

Committee Substitute for Senate Bill No. 850

An act relating to instructional materials; amending s. 230.23, F.S.; prescribing duty of school boards to provide instructional materials; defining the term "adequate instructional materials"; amending s. 233.07, F.S.; revising the membership of instructional materials committees; amending s. 233.08, F.S.; eliminating provisions regarding district instructional materials committees; amending s. 233.09, F.S.; revising the method of public announcement of meetings; eliminating the requirements for aggregating district recommendations; amending s. 233.095, F.S.; deleting the requirement that instructional materials committee training be provided through summer institutes; deleting provisions relating to district instructional materials committees; amending s. 233.115, F.S.; removing references to district instructional materials committees; providing requirements regarding instructional materials pilot programs; amending s. 233.14, F.S.; revising the method of announcement of requests for bids or proposals; amending s. 233.16, F.S.; deleting provisions relating to district instructional material committees; changing references to the Department of Education to the Commissioner of Education with respect to certain duties regarding the selection and adoption of instructional materials; eliminating a condition for rejecting bids; requiring a report; creating 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; amending s. 233.17, F.S.; revising the term of adoption of instructional materials; eliminating the optional escalator clause in certain contracts; amending s. 233.22, F.S.; requiring the superintendent of a school district to requisition certain materials; allowing the superintendent of a school district to requisition certain materials; amending 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 and fully disclose certain information regarding the development of instructional materials; providing a penalty for noncompliance; amending s. 233.34, F.S.; requiring school districts to purchase instructional materials in core courses of appropriate subject areas within a specified time; limiting the amount of such required purchases; providing exceptions; allowing school districts to make certain purchases when authorized in the General Appropriations Act; amending 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 certain moneys be deposited in the district school fund and added to the district appropriation for

instructional materials; repealing s. 233.38, F.S., relating to the exchange of textbooks by school districts; amending 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 reports; amending 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; amending s. 233.48, F.S.; revising expenses to be included in the legislative budget request for instructional materials; amending s. 229.512, F.S.; correcting a cross reference; amending s. 230.23025, F.S., relating to best financial management practices reviews; providing for instructional materials and educational technology review; requiring the Executive Office of the Governor and the Secretary of State to renegotiate certain contracts; providing an effective date.

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

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

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

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

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

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

(c) Other instructional materials aids.—Provide such other teaching accessories and aids as are needed to carry out the program.

(d) School library media services; establishment and maintenance.—Establish and maintain school library media centers, or school library media

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

Section 2. Paragraphs (a) and (b) of subsection (1) of section 233.07, Florida Statutes, are amended to read:

233.07 State instructional materials committees.—

(1) Each school year, not later than April 15, the Commissioner of Education shall appoint state instructional materials committees composed of persons actively engaged in teaching or in the supervision of teaching in the public elementary or secondary schools and representing the major fields and levels in which instructional materials are used in the public schools of the state and, in addition, lay citizens not professionally connected with education. There shall be committees for the recommendation of instructional materials for the elementary and secondary grades as may be found necessary by the Commissioner of Education. Committee members shall receive training pursuant to s. 233.095 in competencies related to the evaluation and selection of instructional materials.

(a) There shall be nine or more members on each committee: At least 50 percent of the members ~~Four~~ shall be classroom teachers who are certified in an area directly related to the academic area or level being considered for adoption, two shall be laypersons, one shall be a school board member, and two shall be supervisors of teachers. The committee must have the capacity or expertise to address the broad racial, ethnic, socioeconomic, and cultural diversity of the student population of the state. Personnel selected as teachers of the year at the school, district, regional, or state level pursuant to the provisions of the program conducted by the Department of Education shall be encouraged to serve on instructional materials committees.

(b) The membership of each committee must reflect the broad racial, ethnic, socioeconomic, and cultural diversity of the state, including a balanced representation from the state's geographic regions.

Section 3. Subsection (1) of section 233.08, Florida Statutes, is amended to read:

233.08 Affidavit of state instructional materials committee members.— Before transacting any business, each member of a ~~district or~~ state committee shall make an affidavit, to be filed with the Commissioner of Education, that:

(1) The member will faithfully discharge the duties imposed upon him or her as a member ~~or as a secretary~~ of the committee.

Section 4. Subsection (1) and paragraphs (f) and (g) of subsection (4) of section 233.09, Florida Statutes, are amended to read:

233.09 Duties of each state instructional materials committee.—The duties of each state instructional materials committee shall be:

(1) PLACE AND TIME OF MEETING.—To meet at the call of the Commissioner of Education, at a place in the state designated by him or her, and to remain there in session for a period of time, not to exceed 20 days, for the purpose of evaluating and recommending instructional materials for adoption by the state. All meetings of state instructional materials committees shall be announced publicly in the Florida Administrative Weekly through the news media of the state at least 2 weeks prior to the date of convening. ~~The announcement of the meeting shall include the agenda of the meeting.~~ All meetings of the committees shall be open to the public.

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

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

~~(g) In addition to relying on statements of publishers or manufacturers of instructional material, any committee may conduct, or cause to be conducted, an independent investigation as to the compliance of submitted materials with the requirements of this section.~~

Section 5. Section 233.095, Florida Statutes, is amended to read:

233.095 Training programs for members of instructional materials committees.—The Department of Education shall develop a training program, ~~to be provided through summer inservice institutes, for persons selected to serve on state and district instructional materials committees.~~ The program shall be structured to assist committee members in developing the skills necessary to make valid, culturally sensitive, and objective decisions regarding the content and rigor of instructional materials. All persons serving on instructional materials committees must complete the training program prior to beginning the review and selection process.

Section 6. Section 233.115, Florida Statutes, is amended to read:

233.115 Prohibited acts.—

(1) No publisher or manufacturer of instructional material, or any of his or her representatives, shall offer to give any emolument, money, or other valuable thing, or any inducement, to any school official or member of a ~~district-level or state-level~~ committee to directly or indirectly introduce,

recommend, vote for, or otherwise influence the adoption or purchase of any instructional materials.

(2) No school official or member of a ~~district or~~ state instructional materials committee shall accept any emolument, money, or other valuable thing, or any inducement, to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional material.

(3) No school district or publisher may participate in a pilot program of materials being considered for adoption during the 18 months prior to the official adoption of the materials by the Commissioner of Education. Any pilot program during the first 2 years of the adoption period must have the prior approval of the Commissioner of Education.

~~(4)~~(3) Any publisher or manufacturer of instructional materials or his or her representative or any school official or ~~district or~~ state instructional materials committee member, who violates any of the provisions of this section is guilty of a misdemeanor of the second degree. Any representative of a publisher or manufacturer who violates any of the provisions of this section, in addition to any other penalty, shall be banned from practicing business in the state for a period of 1 calendar year. Any school official or ~~district or~~ state instructional materials committee member who violates any of the provisions of this section, in addition to any other penalty, shall be removed from his or her official position.

~~(5)~~(4) Nothing in this section shall be construed to prevent any publisher, manufacturer, or agent from supplying, for purposes of examination, necessary sample copies of instructional materials to any school official or committee member.

~~(6)~~(5) Nothing in this section shall be construed to prevent a school official or committee member from receiving sample copies of instructional materials.

~~(7)~~(6) Nothing contained in this section shall be construed to prohibit or restrict a school official from receiving royalties or other compensation, other than compensation paid as commission to the school official for negotiating sales to district boards, from the publisher or manufacturer of instructional materials written, designed, or prepared by such school official, and adopted by the commissioner or purchased by any district board. No school official shall be allowed to receive royalties on any materials not on the state-adopted list purchased for use by his or her district school board.

Section 7. Paragraph (a) of subsection (1) of section 233.14, Florida Statutes, is amended to read:

233.14 Bids or proposals; advertisement and its contents.—

(1)(a) Beginning on or before May 15 of any year in which an instructional materials adoption is to be initiated, the Department of Education shall advertise in the Florida Administrative Weekly ~~a newspaper published in Tallahassee, once each week for a period of 4 weeks preceding the date~~

on which the bids shall be received, that at a certain designated time, not later than June 15, sealed bids or proposals to be deposited with the Department of Education will be received from publishers or manufacturers for the furnishing of instructional materials proposed to be adopted as listed in the advertisement beginning April 1 following the adoption.

Section 8. Subsections (1), (2), and (3) of section 233.16, Florida Statutes, are amended to read:

233.16 Powers and duties of the Commissioner of Education and the Department of Education in selecting and adopting instructional materials.—~~The powers and duties of the Department of Education in selecting and adopting instructional materials shall be:~~

(1) PROCEDURES FOR EVALUATING INSTRUCTIONAL MATERIALS.—~~The Department of Education shall~~ To implement procedures prescribed by the Commissioner of Education for evaluating instructional materials submitted by publishers and manufacturers in each adoption. Included in these procedures shall be ~~the following minimum standards:~~

(a) provisions which afford each publisher or manufacturer or his or her representative an opportunity to present to members of the state instructional materials committees the merits of each instructional material submitted in each adoption;

(b) ~~Forms on which a district superintendent or his or her designee shall submit the results of the district instructional materials committee's recommendations; and~~

(c) ~~Guidelines for district instructional materials committees, professional associations, and individuals for evaluating instructional materials for state adoption; however, the following minimum standards apply:~~

1. ~~A district instructional materials committee must reflect the broad racial, ethnic, socioeconomic, and cultural diversity of the district and may not consist of fewer than three persons. One must be a layperson and two must be teachers, it being the intent of the Legislature that committees of three or more persons include at least one layperson and one-half teachers as a part of their total membership. The committee must have the capacity or expertise to address the broad racial, ethnic, socioeconomic, and cultural diversity of the student population of the district. Teachers serving on district instructional materials committees must be certified in an area directly related to the academic area or level being considered for adoption. Personnel selected as teachers of the year at the school, district, regional, or state level pursuant to the provisions of the program conducted by the Department of Education are encouraged to serve on instructional materials committees.~~

2. ~~A district instructional materials committee may not deny any publisher or manufacturer or his or her representative time to present his or her product equal to that time given any other publisher or manufacturer or his or her representative.~~

~~3.—Each instructional material evaluated by district instructional materials committees, professional associations, and individuals shall be ranked numerically in relation to all other materials of the same type evaluated, and no two materials in the same subject area may receive the same numerical rating.~~

~~4.—District instructional materials committees, professional associations, and individuals who evaluate instructional materials and submit their findings and recommendations to the state committee shall do so in accordance with the provisions of s. 233.09(4).~~

(2) SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS.—The Department of Education shall notify all publishers or manufacturers of instructional materials who have submitted bids that within 3 weeks after the deadline for receiving bids, at a designated time and place, it will open bids and proposals which have been submitted and deposited with the department of Education. At the time and place designated, the bids or proposals shall be opened, read, and tabulated in the presence of the bidders or their representatives. No one may revise his or her bid after the bids have been filed. When all bids or proposals have been carefully considered, the Commissioner of Education department shall, from the list of suitable, usable, and desirable instructional materials reported by the state instructional materials committee, select and adopt instructional materials for each grade and subject field in the curriculum of public elementary and secondary schools in the state in which adoptions are made and in the subject areas designated in the advertisement, which adoption shall continue for the period specified in the advertisement, to begin on the ensuing April 1. Such adoption shall not prevent the extension of a contract as provided in subsection (3). The commissioner department shall always reserve to itself the right to reject any and all bids or proposals if it is of the opinion that any or all bids, for any reason, should be rejected. The commissioner department may ask for new sealed bids from publishers or manufacturers whose instructional materials were recommended by the state instructional materials committee as suitable, usable, and desirable; specify the dates for filing such bids and the date on which they shall be opened; and proceed in all matters regarding the opening of bids and the awarding of contracts as required by the terms and provisions of this chapter. In all cases, bids or proposals shall be accompanied by a cash deposit or certified check of from \$500 to \$2,500, as the commissioner department may direct. The department, in adopting instructional materials, shall give due consideration both to the prices bid for furnishing instructional materials and to the report and recommendations of the state instructional materials committee. When the commissioner department has finished with the report of the state instructional materials committee, the report shall be filed and preserved in the office of the Department of Education and shall be available at all times for public inspection.

(3) CONTRACT WITH PUBLISHERS OR MANUFACTURERS; BOND.—As soon as practicable after the Commissioner of Education department has adopted any instructional materials and all bidders that have secured the adoption of any instructional materials have been notified of the same by registered letter, the Department of Legal Affairs shall prepare a

contract in accordance with the provisions of the school code with every bidder awarded the adoption of any instructional materials. Said contracts shall be executed by the Governor and Secretary of State under the seal of the state, one copy to be kept by the contractor, one copy to be filed in the Department of State, and one copy to be filed in the Department of Education. After giving due consideration to comments by the districts, the commissioner department, with the agreement of the publisher, may extend or shorten a contract period for a period not to exceed 2 years; and the terms of any such contract shall remain the same as those set forth in the original contract. By January 1, 2001, the Department of Education 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. Any publisher or manufacturer to whom any contract is let under the provisions of this chapter must give bond in such amount as the commissioner department deems advisable, payable to the state, conditioned for the faithful, honest, and exact performance of the contract. The bond must further provide for the payment of reasonable attorney's fees in case of recovery in any suit upon the same. The surety on the bond must be a guaranty or surety company authorized by the laws of the state to do business in the state; however, the bond shall not be exhausted by a single recovery but may be sued upon from time to time until the full amount thereof is recovered, and the department may at any time, after giving 30 days' notice, require additional security or additional bond. The form of any bond or bonds or contract or contracts under the provisions of this chapter shall be prepared and approved by the Department of Legal Affairs. At the discretion of the ~~commissioner of Education~~, a publisher or manufacturer to whom any contract is let under provisions of this chapter may be allowed a cash deposit in lieu of a bond, conditioned for the faithful, honest, and exact performance of the contract. The cash deposit, payable to the Department of Education, shall be placed in the Textbook Bid Trust Fund. The department may recover damages on the cash deposit given by the contractor for failure to furnish instructional materials, the sum recovered to inure to the General Revenue Fund.

Section 9. Section 233.167, Florida Statutes, is created to read:

233.167 Accuracy of instructional materials.—

(1) In addition to relying on statements of publishers or manufacturers of instructional materials, the Commissioner of Education may conduct or cause to be conducted an independent investigation to determine the accuracy of state-adopted instructional materials.

(2) When errors in state-adopted materials are confirmed, the publisher of the materials shall provide to each district that has purchased the materials the corrections in a format approved by the Commissioner of Education.

(3) The Commissioner of Education may remove materials from the list of state-adopted materials if he or she finds that the content is in error and the publisher refuses to correct the error when notified by the department.

(4) The Commissioner of Education may remove materials from the list of state-adopted materials at the request of the publisher if, in his or her opinion, there is no material impact on the education goals of the state.

Section 10. Section 233.17, Florida Statutes, is amended to read:

233.17 Term of adoption for instructional materials.—

(1) ~~The term of adoption of any instructional materials must be a 6-year or 8-year period beginning on April 1 following the adoption, except for the core subject areas which include mathematics, science, social studies, reading, and literature which shall be for a term not to exceed 6 years beginning on April 1 following the adoption.~~ Any contract for instructional materials may be extended as prescribed in s. 233.16(3). The Commissioner of Education may approve terms of adoption of less than 6 8 years for materials in content areas which require more frequent revision.

~~(2) Any contract placing an instructional material on adoption for 4 or more years shall provide that a publisher or manufacturer of instructional materials may, at the end of the third year during the term of the contract, upon giving 60 days' notification, increase such 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 United States, except that such adjustment shall not exceed the percentage by which the consumer price index as determined by the United States Department of Labor has increased during the time the contract has been in force. Such price increase shall remain in effect for the remaining term of the contract, unless the contract price is increased as permitted above.~~

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

Section 11. Section 233.22, Florida Statutes, is amended to read:

233.22 Requisition of instructional materials from publisher's depository.—

(1) The superintendent shall requisition adopted instructional materials from the depository of the publisher with whom a contract has been made. However, the superintendent shall 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 specified in s. 233.34(2).

These materials must be requisitioned within the first 2 years of the adoption cycle, except for instructional materials related to growth of student membership or instructional materials maintenance needs. The superintendent may requisition instructional materials in the core subject areas specified in s. 233.34(2) that are related to growth of student membership or instructional materials maintenance needs during the 3rd, 4th, 5th, and 6th years of the original contract period.

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

Section 12. Subsections (2) and (12) of section 233.25, Florida Statutes, are amended, present subsections (13) and (14) are renumbered as subsections (18) and (19), respectively, and new subsections (13), (14), (15), (16), and (17) are added to said section, to read:

233.25 Duties, responsibilities, and requirements of publishers and manufacturers of instructional materials.—Publishers and manufacturers of instructional materials, or their representatives, shall:

(2)(a) Deliver specimen copies of all instructional materials upon which bids or proposals are based to each member of a state instructional materials committee. At the conclusion of the review process, manufacturers submitting samples of instructional materials shall be entitled to the return thereof, at the expense of the manufacturers; or, in the alternative, the manufacturers shall be entitled to reimbursement by the individual committee members for the retail value of such samples.

~~(b) Lend copies of such materials in quantities to be determined by the Department of Education to those districts participating in preadoption evaluations. At the conclusion of the review process, if the district does not return such instructional materials to the publishers and manufacturers, at their expense, the publishers and manufacturers shall be entitled to reimbursement by the district for the retail value of such materials.~~

~~(12) Maintain, or contract with, a depository in the state and maintain there an inventory sufficient to receive and fill orders for instructional materials.~~

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

(14) For the core subject areas specified in s. 233.34(2), ensure the availability of an inventory sufficient to receive and fill orders for instructional materials for growth, including the opening of a new school, and replacement during the 3rd and subsequent years of the original contract period.

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

(16) Accurately and fully disclose only the names of those persons who actually authored the instructional materials. In addition to the penalties provided in subsection (19), the Commissioner of Education may remove from the list of state-adopted instructional materials those instructional materials whose publisher or manufacturer misleads the purchaser by falsely representing genuine authorship.

(17) Notwithstanding s. 233.115(3), beginning with the 2002 adoption cycle, implement a pilot program to provide opportunities for at least one school district, as determined by the state instructional materials committee in consultation with the publishing industry, to order customized materials adopted in one or more of the core subject areas of mathematics, language arts, social studies, and science. As used in this subsection, 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.

Section 13. Section 233.34, Florida Statutes, is amended to read:

233.34 Use of instructional materials allocation; instructional materials, library books, and reference books; repair of books.—

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

(2)(a) Each school district must 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 kindergarten through grade 12. Such purchase must be made within the first 2 years of the effective date of the adoption cycle. Unless specifically provided for in the General Appropriations Act, the cost of instructional materials purchases required by this paragraph shall not exceed the amount of the district's allocation for instructional materials, pursuant to s. 236.122, for the previous 2 years.

(b) The requirement in paragraph (a) does not apply to 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.

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

(3)(a)(2) Each school district shall use the annual allocation for the purchase of instructional materials included on the state-adopted list. No less

than 50 percent of the annual allocation shall be used to purchase items which will be used to provide instruction to students at the level or levels for which the materials are designed.

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

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

(4)(3) Notwithstanding the definition of instructional materials in s. 233.07(4), the funds described in subsection (3) (2) which school districts may use to purchase materials not on the state adopted list may be used for the purchase of instructional materials or other items having intellectual content which assist in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, replacements for items which were part of previously purchased instructional materials, consumables, learning laboratories, manipulatives, electronic media, computer courseware or software, and other commonly accepted instructional tools as prescribed by school board policy. The funds available to school districts for the purchase of materials not on the state adopted list may not be used to purchase electronic or computer hardware even if such hardware is bundled with software or other electronic media, nor may such funds be used to purchase equipment or supplies. However, 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.

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

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

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

Section 14. Section 233.37, Florida Statutes, is amended to read:

233.37 Disposal of instructional materials.—

~~(1) Under policy rules of the commissioner, or rules of the district school board which have been approved by the commissioner, the district school board may dispose of the instructional materials of an old adoption when they have become unserviceable or surplus or are no longer on state contract by:~~

(a) Giving or lending the materials 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.

(b) Selling the materials 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, upon such terms and conditions as will yield their fair salvage value. The Department of Education shall enter into one or more contracts with recycling firms for periodic pickup in school districts of obsolete or unusable materials to be salvaged.

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

(3) All moneys received by reason of sale, exchange, or other disposition of instructional materials shall be deposited in the district school fund and added to the district appropriation for instructional materials.

Section 15. Section 233.38, Florida Statutes, is repealed.

Section 16. Section 233.43, Florida Statutes, is amended to read:

233.43 Duties of superintendent relating to instructional materials.—

(1) The duties and responsibilities of each superintendent of schools for the requisition, purchase, receipt, storage, distribution, use, conservation, records, and reports of, and management practices and property accountability concerning, instructional materials shall be prescribed by policies of the district school board. Such policies shall also provide for an evaluation of any instructional materials to be requisitioned that have not been used previously in the schools of the district. The duties and responsibilities include keeping adequate records and accounts for all financial transactions for funds collected pursuant to s. 233.46(4). Such records and accounts shall be a component of the educational service delivery scope in a school district best financial management practices review under ss. 11.515 and 230.23025.

(2) Each superintendent of schools shall notify the Department of Education by April 1 of each year the state-adopted instructional materials that will be requisitioned for use in his or her district. The notification shall include a district plan for instructional materials use to assist in determining if adequate instructional materials have been requisitioned.

Section 17. Subsections (1) and (2) of section 233.46, Florida Statutes, are amended to read:

233.46 Duties of principals.—The duties and responsibilities of principals for instructional materials management and care include:

(1) **PROPER USE OF INSTRUCTIONAL MATERIALS.**—The principal is responsible for assuring that instructional materials are used to provide instruction to students enrolled at the grade level or levels for which the materials are designed, pursuant to policies of the school board. It shall be the responsibility of the principal to effectively communicate to parents the manner in which instructional materials are used to implement the curricular objectives of the school.

(2) **MONEY COLLECTED FOR LOST OR DAMAGED BOOKS; ENFORCEMENT.**—It shall be the duty and responsibility of each principal to collect from each pupil or the pupil's parent the purchase price of any instructional material the pupil has lost, destroyed, or unnecessarily damaged and to report and transmit such amounts so collected to the superintendent. If such material so lost, destroyed, or damaged has been in school use for more than 1 year, a sum ranging between 50 and 75 percent of the purchase price of the book shall be collected. Such sum shall be determined by the physical condition of the book. The failure to collect such sum upon reasonable effort by the principal may result in the suspension of the pupil from participation in extracurricular activities or satisfaction of the debt by the pupil through community service activities at the school site as determined by the principal. The provisions of this subsection must be included in the policies of the district school board.

Section 18. Section 233.48, Florida Statutes, is amended to read:

233.48 Expenses; budget request.—The Commissioner of Education shall include in the department's annual legislative budget a request for funds in an amount sufficient to provide the necessary expense for:

- (1) The instructional materials committees.
- ~~(2) Operating expense of the surplus instructional materials exchange.~~
- ~~(2)(3)~~ (3) Instructional materials for use by partially sighted pupils.
- ~~(3)(4)~~ (4) Other specific and necessary state expense of the instructional materials program.

Section 19. Subsection (18) of section 229.512, Florida Statutes, is amended to read:

229.512 Commissioner of Education; general powers and duties.—The Commissioner of Education is the chief educational officer of the state, and has the following general powers and duties:

- (18) To develop criteria for use by state instructional materials committees in evaluating materials submitted for adoption consideration. The

criteria shall, as appropriate, be based on instructional expectations reflected in curriculum frameworks and student performance standards. The criteria for each subject or course shall be made available to publishers of instructional materials at least 24 months prior to the date on which bids are due as provided by s. 233.14, except as otherwise permitted under s. 233.17(2)(3). It is the intent of the Legislature that publishers have ample time to develop instructional materials designed to meet requirements in this state.

Section 20. Paragraph (a) of subsection (1) of section 230.23025, Florida Statutes, is amended to read:

230.23025 Best financial management practices; standards; reviews; designation of districts.—

(1) The Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Office of the Auditor General are directed to develop a system for reviewing the financial management practices of school districts. In this system, OPPAGA and the Auditor General shall jointly examine district operations to determine whether they meet “best financial management practices.” The best financial management practices adopted by the Commissioner of Education may be updated periodically after consultation with the Legislature, the Governor, the SMART Schools Clearinghouse, OPPAGA, and the Auditor General. The best financial management practices, at a minimum, must instill public confidence by addressing the following areas:

(a) Efficient use of resources, use of lottery proceeds, student transportation and food service operations, management structures, and personnel systems and benefits, instructional materials, and administrative and instructional technology;

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

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

Approved by the Governor June 15, 2000.

Filed in Office Secretary of State June 15, 2000.