department to
18 publicize adopted instructional materials; amending s.
19 1006.30, F.S., relating to an affidavit made by
20 instructional materials reviewers, to conform;
21 amending s. 1006.31, F.S.; providing duties of
22 department and school district instructional materials
23 reviewers; requiring a reviewer to use specified
24 standards to determine the propriety of an
25 instructional material; amending s. 1006.32, F.S.;
26 providing prohibited acts for department and district
27 instructional materials reviewers; repealing s.
28 1006.33, F.S., relating to bids or proposals by

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29 publishers or manufacturers; amending s. 1006.34,
30 F.S.; providing duties of the State Board of Education
31 relating to evaluating instructional materials;
32 authorizing the collection of fees from publishers or
33 manufacturers; deleting provisions relating to
34 selection and adoption of instructional materials and
35 publisher or manufacturer contracts, bonds, and
36 deposits; amending s. 1006.35, F.S., relating to the
37 accuracy of instructional materials, to conform;
38 amending s. 1006.36, F.S.; providing for a state
39 review cycle and schedule; repealing s. 1006.37, F.S.,
40 relating to the requisition of instructional materials
41 from a publisher's depository; amending s. 1006.38,
42 F.S.; revising duties of publishers and manufacturers;
43 amending s. 1006.40, F.S.; revising provisions
44 relating to the use of the instructional materials
45 allocation by district school boards; amending ss.
46 1001.10, 1003.55, 1003.621, and 1011.62, F.S.;
47 conforming provisions; repealing s. 1010.82, F.S.,
48 relating to the Textbook Bid Trust Fund; providing an
49 effective date.

50
51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. Paragraph (b) of subsection (1) and subsection
54 (2) of section 1006.28, Florida Statutes, are amended to read:
55 1006.28 Duties of district school board, district school
56 superintendent; and school principal regarding K-12

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57 | instructional materials.—

58 | (1) DISTRICT SCHOOL BOARD.—The district school board has
59 | the duty to provide adequate instructional materials for all
60 | students in accordance with the requirements of this part. The
61 | term "adequate instructional materials" means a sufficient
62 | number of student or site licenses or sets of materials that are
63 | available in bound, unbound, kit, or package form and may
64 | consist of hardbacked or softbacked textbooks, electronic
65 | content, consumables, learning laboratories, manipulatives,
66 | electronic media, and computer courseware or software that serve
67 | as the basis for instruction for each student in the core
68 | courses of mathematics, language arts, social studies, science,
69 | reading, and literature. The district school board has the
70 | following specific duties:

71 | (b) Instructional materials.—

72 | 1. Provide for proper requisitioning, distribution,
73 | accounting, storage, care, and use of all instructional
74 | materials and furnish such other instructional materials as may
75 | be needed. The district school board shall ensure that
76 | instructional materials used in the district are consistent with
77 | the district goals and objectives and the course descriptions
78 | established in ~~curriculum frameworks adopted by~~ rule of the
79 | State Board of Education, as well as with the state and district
80 | performance standards provided for in s. 1001.03(1). The
81 | district school board may set and collect fees from publishers
82 | or manufacturers participating in the instructional materials
83 | approval process. However, a district school board may not

84 assess a fee to review materials that have been evaluated
85 previously by the state.

86 2. Adopt rules prescribing the procedures by which
87 district personnel shall evaluate instructional materials
88 submitted by publishers or manufacturers in each approval cycle.

89 3. Determine if the district will be responsible for
90 reviewing instructional materials submitted by a publisher or
91 manufacturer or if the district will refer submitted materials
92 to the department for review.

93 4. If the district is responsible for reviewing submitted
94 materials, designate district staff who are experts in the
95 content areas submitted for approval to review submitted
96 instructional materials to ensure the content aligns with the
97 applicable state standards. The reviewers shall be designated as
98 district instructional materials reviewers and shall review the
99 materials for the level of instructional support and the
100 accuracy and appropriateness of progression of introduced
101 content. Instructional materials shall be made electronically
102 available to the reviewers. The reviewers shall make
103 recommendations to the district school board regarding materials
104 that should be considered for use in schools. For purposes of
105 reviewing materials, the term "instructional materials" means
106 items having intellectual content that by design assist in the
107 instruction of a subject or course. These items may be available
108 in bound, unbound, kit, or package form and may consist of
109 hardbacked or softbacked textbooks, electronic content,
110 consumables, learning laboratories, manipulatives, electronic
111 media, and computer courseware or software. A publisher or

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112 manufacturer providing instructional materials as a single
113 bundle shall also make the instructional materials available as
114 separate and unbundled items, each priced individually. A
115 publisher or manufacturer must also offer sections of
116 instructional materials in digital or electronic versions at
117 reduced rates to districts, schools, and teachers.

118 5. Approve instructional materials that have been reviewed
119 by district or department instructional materials reviewers and
120 have been determined to align with all applicable state
121 standards pursuant to s. 1003.41 and the requirements in s.
122 1006.31.

123 6. Certify to the department that all core instructional
124 materials have been approved pursuant to subparagraph 5.

125 (2) DISTRICT SCHOOL SUPERINTENDENT.—

126 ~~(a)~~ The district school superintendent has the duty to
127 recommend such plans for improving, providing, distributing,
128 accounting for, and caring for instructional materials and other
129 instructional aids as will result in general improvement of the
130 district school system, as prescribed in this part, in
131 accordance with adopted district school board rules prescribing
132 the duties and responsibilities of the district school
133 superintendent regarding the requisition, purchase, receipt,
134 storage, distribution, use, conservation, records, and reports
135 of, and management practices and property accountability
136 concerning, instructional materials, and providing for an
137 evaluation of any instructional materials to be requisitioned
138 that have not been used previously in the district's schools.
139 The district school superintendent must keep adequate records

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140 and accounts for all financial transactions for funds collected
141 pursuant to subsection (3), as a component of the educational
142 service delivery scope in a school district best financial
143 management practices review under s. 1008.35.

144 ~~(b) Each district school superintendent shall notify the~~
145 ~~department by April 1 of each year the state adopted~~
146 ~~instructional materials that will be requisitioned for use in~~
147 ~~his or her school district. The notification shall include a~~
148 ~~district school board plan for instructional materials use to~~
149 ~~assist in determining if adequate instructional materials have~~
150 ~~been requisitioned.~~

151 Section 2. Section 1006.282, Florida Statutes, is
152 repealed.

153 Section 3. Section 1006.29, Florida Statutes, is amended
154 to read:

155 1006.29 Department of Education ~~State~~ instructional
156 materials reviewers.—

157 (1) (a) The commissioner shall determine annually the areas
158 in which instructional materials shall be submitted for approval
159 ~~adoption~~, taking into consideration the desires of the district
160 school boards. ~~The commissioner shall also determine the number~~
161 ~~of titles to be adopted in each area.~~

162 (b) ~~By April 15 of each school year,~~ The department
163 ~~commissioner shall,~~ appoint three state or national experts in
164 the content areas submitted by a publisher, manufacturer, or
165 district school board for approval, ~~adoption~~ to review the
166 instructional materials and evaluate the content for alignment
167 with the applicable ~~Next Generation Sunshine~~ state standards.

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168 ~~These reviewers shall be designated as state instructional~~
169 ~~materials reviewers and shall review~~ The materials shall be
170 evaluated for the level of instructional support and the
171 accuracy and appropriateness of progression of introduced
172 content. Instructional materials shall be made electronically
173 available to the reviewers. ~~The initial review of the materials~~
174 ~~shall be made by only two of the three reviewers. If the two~~
175 ~~reviewers reach different results, the third reviewer shall~~
176 ~~break the tie. The reviewers shall independently make~~
177 ~~recommendations to the commissioner regarding materials that~~
178 ~~should be placed on the list of adopted materials through an~~
179 ~~electronic feedback review system.~~

180 (c) The department may compensate assigned reviewers with
181 funds collected through fees authorized in accordance with s.
182 1006.34(2). The commissioner shall request each district school
183 superintendent to nominate one classroom teacher or district-
184 level content supervisor to review two or three of the
185 submissions recommended by the department ~~state~~ instructional
186 materials reviewers. School districts shall ensure that these
187 district reviewers are provided with the support and time
188 necessary to accomplish a thorough review of the instructional
189 materials. District reviewers shall independently rate the
190 recommended submissions on the instructional usability of the
191 resources.

192 (2) For purposes of approving materials ~~state adoption~~,
193 the term "instructional materials" means items having
194 intellectual content that by design assist ~~serve as a major tool~~
195 ~~for assisting~~ in the instruction of a subject or course. These

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196 items may be available in bound, unbound, kit, or package form
197 and may consist of hardbacked or softbacked textbooks,
198 electronic content, consumables, learning laboratories,
199 manipulatives, electronic media, and computer courseware or
200 software. A publisher or manufacturer providing instructional
201 materials as a single bundle shall also make the instructional
202 materials available as separate and unbundled items, each priced
203 individually. A publisher or manufacturer shall ~~may~~ also offer
204 sections of ~~state-adopted~~ instructional materials in digital or
205 electronic versions at reduced rates to districts, schools, and
206 teachers.

207 (3) Beginning in the 2015-2016 academic year, all approved
208 ~~adopted~~ instructional materials for students in kindergarten
209 through grade 12 must be provided in an electronic or digital
210 format. For purposes of this section, the term:

211 (a) "Electronic format" means text-based or image-based
212 content in a form that is produced on, published by, and
213 readable on computers or other digital devices and is an
214 electronic version of a printed book, whether or not any printed
215 equivalent exists.

216 (b) "Digital format" means text-based or image-based
217 content in a form that provides the student with various
218 interactive functions; that can be searched, tagged,
219 distributed, and used for individualized and group learning;
220 that includes multimedia content such as video clips,
221 animations, and virtual reality; and that has the ability to be
222 accessed at any time and anywhere.

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224 The terms do not include electronic or computer hardware even if
225 such hardware is bundled with software or other electronic
226 media, nor does it include equipment or supplies.

227 (4) The department shall develop a training program for
228 persons selected to review submitted ~~as state~~ instructional
229 materials ~~reviewers and school district reviewers~~. The program
230 shall be structured to assist reviewers in developing the skills
231 necessary to make valid, culturally sensitive, and objective
232 decisions regarding the content and rigor of instructional
233 materials. All persons reviewing ~~serving as~~ instructional
234 materials ~~reviewers~~ must complete the training program prior to
235 beginning the review and selection process.

236 (5) The department shall post on its website a list of
237 department-approved instructional materials, district-approved
238 instructional materials, and instructional materials approved by
239 other states that align with applicable state standards.

240 Section 4. Section 1006.30, Florida Statutes, is amended
241 to read:

242 1006.30 Affidavit of Department of Education ~~state~~
243 instructional materials reviewers.—Before transacting any
244 business, each department ~~state~~ instructional materials reviewer
245 shall make an affidavit, to be filed with the department, that:

246 (1) The reviewer will faithfully discharge the duties
247 imposed upon him or her.

248 (2) The reviewer has no interest in any publishing or
249 manufacturing organization that produces or sells instructional
250 materials.

251 (3) The reviewer is in no way connected with the

252 distribution of the instructional materials.

253 (4) The reviewer does not have any direct or indirect
 254 pecuniary interest in the business or profits of any person
 255 engaged in manufacturing, publishing, or selling instructional
 256 materials designed for use in the public schools.

257 (5) The reviewer will not accept any emolument or promise
 258 of future reward of any kind from any publisher or manufacturer
 259 of instructional materials or his or her agent or anyone
 260 interested in, or intending to bias his or her judgment in any
 261 way in, the selection of any materials to be approved ~~adopted~~.

262 (6) The reviewer understands that it is unlawful to
 263 discuss matters relating to instructional materials submitted
 264 for approval ~~adoption~~ with any agent of a publisher or
 265 manufacturer of instructional materials, either directly or
 266 indirectly, except during the period when the publisher or
 267 manufacturer is providing a presentation for the reviewer during
 268 his or her review of the instructional materials submitted for
 269 approval ~~adoption~~.

270 Section 5. Section 1006.31, Florida Statutes, is amended
 271 to read:

272 1006.31 Duties of the Department of Education and school
 273 district ~~each state~~ instructional materials reviewer.—The duties
 274 of the ~~each state~~ instructional materials reviewer are:

275 (1) PROCEDURES.—To adhere to procedures prescribed by the
 276 department or the district for evaluating instructional
 277 materials submitted by publishers and manufacturers in each
 278 review for approval ~~adoption~~.

279 (2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To evaluate

280 carefully all instructional materials submitted, in order to
281 ascertain which instructional materials, if any, submitted for
282 consideration implement the selection criteria developed by the
283 department or the district and those curricular objectives
284 included within applicable performance standards provided for in
285 s. 1001.03(1).

286 (a) When evaluating ~~recommending~~ instructional materials
287 for use in the schools, each reviewer should ensure that the
288 ~~shall include only~~ instructional materials ~~that~~ accurately
289 portray the ethnic, socioeconomic, cultural, and racial
290 diversity of our society, including men and women in
291 professional, career, and executive roles, and the role and
292 contributions of the entrepreneur and labor in the total
293 development of this state and the United States.

294 (b) When evaluating ~~recommending~~ instructional materials
295 for use in the schools, each reviewer should ensure that the
296 ~~shall include only~~ materials ~~that~~ accurately portray, whenever
297 appropriate, humankind's place in ecological systems, including
298 the necessity for the protection of our environment and
299 conservation of our natural resources and the effects on the
300 human system of the use of tobacco, alcohol, controlled
301 substances, and other dangerous substances.

302 (c) When evaluating ~~recommending~~ instructional materials
303 for use in the schools, each reviewer should ensure that the
304 materials ~~shall require such materials as he or she deems~~
305 ~~necessary and proper~~ to encourage thrift, fire prevention, and
306 humane treatment of people and animals.

307 (d) When evaluating ~~recommending~~ instructional materials

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308 | for use in the schools, each reviewer should ensure ~~shall~~
309 | ~~require~~, when appropriate to the comprehension of students, that
310 | materials for social science, history, or civics classes contain
311 | the Declaration of Independence and the Constitution of the
312 | United States. A reviewer may not recommend any instructional
313 | materials for use in the schools which contain any matter
314 | reflecting unfairly upon persons because of their race, color,
315 | creed, national origin, ancestry, gender, or occupation.

316 | (e) When evaluating instructional materials, library
317 | media, and other reading material for use in the schools, each
318 | reviewer shall use the following standards to determine the
319 | propriety of the material:

320 | 1. The age of students who normally could be expected to
321 | have access to the material.

322 | 2. The educational purpose to be served by the material.
323 | In considering instructional materials for classroom use,
324 | priority shall be given to the selection of materials that
325 | encompass the state and district school board performance
326 | standards provided for in s. 1001.03(1) and that include the
327 | instructional objectives contained within the course
328 | descriptions established in rule by the State Board of
329 | Education.

330 | 3. The degree to which the material would be supplemented
331 | and explained by mature classroom instruction as part of a
332 | normal classroom instructional program.

333 | 4. The degree to which the material represents the broad
334 | racial, ethnic, socioeconomic, and cultural diversity of
335 | students in the state.

336
337 Any instructional material containing pornography or otherwise
338 prohibited by s. 847.012 may not be used or made available
339 within any public school.

340 ~~(c) Any instructional material recommended by each~~
341 ~~reviewer for use in the schools shall be, to the satisfaction of~~
342 ~~each reviewer, accurate, objective, and current and suited to~~
343 ~~the needs and comprehension of students at their respective~~
344 ~~grade levels. Reviewers shall consider for adoption materials~~
345 ~~developed for academically talented students such as those~~
346 ~~enrolled in advanced placement courses.~~

347 ~~(3) REPORT OF REVIEWERS.— After a thorough study of all~~
348 ~~data submitted on each instructional material, to submit an~~
349 ~~electronic report to the department. The report shall be made~~
350 ~~public and must include responses to each section of the report~~
351 ~~format prescribed by the department.~~

352 Section 6. Section 1006.32, Florida Statutes, is amended
353 to read:

354 1006.32 Prohibited acts.—

355 (1) A publisher or manufacturer of instructional material,
356 or any representative thereof, may not offer to give any
357 emolument, money, or other valuable thing, or any inducement, to
358 any district school board official or department or district
359 ~~state~~ instructional materials reviewer to directly or indirectly
360 introduce, recommend, vote for, or otherwise influence the
361 approval ~~adoption~~ or purchase of any instructional materials.

362 (2) A district school board official or a department or
363 district ~~state~~ instructional materials reviewer may not solicit

364 or accept any emolument, money, or other valuable thing, or any
 365 inducement, to directly or indirectly introduce, recommend, vote
 366 for, or otherwise influence the approval ~~adoption~~ or purchase of
 367 any instructional material.

368 ~~(3) A district school board or publisher may not~~
 369 ~~participate in a pilot program of materials being considered for~~
 370 ~~adoption during the 18-month period before the official adoption~~
 371 ~~of the materials by the commissioner. Any pilot program during~~
 372 ~~the first 2 years of the adoption period must have the prior~~
 373 ~~approval of the commissioner.~~

374 (3)~~(4)~~ Any publisher or manufacturer of instructional
 375 materials or representative thereof or any district school board
 376 official or department or district ~~state~~ instructional materials
 377 reviewer who violates any provision of this section commits a
 378 misdemeanor of the second degree, punishable as provided in s.
 379 775.082 or s. 775.083. Any representative of a publisher or
 380 manufacturer who violates any provision of this section, in
 381 addition to any other penalty, shall be banned from practicing
 382 business in the state for a period of 1 calendar year.

383 (4)~~(5)~~ This section does not prohibit any publisher,
 384 manufacturer, or agent from supplying, for purposes of
 385 examination, necessary sample copies of instructional materials
 386 to any district school board official or department or district
 387 ~~state~~ instructional materials reviewer.

388 (5)~~(6)~~ This section does not prohibit a district school
 389 board official or department or district ~~state~~ instructional
 390 materials reviewer from receiving sample copies of instructional
 391 materials.

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392 (6)~~(7)~~ This section does not prohibit or restrict a
393 district school board official from receiving royalties or other
394 compensation, other than compensation paid to him or her as
395 commission for negotiating sales to district school boards, from
396 the publisher or manufacturer of instructional materials
397 written, designed, or prepared by such district school board
398 official~~, and adopted by the commissioner or~~ purchased by any
399 district school board. No district school board official shall
400 be allowed to receive royalties on any materials not ~~on the~~
401 ~~state-adopted list~~ purchased for use by his or her district
402 school board.

403 (7)~~(8)~~ A district school superintendent, district school
404 board member, teacher, or other person officially connected with
405 the government or direction of public schools may not receive
406 during the months actually engaged in performing duties under
407 his or her contract any private fee, gratuity, donation, or
408 compensation, in any manner whatsoever, for promoting the sale
409 or exchange of any instructional material, map, or chart in any
410 public school, or be an agent for the sale or the publisher of
411 any instructional material or reference work, or have a direct
412 or indirect pecuniary interest in the introduction of any such
413 instructional material, and any such agency or interest shall
414 disqualify any person so acting or interested from holding any
415 district school board employment whatsoever, and the person
416 commits a misdemeanor of the second degree, punishable as
417 provided in s. 775.082 or s. 775.083; however, this subsection
418 does not prevent the approval ~~adoption~~ of any instructional
419 material written in whole or in part by a Florida author.

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420 Section 7. Section 1006.33, Florida Statutes, is repealed.

421 Section 8. Section 1006.34, Florida Statutes, is amended
422 to read:

423 1006.34 Powers and duties of the State Board of Education
424 ~~commissioner and the department~~ in evaluating ~~selecting and~~
425 ~~adopting~~ instructional materials.—

426 (1) PROCEDURES FOR EVALUATING INSTRUCTIONAL MATERIALS.—The
427 State Board of Education shall adopt rules prescribing the
428 procedures by which the department shall evaluate instructional
429 materials submitted by publishers and manufacturers in each
430 review for approval ~~adoption~~. Included in these procedures shall
431 be provisions affording each publisher or manufacturer or his or
432 her representative an opportunity to provide a virtual
433 presentation to the department ~~state~~ instructional materials
434 reviewers on the merits of each instructional material submitted
435 in each review for approval ~~adoption~~.

436 (2) FEES.—The State Board of Education may set and collect
437 fees from publishers or manufacturers participating in the
438 instructional materials approval process who request a review of
439 their submitted materials by the department.

440 ~~(2) SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS.—~~

441 ~~(a) The department shall notify all publishers and~~
442 ~~manufacturers of instructional materials who have submitted bids~~
443 ~~that within 3 weeks after the deadline for receiving bids, at a~~
444 ~~designated time and place, it will open the bids submitted and~~
445 ~~deposited with it. At the time and place designated, the bids~~
446 ~~shall be opened, read, and tabulated in the presence of the~~
447 ~~bidders or their representatives. No one may revise his or her~~

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448 ~~bid after the bids have been filed. When all bids have been~~
449 ~~carefully considered, the commissioner shall, from the list of~~
450 ~~suitable, usable, and desirable instructional materials reported~~
451 ~~by the state instructional materials reviewers, select and adopt~~
452 ~~instructional materials for each grade and subject field in the~~
453 ~~curriculum of public elementary, middle, and high schools in~~
454 ~~which adoptions are made and in the subject areas designated in~~
455 ~~the advertisement. The adoption shall continue for the period~~
456 ~~specified in the advertisement, beginning on the ensuing April~~
457 ~~1. The adoption shall not prevent the extension of a contract as~~
458 ~~provided in subsection (3). The commissioner shall always~~
459 ~~reserve the right to reject any and all bids. The commissioner~~
460 ~~may ask for new sealed bids from publishers or manufacturers~~
461 ~~whose instructional materials were recommended by the state~~
462 ~~instructional materials reviewers as suitable, usable, and~~
463 ~~desirable; specify the dates for filing such bids and the date~~
464 ~~on which they shall be opened; and proceed in all matters~~
465 ~~regarding the opening of bids and the awarding of contracts as~~
466 ~~required by this part. In all cases, bids shall be accompanied~~
467 ~~by a cash deposit or certified check of from \$500 to \$2,500, as~~
468 ~~the department may direct. The department, in adopting~~
469 ~~instructional materials, shall give due consideration both to~~
470 ~~the prices bid for furnishing instructional materials and to the~~
471 ~~report and recommendations of the state instructional materials~~
472 ~~reviewers. When the commissioner has finished with the report of~~
473 ~~the state instructional materials reviewers, the report shall be~~
474 ~~filed and preserved with the department and shall be available~~
475 ~~at all times for public inspection.~~

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476 ~~(b) In the selection of instructional materials, library~~
477 ~~media, and other reading material used in the public school~~
478 ~~system, the standards used to determine the propriety of the~~
479 ~~material shall include:~~

480 ~~1. The age of the students who normally could be expected~~
481 ~~to have access to the material.~~

482 ~~2. The educational purpose to be served by the material.~~
483 ~~In considering instructional materials for classroom use,~~
484 ~~priority shall be given to the selection of materials which~~
485 ~~encompass the state and district school board performance~~
486 ~~standards provided for in s. 1001.03(1) and which include the~~
487 ~~instructional objectives contained within the curriculum~~
488 ~~frameworks approved by rule of the State Board of Education.~~

489 ~~3. The degree to which the material would be supplemented~~
490 ~~and explained by mature classroom instruction as part of a~~
491 ~~normal classroom instructional program.~~

492 ~~4. The consideration of the broad racial, ethnic,~~
493 ~~socioeconomic, and cultural diversity of the students of this~~
494 ~~state.~~

495
496 ~~Any instructional material containing pornography or otherwise~~
497 ~~prohibited by s. 847.012 may not be used or made available~~
498 ~~within any public school.~~

499 ~~(3) CONTRACT WITH PUBLISHERS OR MANUFACTURERS; BOND. As~~
500 ~~soon as practicable after the commissioner has adopted any~~
501 ~~instructional materials and all bidders that have secured the~~
502 ~~adoption of any instructional materials have been notified~~
503 ~~thereof by registered letter, the department shall prepare a~~

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504 ~~contract in proper form with every bidder awarded the adoption~~
505 ~~of any instructional materials. Each contract shall be executed~~
506 ~~by the commissioner, one copy to be kept by the contractor and~~
507 ~~one copy to be filed with the department. After giving due~~
508 ~~consideration to comments by the district school boards, the~~
509 ~~commissioner, with the agreement of the publisher, may extend or~~
510 ~~shorten a contract period for a period not to exceed 2 years;~~
511 ~~and the terms of any such contract shall remain the same as in~~
512 ~~the original contract. Any publisher or manufacturer to whom any~~
513 ~~contract is let under this part must give bond in such amount as~~
514 ~~the department requires, payable to the state, conditioned for~~
515 ~~the faithful, honest, and exact performance of the contract. The~~
516 ~~bond must provide for the payment of reasonable attorney's fees~~
517 ~~in case of recovery in any suit thereon. The surety on the bond~~
518 ~~must be a guaranty or surety company lawfully authorized to do~~
519 ~~business in the state; however, the bond shall not be exhausted~~
520 ~~by a single recovery but may be sued upon from time to time~~
521 ~~until the full amount thereof is recovered, and the department~~
522 ~~may at any time, after giving 30 days' notice, require~~
523 ~~additional security or additional bond. The form of any bond or~~
524 ~~bonds or contract or contracts under this part shall be prepared~~
525 ~~and approved by the department. At the discretion of the~~
526 ~~department, a publisher or manufacturer to whom any contract is~~
527 ~~let under this part may be allowed a cash deposit in lieu of a~~
528 ~~bond, conditioned for the faithful, honest, and exact~~
529 ~~performance of the contract. The cash deposit, payable to the~~
530 ~~department, shall be placed in the Textbook Bid Trust Fund. The~~
531 ~~department may recover damages on the cash deposit given by the~~

532 ~~contractor for failure to furnish instructional materials, the~~
533 ~~sum recovered to inure to the General Revenue Fund.~~

534 ~~(4) REGULATIONS GOVERNING THE CONTRACT. The department~~
535 ~~may, from time to time, take any necessary actions, consistent~~
536 ~~with this part, to secure the prompt and faithful performance of~~
537 ~~all instructional materials contracts; and if any contractor~~
538 ~~fails or refuses to furnish instructional materials as provided~~
539 ~~in this part or otherwise breaks his or her contract, the~~
540 ~~department may sue on the required bond in the name of the~~
541 ~~state, in the courts of the state having jurisdiction, and~~
542 ~~recover damages on the bond given by the contractor for failure~~
543 ~~to furnish instructional materials, the sum recovered to inure~~
544 ~~to the General Revenue Fund.~~

545 ~~(5) RETURN OF DEPOSITS.—~~

546 ~~(a) The successful bidder shall be notified by registered~~
547 ~~mail of the award of contract and shall, within 30 days after~~
548 ~~receipt of the contract, execute the proper contract and post~~
549 ~~the required bond. When the bond and contract have been~~
550 ~~executed, the department shall notify the Chief Financial~~
551 ~~Officer and request that a warrant be issued against the~~
552 ~~Textbook Bid Trust Fund payable to the successful bidder in the~~
553 ~~amount deposited pursuant to this part. The Chief Financial~~
554 ~~Officer shall issue and forward the warrant to the department~~
555 ~~for distribution to the bidder.~~

556 ~~(b) At the same time or prior thereto, the department~~
557 ~~shall inform the Chief Financial Officer of the names of the~~
558 ~~unsuccessful bidders. Upon receipt of such notice, the Chief~~
559 ~~Financial Officer shall issue warrants against the Textbook Bid~~

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560 ~~Trust Fund payable to the unsuccessful bidders in the amounts~~
561 ~~deposited pursuant to this part and shall forward the warrants~~
562 ~~to the department for distribution to the unsuccessful bidders.~~

563 ~~(c) One copy of each contract and an original of each bid,~~
564 ~~whether accepted or rejected, shall be preserved with the~~
565 ~~department for at least 3 years after the termination of the~~
566 ~~contract.~~

567 ~~(6) DEPOSITS FORFEITED. If any successful bidder fails or~~
568 ~~refuses to execute contract and bond within 30 days after~~
569 ~~receipt of the contract, the cash deposit shall be forfeited to~~
570 ~~the state and placed by the Chief Financial Officer in the~~
571 ~~General Revenue Fund.~~

572 ~~(7) FORFEITURE OF CONTRACT AND BOND. If any publisher or~~
573 ~~manufacturer of instructional materials fails or refuses to~~
574 ~~furnish instructional materials as provided in the contract, the~~
575 ~~publisher's or manufacturer's bond is forfeited and the~~
576 ~~commissioner must make another contract.~~

577 Section 9. Section 1006.35, Florida Statutes, is amended
578 to read:

579 1006.35 Accuracy of instructional materials.—

580 (1) In addition to relying on statements of publishers or
581 manufacturers of instructional materials, the commissioner may
582 conduct or cause to be conducted an independent investigation to
583 determine the accuracy of approved ~~state-adopted~~ instructional
584 materials.

585 (2) When errors in approved ~~state-adopted~~ materials are
586 confirmed, the publisher or manufacturer of the materials shall
587 provide to each district school board that has purchased the

588 materials the corrections in a format approved by the
 589 department.

590 (3) The commissioner may remove materials from the list of
 591 approved ~~state-adopted~~ materials if he or she finds that the
 592 content is in error and the publisher or manufacturer refuses to
 593 correct the error when notified by the department.

594 (4) The commissioner may remove materials from the list of
 595 approved ~~state-adopted~~ materials at the request of the publisher
 596 or manufacturer if, in his or her opinion, there is no material
 597 impact on the state's education goals.

598 Section 10. Section 1006.36, Florida Statutes, is amended
 599 to read:

600 1006.36 State review cycle ~~Term of adoption~~ for
 601 instructional materials.-

602 (1) The state review cycle ~~term of adoption~~ of any
 603 instructional materials shall ~~must~~ be a 5-year period ~~beginning~~
 604 ~~on April 1 following the adoption~~, except that the commissioner
 605 may approve alternative schedules ~~terms of adoption~~ of less than
 606 5 years for materials in content areas which require more
 607 frequent revision. ~~Any contract for instructional materials may~~
 608 ~~be extended as prescribed in s. 1006.34(3).~~

609 (2) The department shall publish annually an official
 610 schedule of subject areas to be called for review ~~adoption~~ for
 611 each of the succeeding 2 years, and a tentative schedule for
 612 years 3, 4, and 5. If extenuating circumstances warrant, the
 613 commissioner may add one or more subject areas to the official
 614 schedule, in which event the commissioner shall develop criteria
 615 for such additional subject area or areas and make them

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616 available to publishers or manufacturers as soon as practicable
617 before the date on which submission for review is ~~bids~~ are due.
618 The schedule shall be developed so as to promote balance among
619 the subject areas so that the required expenditure for new
620 instructional materials is approximately the same each year in
621 order to maintain curricular consistency.

622 Section 11. Section 1006.37, Florida Statutes, is
623 repealed.

624 Section 12. Subsections (2), (3), and (5) of section
625 1006.38, Florida Statutes, are amended, subsections (15) and
626 (16) are renumbered as subsections (11) and (12), respectively,
627 and present subsections (11) through (14) of that section are
628 amended, to read:

629 1006.38 Duties, responsibilities, and requirements of
630 instructional materials publishers and manufacturers.—Publishers
631 and manufacturers of instructional materials, or their
632 representatives, shall:

633 (2) Electronically deliver fully developed sample copies
634 of all instructional materials upon which reviews ~~bids~~ are based
635 to the department pursuant to procedures adopted by the State
636 Board of Education.

637 (3) ~~Submit, at a time designated in s. 1006.33,~~ the
638 following information:

639 (a) Detailed specifications of the physical
640 characteristics of the instructional materials, including any
641 software or technological tools required for use by the
642 district, school, teachers, or students. The publisher or
643 manufacturer shall comply with these specifications if the

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644 instructional materials are approved ~~adopted~~ and purchased in
645 completed form.

646 (b) Evidence that the publisher or manufacturer has
647 provided materials that address the performance standards
648 provided for in s. 1001.03(1) and that can be accessed through
649 the district's local instructional improvement system and a
650 variety of electronic, digital, and mobile devices.

651 (5) Furnish the instructional materials offered by them at
652 a price in the state which, including all costs of electronic
653 transmission, may not exceed the lowest price at which they
654 offer such instructional materials for approval ~~adoption~~ or sale
655 to any state or school district in the United States.

656 ~~(11) Maintain or contract with a depository in the state.~~

657 ~~(12) For the core subject areas specified in s.~~
658 ~~1006.40(2), maintain in the depository for the first 2 years of~~
659 ~~the contract an inventory of instructional materials sufficient~~
660 ~~to receive and fill orders.~~

661 ~~(13) For the core subject areas specified in s.~~
662 ~~1006.40(2), ensure the availability of an inventory sufficient~~
663 ~~to receive and fill orders for instructional materials for~~
664 ~~growth, including the opening of a new school, and replacement~~
665 ~~during the 3rd and subsequent years of the original contract~~
666 ~~period.~~

667 ~~(14) Accurately and fully disclose only the names of those~~
668 ~~persons who actually authored the instructional materials. In~~
669 ~~addition to the penalties provided in subsection (16), the~~
670 ~~commissioner may remove from the list of state-adopted~~
671 ~~instructional materials those instructional materials whose~~

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672 ~~publisher or manufacturer misleads the purchaser by falsely~~
673 ~~representing genuine authorship.~~

674 Section 13. Subsections (2), (3), and (4) of section
675 1006.40, Florida Statutes, are amended to read:

676 1006.40 Use of instructional materials allocation;
677 instructional materials, library books, and reference books;
678 repair of books.—

679 (2) Each district school board must provide ~~purchase~~
680 current instructional materials to ~~provide~~ each student ~~with a~~
681 ~~major tool of instruction~~ in core courses of the subject areas
682 of mathematics, language arts, science, social studies, reading,
683 and literature for kindergarten through grade 12. ~~Such purchase~~
684 ~~must be made within the first 2 years after the effective date~~
685 ~~of the adoption cycle. For the 2012-2013 mathematics adoption, a~~
686 ~~district using a comprehensive mathematics instructional~~
687 ~~materials program adopted in the 2009-2010 adoption shall be~~
688 ~~deemed in compliance with this subsection if it provides each~~
689 ~~student with such additional state-adopted materials as may be~~
690 ~~necessary to align the previously adopted comprehensive program~~
691 ~~to common core standards and the other criteria of the 2012-2013~~
692 ~~mathematics adoption.~~

693 (3)(a) By the 2015-2016 fiscal year, each district school
694 board shall use at least 50 percent of the annual allocation for
695 the purchase of digital or electronic instructional materials
696 that align with state standards ~~included on the state-adopted~~
697 ~~list, except as otherwise authorized in paragraphs (b) and (c).~~

698 ~~(b) Up to 50 percent of the annual allocation may be used~~
699 ~~for the purchase of instructional materials, including library~~

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700 ~~and reference books and nonprint materials, not included on the~~
701 ~~state-adopted list and for the repair and renovation of~~
702 ~~textbooks and library books.~~

703 ~~(c) District school boards may use 100 percent of that~~
704 ~~portion of the annual allocation designated for the purchase of~~
705 ~~instructional materials for kindergarten, and 75 percent of that~~
706 ~~portion of the annual allocation designated for the purchase of~~
707 ~~instructional materials for first grade, to purchase materials~~
708 ~~not on the state-adopted list.~~

709 (4) Remaining funds may ~~The funds described in subsection~~
710 ~~(3) which district school boards may use to purchase materials~~
711 ~~not on the state-adopted list shall be used for the purchase of~~
712 ~~instructional materials or other items having intellectual~~
713 ~~content which assist in the instruction of a subject or course.~~
714 ~~These items may be available in bound, unbound, kit, or package~~
715 ~~form and may consist of hardbacked or softbacked textbooks,~~
716 ~~electronic content, replacements for items which were part of~~
717 ~~previously purchased instructional materials, consumables,~~
718 ~~learning laboratories, manipulatives, electronic media, computer~~
719 ~~courseware or software, and other commonly accepted~~
720 ~~instructional tools as prescribed by district school board rule.~~

721 Section 14. Paragraphs (o) and (p) of subsection (6) of
722 section 1001.10, Florida Statutes, are amended to read:

723 1001.10 Commissioner of Education; general powers and
724 duties.—

725 (6) Additionally, the commissioner has the following
726 general powers and duties:

727 (o) To develop criteria for use by Department of Education

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728 ~~state~~ instructional materials reviewers in evaluating materials
729 submitted for approval ~~adoption~~ consideration. The criteria
730 shall, as appropriate, be based on instructional expectations
731 reflected in course descriptions ~~curriculum frameworks~~ and
732 student performance standards. The criteria for each subject or
733 course shall be made available to publishers and manufacturers
734 of instructional materials pursuant to the requirements of
735 chapter 1006.

736 (p) To prescribe procedures for evaluating instructional
737 materials submitted by publishers and manufacturers in each
738 review for approval ~~adoption~~.

739 Section 15. Subsection (5) of section 1003.55, Florida
740 Statutes, is amended to read:

741 1003.55 Instructional programs for blind or visually
742 impaired students and deaf or hard-of-hearing students.—

743 (5) Any publisher or manufacturer of instructional
744 materials that have been approved by the Department of Education
745 or a school district ~~a textbook adopted pursuant to the state~~
746 ~~instructional materials adoption process~~ shall furnish the
747 department ~~of Education~~ with a computer file in an electronic
748 format specified by the department ~~at least 2 years in advance~~
749 that is readily translatable to braille and can be used for
750 large print or speech access. Any instructional materials
751 ~~textbook~~ reproduced pursuant to ~~the provisions of this~~
752 subsection shall be purchased at a price equal to the price paid
753 for the instructional materials ~~textbook~~ as approved ~~adopted~~.
754 The department ~~of Education~~ shall not reproduce instructional
755 materials ~~textbooks~~ obtained pursuant to this subsection in any

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756 manner that would generate revenues for the department from the
757 use of such computer files or that would preclude the rightful
758 payment of fees to the publisher or manufacturer for use of all
759 or some portion of the instructional materials ~~textbook~~.

760 Section 16. Paragraph (j) of subsection (2) of section
761 1003.621, Florida Statutes, is amended to read:

762 1003.621 Academically high-performing school districts.—It
763 is the intent of the Legislature to recognize and reward school
764 districts that demonstrate the ability to consistently maintain
765 or improve their high-performing status. The purpose of this
766 section is to provide high-performing school districts with
767 flexibility in meeting the specific requirements in statute and
768 rules of the State Board of Education.

769 (2) COMPLIANCE WITH STATUTES AND RULES.—Each academically
770 high-performing school district shall comply with all of the
771 provisions in chapters 1000-1013, and rules of the State Board
772 of Education which implement these provisions, pertaining to the
773 following:

774 (j) Those statutes relating to instructional materials,
775 except that ~~s. 1006.37, relating to the requisition of state-~~
776 ~~adopted materials from the depository under contract with the~~
777 ~~publisher, and s. 1006.40 1006.40(3)(a), relating to the use of~~
778 50 percent of the instructional materials allocation, is ~~shall~~
779 ~~be~~ eligible for exemption.

780 Section 17. Section 1010.82, Florida Statutes, is
781 repealed.

782 Section 18. Paragraph (b) of subsection (6) of section
783 1011.62, Florida Statutes, is amended to read:

784 1011.62 Funds for operation of schools.—If the annual
785 allocation from the Florida Education Finance Program to each
786 district for operation of schools is not determined in the
787 annual appropriations act or the substantive bill implementing
788 the annual appropriations act, it shall be determined as
789 follows:

790 (6) CATEGORICAL FUNDS.—

791 (b) If a district school board finds and declares in a
792 resolution adopted at a regular meeting of the school board that
793 the funds received for any of the following categorical
794 appropriations are urgently needed to maintain school board
795 specified academic classroom instruction, the school board may
796 consider and approve an amendment to the school district
797 operating budget transferring the identified amount of the
798 categorical funds to the appropriate account for expenditure:

799 1. Funds for student transportation.

800 2. Funds for safe schools.

801 3. Funds for supplemental academic instruction if the
802 required additional hour of instruction beyond the normal school
803 day for each day of the entire school year has been provided for
804 the students in each low-performing elementary school in the
805 district pursuant to paragraph (1)(f).

806 4. Funds for research-based reading instruction if the
807 required additional hour of instruction beyond the normal school
808 day for each day of the entire school year has been provided for
809 the students in each low-performing elementary school in the
810 district pursuant to paragraph (9)(a).

811 5. Funds for instructional materials if all instructional

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812 material purchases necessary to provide updated materials that
813 are aligned with applicable ~~to Next Generation Sunshine~~ state
814 standards and course descriptions ~~benchmarks~~ and that meet
815 statutory requirements of content and learning have been
816 completed for that fiscal year, but no sooner than March 1.
817 Funds available after March 1 may be used to purchase hardware
818 for student instruction.

819 Section 19. This act shall take effect July 1, 2013.