



PreK-12 Quality Subcommittee

January 10, 2018

1:00 PM

Reed Hall (102 HOB)

Meeting Packet

**Richard Corcoran
Speaker**

**Jake Raburn
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

PreK-12 Quality Subcommittee

Start Date and Time: Wednesday, January 10, 2018 01:00 pm
End Date and Time: Wednesday, January 10, 2018 03:00 pm
Location: Reed Hall (102 HOB)
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 63 Students with Disabilities in Public Schools by Edwards-Walpole, Rodrigues
HB 495 School District Price Level Index by Diaz, M.
HB 577 High School Graduation Requirements by Silvers
HB 827 Instructional Materials by Donalds

NOTICE FINALIZED on 01/08/2018 4:22PM by Jones.Missy

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 63 Students with Disabilities in Public Schools
SPONSOR(S): Edwards-Walpole; Rodrigues and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 260

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee		McAlarney	DavisGreene
2) Education Committee			

SUMMARY ANALYSIS

Section 1003.573, F.S., establishes standards and procedures regarding the use, monitoring, documentation, and reporting of seclusion and restraint on students with disabilities. The use of manual restraint or seclusion is required to be monitored at the classroom, building, district, and state levels. The Florida Department of Education (DOE) is required to develop standards for and provides guidance to school districts. School districts must develop policies and procedures regarding incident-reporting, data collection, and monitoring. Each school district is required to provide its policies and procedures to DOE.

The bill amends the use of restraint on students with disabilities. Specifically, the bill:

- Defines terms related to seclusion and restraint.
- Provides that physical restraint may be used only to protect students, school personnel or others, but not for disciplining a student. Restraints should be used only when all other strategies and techniques have been exhausted. A student may only be physically restrained for the time necessary for protection.
- Prohibits physical restraint techniques, such as:
 - Pain inducement to obtain compliance.
 - Bone locks.
 - Hyperextension of joints;
 - Peer restraint.
 - Pressure or weight on the chest, lungs, sternum, diaphragm, back, or abdomen, causing chest compression.
 - Straddling or sitting on any part of the body or a maneuver that places pressure, weight, or leverage on the neck or throat, on an artery, or on the back of the student's head or neck or that otherwise obstructs or restricts the circulation of blood or obstructs an airway.
 - Any type of choking, including hand chokes, and any type of neck or head hold.
- Requires school districts to develop policies and procedures to ensure the physical safety and security of all students and school personnel; and requires that students be treated with dignity and respect.
- Outlines under what circumstances restraint may not be used.
- Describes the circumstance when time-outs may be used and prohibits certain areas.
- Prohibits student from being placed in seclusion.
- Requires the school to review a student's functional behavioral assessment and individualized behavior intervention plan when a student is placed in time-out, physically restrained or secluded more than twice in a semester.
- Includes emotional and behavioral disabilities in the list of disabilities for which certain school personnel must be trained to identify for early intervention.
- Adds to staff training effective classroom behavior management strategies such as differential reinforcement, precision commands, minimizing attention or access to other reinforcers, and time-out methods.
- Directs DOE to publish data and analysis relating to incidents of seclusion and restraint on its website.

The bill does not appear to have a fiscal impact.

The bill provides an effective date of July 1, 2018.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0063.PKQ.DOCX

DATE: 1/8/2018

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal Guidance on the Use of Seclusion and Restraint on Students with Disabilities

U.S. Department of Education Guidance

On May 15, 2012, the U.S. Department of Education published the *Restraint and Seclusion: Resource Document*. The goal was to encourage each state to review its current policies and guidelines on the use of restraint and seclusion in schools to help ensure that every student is safe and protected, and, if appropriate, to develop or revise its policies and guidelines.¹

The document described 15 principles to consider when developing or revising policies and procedures on the use of restraint and seclusion. The principles stress that every effort should be made to prevent the need for the use of restraint and seclusion and that any behavioral intervention must be consistent with the child's rights to be treated with dignity and to be free from abuse. It stated that restraint or seclusion should never be used except in situations where a child's behavior poses imminent danger of serious physical harm to self or others, and restraint and seclusion should be avoided to the greatest extent possible without endangering the safety of students and staff.²

The document states that the use of restraint and seclusion can have very serious consequences, including, most tragically, death. Furthermore, there is no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors. Schools are encouraged to make every effort to structure safe environments and provide a behavioral framework, such as the use of positive behavior interventions and supports, which applies to all children, staff, and places in the school so that restraint and seclusion techniques are unnecessary.³

Specifically, the 15 Principles are as follows:⁴

1. Every effort should be made to prevent the need for the use of restraint and for the use of seclusion.
2. Schools should never use mechanical restraints to restrict a child's freedom of movement, and schools should never use a drug or medication to control behavior or restrict freedom of movement (except as authorized by a licensed physician or other qualified health professional).
3. Physical restraint or seclusion should not be used except in situations where the child's behavior poses imminent danger of serious physical harm to self or others and other interventions are ineffective and should be discontinued as soon as imminent danger of serious physical harm to self or others has dissipated.
4. Policies restricting the use of restraint and seclusion should apply to all children, not just children with disabilities.
5. Any behavioral intervention must be consistent with the child's rights to be treated with dignity and to be free from abuse.
6. Restraint or seclusion should never be used as punishment or discipline (e.g., placing in seclusion for out-of-seat behavior), as a means of coercion or retaliation, or as a convenience.

¹ U.S. Department of Education, *Restraint and Seclusion: Resource Document*, May 2012, <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf> (last visited Dec. 13, 2017).

² *Id.*

³ *Id.*

⁴ *Id.*

7. Restraint or seclusion should never be used in a manner that restricts a child's breathing or harms the child.
8. The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, should trigger a review and, if appropriate, revision of strategies currently in place to address dangerous behavior; if positive behavioral strategies are not in place, staff should consider developing them.
9. Behavioral strategies to address dangerous behavior that results in the use of restraint or seclusion should address the underlying cause or purpose of the dangerous behavior.
10. Teachers and other personnel should be trained regularly on the appropriate use of effective alternatives to physical restraint and seclusion, such as positive behavioral interventions and supports and, only for cases involving imminent danger of serious physical harm, on the safe use of physical restraint and seclusion.
11. Every instance in which restraint or seclusion is used should be carefully and continuously and visually monitored to ensure the appropriateness of its use and safety of the child, other children, teachers, and other personnel.
12. Parents should be informed of the policies on restraint and seclusion at their child's school or other educational setting, as well as applicable federal, state, or local laws.
13. Parents should be notified as soon as possible following each instance in which restraint or seclusion is used with their child.
14. Policies regarding the use of restraint and seclusion should be reviewed regularly and updated as appropriate.
15. Policies regarding the use of restraint and seclusion should provide that each incident involving the use of restraint or seclusion should be documented in writing and provide for the collection of specific data that would enable teachers, staff, and other personnel to understand and implement the preceding principles.

Florida Law and the Use of Restraint and Seclusion on Students with Disabilities

Section 1003.573, F.S., governs the use of restraint and seclusion on students with disabilities. The Florida Department of Education (DOE) is required to develop standards for documenting, reporting, and monitoring the use of restraint and seclusion.

Prohibited Restraint & Seclusion

School personnel are prohibited from:

- using a mechanical physical restraint on a student or manual physical restraint that restricts a student's breathing; and
- from closing, locking, or physically blocking a student in a room that is unlit and does not meet the rules of the State Fire Marshal for seclusion time-out rooms.⁵

Reporting an Incident

A school must prepare an incident report within 24 hours after a student is released from a restraint or seclusion, which must include:⁶

- The name, age, grade, ethnicity and disability of the student restrained or secluded.
- The date, time, and location of the incident and the duration and type of the restraint or seclusion.
- The names of the persons restraining or assisting in the restraint of the student.
- The names of any nonstudent who was present to witness the restraint or seclusion.
- The context in which the seclusion or restraint occurred.
- The student's behavior leading up to and precipitating the decision to use restraint or seclusion.

⁵Section 1003.573(4) and (5), F.S.

⁶Section 1003.573(1), F.S.

- The specific positive behavioral strategies used to prevent and deescalate the behavior.
- Any injuries, visible marks, or possible medical emergencies that may have occurred during the restraint or seclusion and documented according to district policies.
- Steps taken to notify the parent or guardian.

Schools must notify the parent or guardian of the student in writing before the end of the school day each time restraint or seclusion is used and reasonable efforts must be made to also notify the parent or guardian by telephone or email. Parents must also be provided a complete incident report in writing by mail within three days after a student was manually or physically restrained or secluded. The school must maintain documentation of the parent or guardian's acknowledgement of receipt of notification of his or her child's restraint or seclusion.⁷

Monitoring

The use of manual restraint or seclusion on students must be monitored at the classroom, building, district, and state levels. Documentation related to any incidents reported must be provided to the principal, the school district's director of Exceptional Student Education, and the DOE's Bureau of Exceptional Education and Student Services each month that the school is in session.⁸

District Policies and Procedures

School districts must develop policies and procedures regarding:⁹

- Incident reporting.
- Data collection and monitoring, including when, where, and why students are restrained or secluded; the frequency of occurrences of such restraint or seclusion; and the prone or mechanical restraint that is most used.
- Monitoring and reporting of data collected.
- Training programs relating to manual or physical restraint and seclusion.
- The district's plan for selecting personnel to be trained.
- The district's plan for reducing the use of restraint and seclusion particularly in settings in which it occurs frequently or with students who are restrained repeatedly, and for reducing the use of prone restraint and mechanical restraint. The plan must include a goal for reducing the use of restraint and seclusion and must include activities, skills, and resources needed to achieve that goal. Activities may include, but are not limited to:
 - additional training in positive behavioral support and crisis management;
 - parental involvement;
 - data review;
 - updates of students' functional behavioral analysis and positive behavior intervention plans;
 - additional student evaluations;
 - debriefing with staff;
 - use of schoolwide positive behavior support; and
 - changes to the school environment.

⁷Section 1003.573(1)(c) and (d), F.S.

⁸Section 1003.573(2), F.S.

⁹Section 1003.573(3), F.S.

DOE Guidance to School Districts Regarding Restraint, Seclusion, and Time-Out

In response to legislation enacted in 2011,¹⁰ DOE issued Technical Assistance Paper (TAP 2011-165) to guide school districts regarding the use of restraint and seclusion with students with disabilities.¹¹ Specifically, the document covers:¹²

- when restraint and/or seclusion might be used;
- considerations when selecting a training program for restraint;
- what should be documented;
- parent notification and reporting; and
- monitoring use.

As provided in TAP 2011-165, schools should ensure that students are treated with respect and dignity in an environment that provides for the physical safety and security of students and staff. There are instances in which students pose a threat to the safety of themselves or others. The purpose of restraint and seclusion is to prevent injury to self and/or others; these procedures are not to be used to punish a student, as a deterrent, or to “teach a student a lesson.” It is important to recognize that the use of restraint and seclusion may have an emotional impact on students. Such interventions should only be used in emergency situations when an imminent risk of serious injury or death to the student or others exists and in a manner that conveys respect for the dignity of the student.¹³

In 2011, DOE also issued Technical Assistance Paper (TAP 2011-145),¹⁴ to provide guidance and information to school districts in the development of effective time-out procedures. According to TAP 2011-145, time-out uses intervention strategies to decrease the frequency of problematic behaviors. Although time-out can be an effective intervention, it is also an aversive procedure that may adversely impact the classroom learning environment. Of particular concern is its focus primarily on inappropriate, rather than appropriate, behavior and the impact on a student’s access to instruction. The use of time-out has also been the subject of litigation, specifically concerning its use with students with behavior disorders.¹⁵

A non-exclusionary time-out occurs when a student does not have the opportunity to receive reinforcement for an inappropriate behavior for a specified period of time without removing the student from the setting or the activity. The advantage of this type of time-out is that it attempts to keep the student engaged in the ongoing activity in the classroom.¹⁶

An exclusionary time-out involves removing a student from an activity for a period of time but not from the room or area of activity. Unlike contingent observation, the student is not allowed to view or be involved in any activity for a specified amount of time. The student may sit in a study carrel or in some other excluded area of the educational setting but remains in full view of instructional staff.¹⁷

There are no current State Board of Education Rules that define time-out procedures or requirements. Each district that uses time-out as an intervention strategy should develop procedures that are educationally appropriate and ensure a safe educational learning environment at all times.

¹⁰ Chapter 2011-175, L.O.F.

¹¹ Florida Department of Education, Technical Assistance Paper, *Guidelines for the Use, Documentation, Reporting, and Monitoring of Restraint and Seclusion with Students with Disabilities*, <https://info.fldoe.org/docushare/dsweb/Get/Document-6212/dps-2011-165.pdf> (last visited Dec. 13, 2017).

¹² *Id.*

¹³ *Id.* at A-1.

¹⁴ Florida Department of Education, Technical Assistance Paper, *Guidelines for the Use of Time-out*, <https://info.fldoe.org/docushare/dsweb/Get/Document-6219/dps-2011-145.pdf> (last visited Dec. 13, 2017).

¹⁵ *Id.* at A-1.

¹⁶ *Id.* at B-1.

¹⁷ *Id.* at B-1.

Consequently, the information in TAP 2011-145 is a guide for the development of time-out procedures and strategies based on best practices.¹⁸

DOE Seclusion and Restraint Data

Florida school districts began reporting incidents of seclusion in the 2010-2011 school year. Since that time and up to the 2016-2017 school year there have been a total of 19,354 incidents of seclusion¹⁹ and 63,652 incidents of restraint²⁰ reported. However, the number of incidents have decreased every school year since the enactment of the law.²¹

Seclusion Incident Data

School Year Reported	# of Students²²	Seclusion Incidents
2010-11	1321	4,637
2011-12	1448	4,245
2012-13	1237	3,024
2013-14	885	2,272
2014-15	732	2,262
2015-16	638	1,563
2016-17	503	1,351
Total	6,621	19,354

Restraint Incident Data

School Year Reported	# of Students²³	Restraint Incidents
2010-11	3580	10,683
2011-12	4369	9,789
2012-13	4096	9,551
2013-14	3479	8,964
2014-15	3229	8,199
2015-16	3437	7,696
2016-17	3239	8,770
Total	22,190	63,652

Effect of Proposed Changes

This bill amends s. 1003.573, F.S., regarding the restraint of public school students who have a functional behavioral assessment and an individualized behavioral intervention plan.

Definitions

The bill defines the following terms:

¹⁸ *Id* at A-1.

¹⁹ Florida Department of Education, Bureau of Exceptional Education, *Seclusion Incident Reports by District*, 2011-12 through 2015-16.

²⁰ Florida Department of Education, Bureau of Exceptional Education, *Restraint Incident Reports by District*, 2011-12 through 2015-16.

²¹ Florida Department of Education, *2018 Agency Legislative Bill Analysis*, SB 2600 (Companion to HB 63), pp. 4. <http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=20960&yr=2018> (last visited Dec. 18, 2017).

²² Email, Florida Department of Education, December 18, 2017.

²³ *Id.*

- "Department" means Department of Education.
- "Exclusionary time" means the period during which a student is removed from an event, activity, or instructional environment to encourage reflection on behavior and allow space and time for the understanding of choices and consequences.
- "Nonexclusionary time" means a period during which the student remains in the event or instructional environment but is redirected from the activities so that he or she has an opportunity to reflect on the behavior and is given space and time for the understanding of choices and consequences.
- "Imminent risk of serious injury or death" means the impending risk of a significant injury, such as a laceration, bone fracture, substantial hematoma, or injury to an internal organ, or death.
- "Medical protective equipment" means health-related protective devices prescribed by a physician or dentist for use as student protection in response to an existing medical condition.
- "Restraint" means the use of a mechanical or physical restraint which may be used only when all other behavioral strategies and intervention techniques have been exhausted.
- "Mechanical restraint" means the use of a physical device that restricts a student's freedom of movement. However, the definition does not include the use of:
 - Medical protective equipment;
 - Devices such as helmets, gloves, wraps, and other behavioral protective equipment that is temporarily used to prevent severe tissue damage;
 - Physical equipment or orthopedic appliances, surgical dressings or bandages, or supportive body bands or other restraints;
 - Devices used to support functional body position or proper balance, or to prevent a person from falling out of a bed or a wheelchair; and
 - Equipment used for safety during transportation.
- "Physical restraint" means the use of manual restraint techniques that involve significant physical force applied by a teacher or other staff member to restrict the movement of all or part of a student's body.
- "Seclusion" means the removal of a student from an educational environment, involuntarily confining the student in a room or area, and preventing the student from leaving the area by locking or artificially blocking the door. The term does not include exclusionary time.
- "Student" means a student with a functional behavioral assessment and a behavioral intervention plan.²⁴

Physical Restraint

Section 1003.32, F.S., authorizes district school boards, each teacher, or other member of the staff of any school to control and discipline students as assigned to him or her by the principal or the principal's designated representative. Teachers are also required to keep order in the classroom and in other places in which he or she is assigned to be in charge of students.

The bill provides that notwithstanding the authority granted under s. 1003.32, F.S., physical restraint may be used only to protect students, school personnel or others. Restraints may not be used to discipline a student and should be used only when all other strategies and techniques have been exhausted. A student may be restrained only for the time necessary for protection. The degree of force applied may not exceed the degree of force necessary to protect the restrained student and others from serious injury or death.

²⁴ A functional behavioral assessment is a process for developing a useful understanding of how behavior relates to the environment. By knowing the function (or purpose) that the behavior serves for the student, one is able to develop an intervention (plan) that also serves that purpose, but does so through positive student behaviors. Intervention strategies may include effective prevention, remediation, or development of alternative behaviors (replacement behaviors). Florida Department of Education, Technical Assistance Paper FY 1999-3, *Functional Behavioral Assessment and Behavioral Intervention Plans*, Dec. 1999, available at <http://www.fldoe.org/core/fileparse.php/7590/urlt/0107234-tap99-3.pdf> (last visited Dec. 13, 2017).

While current law requires school districts to develop policies and procedures for training staff in the use of restraint and seclusion, the bill requires school personnel such as a former law enforcement officer to receive training in the specific district-approved techniques.

The bill prohibits school personnel from using the following techniques on a student:

- Pain inducement to obtain compliance.
- Bone locks.
- Hyperextension of joints.
- Peer restraint.
- Pressure or weight on the chest, lungs, sternum, diaphragm, back, or abdomen, causing chest compression.
- Straddling or sitting on any part of the body or a maneuver that places pressure, weight, or leverage on the neck or throat, on an artery, or on the back of the student's head or neck or that otherwise obstructs or restricts the circulation of blood or obstructs an airway.
- Any type of choking, including hand chokes, and any type of neck or head hold.
- A technique that involves spraying or pushing anything on or into the student's mouth, nose, eyes, or any part of the face or that involves covering the face or body with anything, including soft objects such as pillows or washcloths.
- A maneuver that involves punching, hitting, poking, pinching, or shoving.

Exclusionary and Nonexclusionary Time

The bill provides that a student may be placed in exclusionary or nonexclusionary time only if the following conditions are met:

- It is part of a positive behavior intervention plan developed for the student from a functional behavioral assessment and it is referenced in the student's individualized behavior intervention plan.
- It is documented that it was preceded by positive behavioral supports that were not effective.
- It takes place in a classroom or in another environment where educational class activities are available.
- The student is not physically prevented from leaving the exclusionary or nonexclusionary time area. The student is observed on a constant basis by an adult for the entire duration.
- The area and process are free of actions that embarrass or humiliate the student.
- The exclusionary or nonexclusionary time does not exceed 1 minute for each year of a student's age or until the student is calm enough to return to his or her seat.
- The exclusionary or nonexclusionary time is not used as a punishment or negative consequence.

Training

The bill requires that each school district report its procedures for restraint training to the DOE by publishing the procedures in the district's special policies and procedures manual. Restraint training must include all of the following:

- Procedures for deescalating a problem behavior before the problem behavior increases to a level or intensity necessitating physical intervention.
- Information regarding the risks associated with restraint and procedures for assessing individual situations and students in order to determine whether the use of restraint is appropriate and sufficiently safe.
- The actual use of specific techniques that range from the least to most restrictive, with ample opportunity for trainees to demonstrate proficiency in the use of such techniques.
- Techniques for implementing restraint with multiple staff members working as a team.
- Techniques for assisting a student in reentering the instructional environment and reengaging in learning.
- Instruction in the district's documentation and reporting requirements.

- Procedures to identify and deal with possible medical emergencies arising during the use of restraint.
- Cardiopulmonary resuscitation.

Student-Centered Followup

In those instances where a student is restrained more than twice during a semester, the school must review:

- The incidents in which restraint was used and an analysis of how future incidents may be avoided;
- The student's functional behavioral assessment and positive behavior intervention plan by the school personnel and parent within two weeks before the end of the semester; and
- The training provided to school personnel concerning the use of restraint.

Documentation and Reporting Requirements

The bill requires school districts at the beginning of each school year to post its policies on emergency procedures and the posting must include restraint and seclusion policies.

Additionally, the bill states that school district policies must provide for the physical safety and security of students and school personnel and promote a positive culture and climate in which all students are treated with dignity and respect.

Schools are required to prepare incident reports within 24 hours of a student being restrained. The reports must include information such as the student's name, age, grade, ethnicity, disability, date and time of event, restraint duration, location, individuals involved, witnesses, and a description of the incident. Also, the report must include the date the person restraining the student was last trained in the use of restraints on students.

Prohibited Restraint and Seclusion

School personnel are prohibited from using straitjackets or restraint techniques that restricts a student's breathing. School personnel are also prohibited from placing a student in seclusion.

Continuing Education and Inservice Training for Teaching Students with Disabilities

The bill adds emotional and behavioral disabilities to the list of disabilities on which school personnel must be trained in order to increase early identification and intervention. The training must also include effective classroom behavior management strategies, such as differential reinforcement, precision commands, minimizing attention or access to other reinforcers, and exclusionary or nonexclusionary time methods.

Also, the DOE is required to publish data and analysis relating to incidents of restraint on its website beginning October 1, 2018.

The bill has an effective date of July 1, 2018.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 1003.573, F.S., defining terms; prohibiting certain physical restraint techniques; adding provisions relating to the use of exclusionary and nonexclusionary time; requiring a student's functional behavioral assessment and individualized behavior intervention plan to be reviewed; and adding emotional and behavioral

disabilities to the list of disabilities on which school personnel who teach student with disabilities must be trained in order to increase early identification and intervention.

Section 2. Amends s. 1012.582 (1) – (2), F.S., regarding the Commissioner of Education’s recommendations to incorporate instruction into continuing education or inservice training requirements for instruction personnel by:

- Adding emotional or behavioral disabilities to the current list of disabilities;
- Removing the term “manual” from “manual physical restraints”; and
- Adding a list of effective classroom behavior management strategies.

Section 3: Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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A bill to be entitled
 An act relating to students with disabilities in public schools; amending s. 1003.573, F.S., relating to the seclusion and restraint of students with disabilities; providing definitions; providing requirements for the use of restraint; prohibiting specified physical restraint techniques; providing requirements for the use of exclusionary and nonexclusionary time; providing requirements for school districts to report and publish training procedures; providing for student-centered followup; providing requirements for documenting, reporting, and monitoring the use of restraint and seclusion; revising school district policies and procedures relating to restraint and seclusion; amending s. 1012.582, F.S.; requiring continuing education and inservice training for teaching students with emotional or behavioral disabilities; conforming provisions; providing an effective date.

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

Section 1. Section 1003.573, Florida Statutes, is amended to read:

1003.573 Seclusion and ~~Use of restraint of and seclusion~~

26 ~~en~~ students with disabilities in public schools.-

27 (1) DEFINITIONS.-As used in this section, the term:

28 (a) "Department" means the Department of Education.

29 (b) "Exclusionary time" means the period during which a
 30 student is removed from an event, activity, or instructional
 31 environment to encourage reflection on behavior and allow space
 32 and time for understanding of choices and consequences.

33 (c) "Imminent risk of serious injury or death" means the
 34 impending risk of a significant injury, such as a laceration,
 35 bone fracture, substantial hematoma, or injury to an internal
 36 organ, or death.

37 (d) "Medical protective equipment" means health-related
 38 protective devices prescribed by a physician or dentist for use
 39 as student protection in response to an existing medical
 40 condition.

41 (e) "Nonexclusionary time" means a period during which a
 42 student remains in the event or instructional environment but is
 43 redirected from the activities so that he or she has an
 44 opportunity to reflect on the behavior and is given space and
 45 time for understanding of choices and consequences.

46 (f) "Restraint" means the use of a mechanical or physical
 47 restraint which may be used only when all other behavioral
 48 strategies and intervention techniques have been exhausted.

49 1. "Mechanical restraint" means the use of a device that
 50 restricts a student's freedom of movement. The term does not

51 include the use of any of the following:
 52 a. Medical protective equipment.
 53 b. Behavioral protective equipment, including helmets,
 54 gloves, wraps, and other devices that are used temporarily to
 55 prevent severe tissue damage caused by behavioral excesses.
 56 c. Physical equipment or orthopedic appliances, surgical
 57 dressings or bandages, or supportive body bands or other
 58 restraints necessary for ongoing medical treatment in the
 59 educational setting.
 60 d. Devices used to support functional body position or
 61 proper balance, or to prevent a person from falling out of a bed
 62 or a wheelchair, except when such a device is used for a purpose
 63 other than supporting a body position or proper balance, such as
 64 coercion, discipline, convenience, or retaliation, to prevent
 65 imminent risk of serious injury or death of the student or
 66 others, or for any other behavior management reason.
 67 e. Equipment used for safety during transportation, such
 68 as seatbelts or wheelchair tie-downs.
 69 2. "Physical restraint" means the use of manual restraint
 70 techniques that involve significant physical force applied by a
 71 teacher or other staff member to restrict the movement of all or
 72 part of a student's body.
 73 (g) "Seclusion" means the removal of a student from an
 74 educational environment, involuntarily confining the student in
 75 a room or area, and preventing the student from leaving the area

76 by locking or artificially blocking the door. The term does not
 77 include exclusionary time.

78 (h) "Student" means a student with a functional behavioral
 79 assessment and an individualized behavior intervention plan.

80 (2) PHYSICAL RESTRAINT.—

81 (a) Physical restraint may be used only when there is an
 82 imminent risk of serious injury or death to the student or
 83 others and only for the period of time necessary to eliminate
 84 such risk.

85 (b) Notwithstanding the authority provided in s. 1003.32,
 86 physical restraint shall be used only to protect the safety of
 87 students, school personnel, or others and may not be used for
 88 student discipline, to correct student noncompliance, or for the
 89 convenience of school district staff. Physical restraint shall
 90 be used only for the period needed to provide such protection.

91 (c) The degree of force applied during physical restraint
 92 must be only that degree of force necessary to protect the
 93 student or others from serious injury or death.

94 (d) School personnel who have received training that is
 95 not associated with their employment with the school district,
 96 such as a former law enforcement officer who is now a teacher,
 97 shall receive training in the specific district-approved
 98 techniques and may not apply techniques or procedures acquired
 99 elsewhere.

100 (e) School personnel may not use any of the following

- 101 physical restraint techniques on a student:
- 102 1. Pain inducement to obtain compliance.
- 103 2. Bone locks.
- 104 3. Hyperextension of joints.
- 105 4. Peer restraint.
- 106 5. Pressure or weight on the chest, lungs, sternum,
 107 diaphragm, back, or abdomen causing chest compression.
- 108 6. Straddling or sitting on any part of the body or any
 109 maneuver that places pressure, weight, or leverage on the neck
 110 or throat, on an artery, or on the back of the head or neck or
 111 that otherwise obstructs or restricts the circulation of blood
 112 or obstructs an airway.
- 113 7. Any type of choking, including hand chokes, and any
 114 type of neck or head hold.
- 115 8. A technique that involves spraying or pushing anything
 116 on or into the mouth, nose, eyes, or any part of the face or
 117 that involves covering the face or body with anything, including
 118 soft objects such as pillows or washcloths.
- 119 9. Any maneuver that involves punching, hitting, poking,
 120 pinching, or shoving.
- 121 (3) EXCLUSIONARY AND NONEXCLUSIONARY TIME.—
- 122 (a) School personnel may place a student in exclusionary
 123 or nonexclusionary time if all of the following conditions are
 124 met:
- 125 1. The exclusionary or nonexclusionary time is part of a

126 positive behavioral intervention plan developed for the student
 127 from a functional behavioral assessment and referenced in the
 128 student's individualized behavior intervention plan.

129 2. There is documentation that the exclusionary or
 130 nonexclusionary time was preceded by the use of other positive
 131 behavioral supports that were not effective.

132 3. The exclusionary or nonexclusionary time takes place in
 133 a classroom or in another environment where class educational
 134 activities are taking place.

135 4. The student is not physically prevented from leaving
 136 the exclusionary or nonexclusionary time area.

137 5. The student is observed on a constant basis by an adult
 138 for the duration of the exclusionary or nonexclusionary time.

139 6. The exclusionary or nonexclusionary time area and
 140 process are free of any action that is likely to embarrass or
 141 humiliate the student.

142 (b) Exclusionary or nonexclusionary time may not be used
 143 for a period that exceeds 1 minute for each year of a student's
 144 age or until the student is calm enough to return to his or her
 145 seat.

146 (c) Exclusionary or nonexclusionary time may not be used
 147 as a punishment or negative consequence of a student's behavior.

148 (4) TRAINING.—

149 (a) Each school district shall report its procedures for
 150 training in the use of restraint to the department by publishing

151 the procedures in the district's special policies and procedures
 152 manual.

153 (b) Training in the use of restraint must include all of
 154 the following:

155 1. Procedures for deescalating a problem behavior before
 156 the problem behavior increases to a level or intensity
 157 necessitating physical intervention.

158 2. Information regarding the risks associated with
 159 restraint and procedures for assessing individual situations and
 160 students in order to determine whether the use of restraint is
 161 appropriate and sufficiently safe.

162 3. The actual use of specific techniques that range from
 163 the least to most restrictive, with ample opportunity for
 164 trainees to demonstrate proficiency in the use of such
 165 techniques.

166 4. Techniques for implementing restraint with multiple
 167 staff members working as a team.

168 5. Techniques for assisting a student in reentering the
 169 instructional environment and reengaging in learning.

170 6. Instruction in the district's documentation and
 171 reporting requirements.

172 7. Procedures to identify and deal with possible medical
 173 emergencies arising during the use of restraint.

174 8. Cardiopulmonary resuscitation.

175 (5) STUDENT-CENTERED FOLLOWUP.—If a student is restrained

176 more than twice during a semester, the school shall conduct a
 177 review of:

178 (a) The incidents in which restraint was used and an
 179 analysis of how future incidents may be avoided;

180 (b) The student's functional behavioral assessment and
 181 positive behavioral intervention plan by the school personnel
 182 and parent within two weeks before the end of the semester; and

183 (c) The training provided to school personnel concerning
 184 the use of restraint.

185 (6)(1) DOCUMENTATION AND REPORTING.—

186 (a) At the beginning of each school year, a school
 187 district shall publicly post its policies on all emergency
 188 procedures, including its policies on the use of restraint and
 189 seclusion.

190 (b)(a) A school shall prepare an incident report within 24
 191 hours after a student is released from restraint ~~or seclusion~~.
 192 If the student's release occurs on a day before the school
 193 closes for the weekend, a holiday, or another reason, the
 194 incident report must be completed by the end of the school day
 195 on the day the school reopens.

196 (c)(b) The following must be included in the incident
 197 report:

- 198 1. The name of the student restrained ~~or secluded~~.
- 199 2. The age, grade, ethnicity, and disability of the
 200 student restrained ~~or secluded~~.

201 3. The date and time of the event and the duration of the
 202 restraint ~~or seclusion~~.

203 4. The location at which the restraint ~~or seclusion~~
 204 occurred.

205 5. A description of the type of restraint used in terms
 206 established by the department ~~of Education~~.

207 6. The name of the person using or assisting in the
 208 restraint ~~or seclusion~~ of the student and the date the person
 209 was last trained in the use of restraint on students.

210 7. The name of any nonstudent who was present to witness
 211 the restraint ~~or seclusion~~.

212 8. A description of the incident, including all of the
 213 following:

214 a. The context in which the restraint ~~or seclusion~~
 215 occurred.

216 b. The student's behavior leading up to and precipitating
 217 the decision to use ~~manual or physical~~ restraint ~~or seclusion~~,
 218 including an indication as to why there was an imminent risk of
 219 serious injury or death to the student or others.

220 c. The specific positive behavioral strategies used to
 221 prevent and deescalate the behavior.

222 d. What occurred with the student immediately after the
 223 termination of the restraint ~~or seclusion~~.

224 e. Any injuries, visible marks, or possible medical
 225 emergencies that may have occurred during the restraint ~~or~~

226 ~~seclusion~~, documented according to district policies.

227 f. Evidence of steps taken to notify the student's parent
228 or guardian.

229 (d)~~(e)~~ A school shall notify the parent or guardian of a
230 student each time ~~manual or physical~~ restraint ~~or seclusion~~ is
231 used. Such notification must be in writing and provided before
232 the end of the school day on which the restraint ~~or seclusion~~
233 occurs. Reasonable efforts must also be taken to notify the
234 parent or guardian by telephone or ~~computer~~ e-mail, or both, and
235 these efforts must be documented. The school shall obtain, and
236 keep in its records, the parent's or guardian's signed
237 acknowledgment that he or she was notified of his or her child's
238 restraint ~~or seclusion~~.

239 (e)~~(d)~~ A school shall also provide the parent or guardian
240 with the completed incident report in writing by mail within 3
241 school days after a student was ~~manually or physically~~
242 restrained ~~or secluded~~. The school shall obtain, and keep in its
243 records, the parent's or guardian's signed acknowledgment that
244 he or she received a copy of the incident report.

245 (7)~~(2)~~ MONITORING.—

246 (a) ~~Monitoring of~~ The use of ~~manual or physical~~ restraint
247 ~~or seclusion~~ on students shall be monitored ~~occur~~ at the
248 classroom, building, district, and state levels.

249 (b) Any documentation prepared by a school pursuant to ~~as~~
250 ~~required in~~ subsection (6) ~~(1)~~ shall be provided to the school

251 principal, the district director of Exceptional Student
 252 Education, and the bureau chief of the Bureau of Exceptional
 253 Education and Student Services electronically each month that
 254 the school is in session.

255 (c) The department shall maintain aggregate data of
 256 incidents of ~~manual or physical~~ restraint and ~~seclusion~~ and
 257 disaggregate the data for analysis by county, school, student
 258 exceptionality, and other variables, including the type and
 259 method of restraint ~~or seclusion~~ used. This information shall be
 260 updated monthly and made available to the public through the
 261 department's website beginning no later than October 1, 2018.

262 (d) The department shall establish standards for
 263 documenting, reporting, and monitoring the use of ~~manual or~~
 264 ~~physical~~ restraint ~~or mechanical restraint,~~ and ~~occurrences of~~
 265 ~~seclusion~~. These standards shall be provided to school districts
 266 ~~by October 1, 2011.~~

267 (8)(3) SCHOOL DISTRICT POLICIES AND PROCEDURES.-

268 (a) School districts shall develop policies and procedures
 269 that provide for the physical safety and security of all
 270 students and school personnel and which treat all students with
 271 respect and dignity in an environment that promotes a positive
 272 school culture and climate. Such ~~Each school district shall~~
 273 ~~develop~~ policies and procedures must be ~~that are~~ consistent with
 274 this section and must ~~that~~ govern the following:

- 275 1. A description of escalating behavioral strategies that

276 may be used.

277 2. Allowable use of restraint on students.

278 3. Training procedures.

279 4.1. Incident-reporting procedures.

280 5.2. Data collection and monitoring, including when,
 281 where, and why students are restrained and ~~or secluded;~~ the
 282 frequency of occurrences of such restraint ~~or seclusion;~~ and the
 283 ~~prone or mechanical restraint that is most used.~~

284 6.3. Monitoring and reporting of data collected.

285 7.4. Training programs and procedures relating to ~~manual~~
 286 ~~or physical~~ restraint ~~and seclusion.~~

287 8.5. The district's plan for selecting personnel to be
 288 trained and the timeframe for completing such training pursuant
 289 to subsection (4).

290 9.6. The district's plan for reducing the use of
 291 restraint, ~~and seclusion~~ particularly in settings in which it
 292 occurs frequently or with students who are restrained
 293 repeatedly, ~~and for reducing the use of prone restraint and~~
 294 ~~mechanical restraint.~~ The plan must include a goal for reducing
 295 the use of restraint ~~and seclusion~~ and must include activities,
 296 skills, and resources needed to achieve that goal. Activities
 297 may include, but are not limited to, all of the following:

298 a. Additional training in positive behavioral support and
 299 crisis management.†

300 b. Parental involvement.†

- 301 c. Data review.†
- 302 d. Updates of students' functional behavioral analysis and
- 303 positive behavior intervention plans.†
- 304 e. Additional student evaluations.†
- 305 f. Debriefing with staff.†
- 306 g. Use of schoolwide positive behavior support.† and
- 307 h. Changes to the school environment.
- 308 10. Analysis of data to determine trends.
- 309 11. Ongoing reduction of the use of restraint.

310 (b) Any revisions a school district makes to its ~~to the~~
 311 ~~district's~~ policies and procedures, which must be prepared as
 312 part of the school district's ~~its~~ special policies and
 313 procedures, must be filed with the bureau chief of the Bureau of
 314 Exceptional Education and Student Services ~~no later than January~~
 315 ~~31, 2012.~~

316 (9)(4) PROHIBITED RESTRAINT.—School personnel may not use
 317 straitjackets or a mechanical restraint or a manual or physical
 318 restraint that restricts a student's breathing.

319 (10)(5) SECLUSION.—School personnel may not place a
 320 student in seclusion ~~close, lock, or physically block a student~~
 321 ~~in a room that is unlit and does not meet the rules of the State~~
 322 ~~Fire Marshal for seclusion time-out rooms.~~

323 Section 2. Subsections (1) and (2) of section 1012.582,
 324 Florida Statutes, are amended to read:

325 1012.582 Continuing education and inservice training for

326 teaching students with developmental and emotional or behavioral
 327 disabilities.-

328 (1) The Commissioner of Education shall develop
 329 recommendations to incorporate instruction regarding autism
 330 spectrum disorder, Down syndrome, ~~and~~ other developmental
 331 disabilities, and emotional or behavioral disabilities into
 332 continuing education or inservice training requirements for
 333 instructional personnel. These recommendations shall address:

334 (a) Early identification of, and intervention for,
 335 students who have autism spectrum disorder, Down syndrome, ~~or~~
 336 other developmental disabilities, or emotional or behavioral
 337 disabilities.

338 (b) Curriculum planning and curricular and instructional
 339 modifications, adaptations, and specialized strategies and
 340 techniques.

341 (c) The use of available state and local resources.

342 (d) The use of positive behavioral supports to deescalate
 343 problem behaviors.

344 (e) Appropriate use of ~~manual~~ physical restraint and
 345 seclusion techniques and effective classroom behavior management
 346 strategies, including, but not limited to, differential
 347 reinforcement, precision commands, minimizing attention or
 348 access to other reinforcers, and exclusionary and
 349 nonexclusionary time methods.

350 (2) In developing the recommendations, the commissioner

351 shall consult with the State Surgeon General, the Director of
 352 the Agency for Persons with Disabilities, representatives from
 353 the education community in the state, and representatives from
 354 entities that promote awareness about autism spectrum disorder,
 355 Down syndrome, ~~and~~ other developmental disabilities, and
 356 emotional or behavioral disabilities and provide programs and
 357 services to persons with ~~developmental~~ disabilities, including,
 358 but not limited to, regional autism centers pursuant to s.
 359 1004.55.

360 Section 3. This act shall take effect July 1, 2018.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: PreK-12 Quality

2 Subcommittee

3 Representative Edwards-Walpole offered the following:

4

5 **Amendment**

6 Between lines 120 and 121, insert:

7 10. Prone or supine restraint.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 495 School District Price Level Index
SPONSOR(S): Diaz, Jr.
TIED BILLS: None **IDEN./SIM. BILLS:** SB 824

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee		Brink	DavisGreene
2) Appropriations Committee			
3) Education Committee			

SUMMARY ANALYSIS

The Florida Education Finance Program (FEFP) is used by the Legislature to equalize funding for educational programs and services for all students in the K-12 public school system regardless of geographic or local economic factors. To account for varying costs of living among Florida's school districts, the FEFP includes a district cost differential (DCD) which adjusts funding based on the estimated cost to hire comparable employees. By law, the DCD must incorporate the Florida Price Level Index (FPLI) to provide a statistical basis for funding adjustments to each school district.

Since 2000, the University of Florida's Bureau of Economic and Business Research (BEBR) has been responsible both for calculating the FPLI and for reviewing its methodology. Florida Polytechnic University has collaborated with BEBR in this process since 2014.

The bill provides for third-party review of the FPLI methodology by requiring the Florida Department of Education (DOE) to contract with an independent consulting firm to conduct a review of the FPLI methodology by July 1, 2018. The bill also requires the DOE, by January 1, 2019, and every 10 years thereafter, to submit a report providing recommendations to the chair of the Senate Committee on Appropriations, the chair of the House of Representatives Appropriations Committee, and the Executive Office of the Governor's Office of Policy and Budget.

The bill has an indeterminate fiscal impact. See FISCAL COMMENTS, *infra*.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Education Finance Program

The Florida Constitution requires the Legislature to make “adequate provision . . . for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education”¹ The Florida Legislature established the Florida Education Finance Program (FEFP) in 1973 to equalize funding for educational programs and services for all students in the K-12 public school system regardless of geographic or local economic factors.² The FEFP, which is the “primary mechanism for funding the operating costs of Florida school districts,” provides for equalized funding by recognizing:

- varying local property tax bases;
- varying education program costs;
- varying costs of living; and
- varying costs for equivalent educational programs due to sparsity and dispersion of the student population.³

The FEFP incorporates state-appropriated funds and funds raised through *ad valorem* taxes in each local school district. State funds appropriated to finance the 2017-18 FEFP totaled \$8,440,944,134, while the required local effort from school districts were set by the Legislature at \$7,603,850,013.⁴

Under the FEFP, financial support for education is based on individual students participating in a particular educational program rather than on the number of teachers or classrooms.⁵ Funds are “primarily generated by multiplying the number of full-time equivalent (FTE) students in each of the funded education programs by cost factors to obtain weighted FTE students. Weighted FTE students are then multiplied by a base student allocation and by a district cost differential (DCD) to determine the base funding from state and local FEFP funds for a school district.”⁶

District Cost Differentials and the Florida Price Index

The law requires the Commissioner of Education to annually calculate a DCD for each school district to address cost of living differences for employees among the districts. The DCD is calculated by averaging each school district’s Florida Price Level Index (FPLI) for the most recent three years. The average is then multiplied by 0.008 and .200 is added to the product to obtain the final district cost differential.⁷

The FPLI represents the cost of hiring comparable personnel based on maintaining a given standard of living across the school districts.⁸ It is based on wage and employment data for “hundreds of

¹ Art. IX, s. 1(a), Fla. Const.

² Florida Department of Education, *2017-18 Funding for Florida School Districts*, at 1 (2017), available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf>.

³ *Id* at 1.

⁴ *See id* at 2.

⁵ *Id* at 1.

⁶ *Id* at 1.

⁷ *See id* at 16, 37.

⁸ Jim Dewey, Director of Economic Analysis, Florida Polytechnic University, *2016 Florida Price Level Index* (Jan. 23, 2017), available at <https://floridapoly.edu/wp-content/uploads/2016fpli.pdf>.

occupations collected by the Florida Department of Economic Opportunity's Bureau of Labor Market Statistics as part of the U.S. Bureau of Labor Statistics' Occupational Employment Statistics Survey."⁹

Before 2003, the FPLI was calculated using a weighted average of the relative prices of goods and services purchased by consumers similar to the Consumer Price Index developed by the U.S. Bureau of Labor Statistics.¹⁰ However, because the FPLI did not consider other factors that could affect the cost of hiring comparable personnel, the FPLI was revised to improve accuracy.¹¹

Since 2003, the FPLI calculation starts with an estimated initial index of relative wages for comparable workers across Florida's 67 counties.¹² Because the quality and extent of data may vary depending on the size of the labor market in a given county, once the initial index has been estimated, a predicted value is calculated based on the correlation between the initial index and characteristics related to wage levels, such as total population, the costs of goods and services, the raw wage index in neighboring counties, and county retirement age.¹³ To reduce statistical variation, the predicted index and the initial index are then weighted and averaged together based on the relative reliability of each index. This is referred to as "statistical smoothing."¹⁴ Then, "geographic smoothing" is applied to ensure that the index for non-metropolitan counties does not fall below the commute-time-adjusted wage index of nearby metropolitan counties so that workers are not induced to commute from low-wage districts to higher-wage districts.¹⁵

The University of Florida's Bureau of Economic and Business Research (BEBR) began reviewing the FPLI methodology and provided recommendations to improve accuracy in 1995.¹⁶ Starting in 2000, it became responsible for calculating the FPLI, as well.¹⁷ Since 2007, BEBR has annually published a report outlining adjustments in the FPLI for each school district and summarizing the calculation methodology.¹⁸ Since 2014, the FPLI has been calculated as part of a collaboration between Florida Polytechnic University and BEBR. Presently, there is no third-party review of the methodology used by Florida Polytechnic University and BEBR to calculate the FPLI.

Effect of Proposed Changes

The bill requires the Florida Department of Education (DOE) to issue a competitive solicitation to contract with an independent, third-party consulting firm to conduct a review of the current price level index methodology by July 1, 2018, and every 10 years thereafter. The bill also requires the DOE, by January 1, 2019, and every 10 years thereafter, to submit a report providing recommendations to the chair of the Senate Committee on Appropriations, the chair of the House of Representatives Appropriations Committee, and the Executive Office of the Governor's Office of Policy and Budget.

B. SECTION DIRECTORY:

Section 1. Creates s. 1011.79, F.S., requiring the Department of Education to issue a competitive solicitation for the review of the current price level index methodology by a specified entity; requiring a

⁹ *Id.*

¹⁰ *Id.*

¹¹ *See id.*

¹² *Id.* The FPLI is calculated annually through a collaboration between Florida Polytechnic University and the University of Florida's Bureau of Economic and Business Research.

¹³ Florida Department of Economic Opportunity, *Florida Price Level Index* (2004) at 4, available at http://www.floridajobs.org/library/2004_FPLI.pdf.

¹⁴ *Id.* at 4.

¹⁵ *See id.* at 4. *See also* Jim Dewey, Director of Economic Analysis, Florida Polytechnic University, *2016 Florida Price Level Index* (Jan. 23, 2017), available at <https://floridapoly.edu/wp-content/uploads/2016fpli.pdf>.

¹⁶ Florida Department of Economic Opportunity, *Florida Price Level Index* (2004) at 1, available at http://www.floridajobs.org/library/2004_FPLI.pdf.

¹⁷ *Id.*

¹⁸ University of Florida, Bureau of Economic and Business Research, *Florida Price Level Index (FPLI)*, <https://www.bebr.ufl.edu/economics/fpli> (last visited Jan. 8, 2018).

report of recommendations be provided to the chair of the Senate Committee on Appropriations, the chair of the House of Representatives Appropriations Committee, and the Executive Office of the Governor's Office of Policy and Budget; providing that the competitive solicitation and review occur every 10 years.

Section 2. Provides the bill takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill requires the DOE to contract with a third-party consulting firm to conduct a review of the FPLI methodology every ten years, starting no later than July 1, 2018. The contract price would be subject to negotiation between the DOE and the contracted entity.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Because the contract price for a third-party review would be subject to negotiation between the DOE and the contracted entity every 10 years, the fiscal impact of this bill is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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A bill to be entitled
 An act relating to the school district price level index; creating s. 1011.79, F.S.; requiring the Department of Education to issue a competitive solicitation for the review of the current price level index methodology by a specified entity; requiring a report of recommendations be provided to the chair of the Senate Committee on Appropriations, the chair of the House of Representatives Appropriations Committee, and the Executive Office of the Governor's Office of Policy and Budget; providing that the competitive solicitation and review occur every 10 years; providing an effective date.

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

Section 1. Section 1011.79, Florida Statutes, is created to read:

1011.79 Price level index methodology review.-

(1) By July 1, 2018, and every 10 years thereafter, the Department of Education shall issue a competitive solicitation to contract with an independent third-party consulting firm to conduct a review of the current price level index methodology.

(2) By January 1, 2019, and every 10 years thereafter, the department shall provide a report which provides recommendations

26 | to the chair of the Senate Committee on Appropriations, the
27 | chair of the House of Representative Appropriations Committee,
28 | and the Executive Office of the Governor's Office of Policy and
29 | Budget.

30 | Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 577 High School Graduation Requirements

SPONSOR(S): Silvers

TIED BILLS: None **IDEN./SIM. BILLS:** SB 856

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee		Silver	DavisGreene
2) Education Committee			

SUMMARY ANALYSIS

To receive a standard high school diploma a student must successfully complete a combination of core-curricula courses, e.g., English language arts, mathematics, science, social studies physical education and fine or performing arts, speech and debate, or practical arts. Students may use career education courses to satisfy high school graduation credit requirements.

The bill allows a student to use credit earned upon completion of a DOE-registered apprenticeship or preapprenticeship program to satisfy the credit requirements for fine or performing arts, speech and debate, or practical arts.

The bill requires the State Board of Education (SBE) to approve and identify in the Course Code Directory apprenticeship and preapprenticeship programs from which a student may use earned credit to satisfy graduation requirements.

The bill has an insignificant fiscal impact. (See FISCAL COMMENTS.)

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida High School Graduation Requirements

Section 1003.4282, F.S., establishes the courses and credits required for a student to receive a standard high school diploma. A student must successfully complete 24 credits in core-curricula and extracurricular courses.¹

For grades 9 through 12, core curricula courses are those subjects that are measured by state assessment at any grade level and courses that are specifically identified by name in state law as required for high school graduation and that are not measured by state assessment.² Core courses are: English language arts, mathematics, science, and social studies.³ The remaining required courses are extracurricular courses, which include but are not limited to, physical education, fine arts, performing fine arts, career education, and courses that may result in college credit.⁴

Core and Extracurricular Course and Credit Requirements⁵

- English Language Arts (ELA) - 4 Credits
 - ELA I, II, III, and IV.
- Mathematics – 4 Credits
 - One credit in Algebra I, one credit in Geometry, and two additional credits.
 - A student who earns an industry certification for which there is a statewide college credit articulation agreement may substitute the certification for one of the two additional credits. Substitution may occur for up to 2 credits, with the exception of Algebra I and Geometry.
- Science – 3 Credits
 - One credit in Biology I and 2 credits in equally rigorous courses.
 - A student who earns an industry certification for which there is a statewide college credit articulation agreement may substitute the certification for one of the two equally rigorous courses.
- Social Studies – 3 Credits
 - One credit in United States History; one credit in World History; one-half credit in U.S. Government, and one-half credit in Economics, which must include Financial Literacy.
- Fine Arts, Performing Arts, Speech and Debate, or Practical Arts – 1 Credit
 - The practical arts course must incorporate artistic content and techniques of creativity, interpretation, and imagination. Eligible courses are identified in the Course Code Directory.⁶
- Physical Education - 1 Credit
 - Must include the integration of health.

¹ See s. 1008.4282(3)(a)-(g), F.S.

² Section 1003.01(14), F.S.

³ See s. 1008.4282(3)(a)-(d), F.S.

⁴ Section 1003.01(15), F.S.

⁵ Section 1003.4282(3), F.S.

⁶ The Course Code Directory requires that programs and courses funded through the Florida Education Finance Program (FEFP) and courses or programs for which students may earn elective or required credit toward high school graduation must be listed in the Course Code Directory (CCD). Rule 6A-1.0944, F.A.C.

- Electives – 8 Credits
 - Must include opportunities for students to earn college credit, including industry-certified career programs or courses that lead to college credit.
- Online Course Requirement⁷
 - Determined based upon the completed course.

Career Education

Career education provides instruction for the following purposes:⁸

- Exploratory courses designed to give students initial exposure to a broad range of occupations to assist them in preparing their academic and occupational plans, and practical arts courses⁹ that provide generic skills that may apply to many occupations. Such courses are not designed to prepare students for entry into a specific occupation. Career education provided before high school completion must be designed to strengthen both occupational awareness and academic skills, which is integrated throughout all academic instruction

Secondary school level

- Job-preparatory instruction in the competencies that prepare students for effective entry into an occupation, including diversified cooperative education, work experience, and job-entry programs that coordinate directed study and on-the-job training.

Postsecondary education level

- Courses of study that provide competencies needed for entry into specific occupations or for advancement within an occupation.

Career Education Courses That Satisfy High School Graduation Requirements

Section 1003.4282(8), F.S., requires the Department of Education (DOE) to develop, for approval by the State Board of Education (SBE), career education courses or a series of courses that satisfy general high school credit requirements.¹⁰ Students may earn credit in both the career education courses and the courses required for a standard high school diploma. It is the responsibility of the SBE to determine if sufficient academic standards are covered to warrant the award of the academic credit.¹¹

Career education courses must include workforce and digital literacy skills and the integration of required course content with practical applications and designated rigorous coursework that results in one or more industry certifications or clearly articulated credit or advanced standing in a 2-year or 4-year certificate or degree program, which may include high school junior and senior year work-related

⁷ Section 1003.4282(4), F.S. A school district may not require a student to take the online course outside the school day or in addition to a student's courses for a given semester. This subsection does not apply to a student who has an individual education plan under s. 1003.57, F.S., which indicates that an online course would be inappropriate or to an out-of-state transfer student who is enrolled in a Florida high school and has 1 academic year or less remaining in high school. *Id.*

⁸ Section 1003.01(4), F.S.

⁹ There are over 300 Career and Technical Education courses that meet the practical arts high school graduation requirement. Florida Department of Education, <http://www.fldoe.org/core/fileparse.php/7746/urlt/1617PAcourses.pdf> (last visited January 5, 2018).

¹⁰ School districts are required to offer at least two career-themed courses, and each secondary school is encouraged to offer at least one career-themed course. Career-themed courses are courses, or a course in a series of courses, that leads to an industry certification identified in the Career and Professional Education (CAPE) Industry Certification Funding List pursuant to rules adopted by the State Board of Education. Career-themed courses have industry-specific curriculum aligned directly to priority workforce needs established by the local workforce development board or the Department of Economic Opportunity. Students completing a career-themed course must be provided opportunities to earn postsecondary credit if the credit for the career-themed course can be articulated to a postsecondary institution approved to operate in the state. Section 1003.493(1)(b), F.S.

¹¹ Section 1003.4282(8)(a)1., F.S.

internships or apprenticeships. The DOE must negotiate state licenses for material and testing for industry certifications. The instructional methodology used in these courses must be comprised of authentic projects, problems, and activities for contextually learning the course material.¹²

School districts are encouraged to initiate partnerships with local workforce boards, local business and industry leaders, and postsecondary institutions for the purpose of creating career education courses or a series of courses. Such courses must meet the goals and requirements of career and professional academies¹³ and career-themed courses.¹⁴

Apprenticeship and Preapprenticeship Programs

The DOE is responsible for the development of the apprenticeship and preapprenticeship standards for trades and assisting district school boards and community college district boards of trustees in developing preapprenticeship programs.¹⁵

An apprenticeship program is an organized course of instruction that is registered and approved by the DOE and must address all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices.¹⁶ The length of an apprenticeship program varies from one to five years depending on the occupation's training requirements.¹⁷

An apprenticeship may be offered only in occupations that:

- are customarily learned in a practical way through a structured, systematic program of on-the-job, supervised training;
- are commonly recognized throughout the industry or recognized with a positive view toward changing technology;
- involve manual, mechanical, or technical skills and knowledge that require a minimum of 2,000 hours of work and training, excluding the time spent in related instruction;
- require related instruction to supplement on-the-job training; and
- involve the development of skills sufficiently broad to be applicable in like occupations throughout an industry, rather than skills that are of restricted application to the products or services of any one company¹⁸

The following categories of occupations may not create an apprenticeship program: selling, retailing, or similar occupations in the distributive field; managerial occupations; and professional and scientific vocations for which entrance requirements customarily require an academic degree.¹⁹

To be eligible for an apprenticeship program, the person must be at least 16 years of age. Admission requirements relating to education, physical ability, work experience, and other criteria vary based on

¹² Section 1003.4282(8)(a)2., F.S.

¹³ Public schools and school districts are required to offer career and professional academies. Career and professional academies are research-based programs that integrate a rigorous academic curriculum with an industry-specific curriculum aligned directly to priority workforce needs established by the local workforce development board or the Department of Economic Opportunity. Students completing career and professional academy programs must receive a standard high school diploma, the highest available industry certification, and opportunities to earn postsecondary credit if the academy partners with a postsecondary institution approved to operate in the state. Section 1003.493(1)(a), F.S.

¹⁴ Section 1003.4282(8)(b), F.S.

¹⁵ Section 446.011(2), F.S.

¹⁶ Section 446.021(6), F.S.

¹⁷ Section 446.021(6), F.S.; rule 6A-23.004, F.A.C.

¹⁸ Section 446.092, F.S.

¹⁹ Section 446.092(6), F.S.

the program's training needs.²⁰ As of January 2018, there are 196 registered apprenticeship programs and 11,468 registered apprentices.²¹

According to DOE, Each registered apprenticeship program operates independently and establishes its application process and minimum qualifications. The required minimum qualifications for persons entering an apprenticeship are an eligible starting age of not less than 16 years. Most program minimum qualifications require the following of all applicants – being at least 18 years of age, possess a high school diploma or a high school equivalency diploma, possess a valid drivers' license and be physically able to perform the work of the trade. Some programs require more, some less.²²

A preapprenticeship program is an organized course of instruction designed to prepare a person 16 years of age or older to become an apprentice. The program must be registered with the DOE and sponsored by a registered apprenticeship program.²³ The program's purpose is to provide training that will enable students, upon completion, to obtain entrance into a registered apprenticeship program.²⁴ According to the DOE there are seven one credit preapprenticeship courses, which are counted as electives for graduation purposes.²⁵ As of September 14, 2017, there are 19 preapprenticeship programs located throughout the state.²⁶

Effect of Proposed Changes

The bill permits a student to use credit earned upon completion of a DOE-registered apprenticeship or preapprenticeship program to satisfy the credit requirements in s. 1003.4282(3)(e) or (g), F.S., relating to courses in fine or performing arts, speech and debate, or practical arts; or electives.

The State Board of Education (SBE) is required to approve and identify in the Course Code Directory the apprenticeship and preapprenticeship programs from which a student may use earned credit to satisfy such course credit requirements.

B. SECTION DIRECTORY:

Section 1. Amends s. 1003.4282(8), F.S., to permit a student to use credit earned upon completion of a DOE-registered apprenticeship or preapprenticeship program to satisfy the credit requirements for courses in fine or performing arts, speech and debate, or practical arts. The SBE must approve and identify in the Course Code Directory the apprenticeship and preapprenticeship programs from which a student may use earned credit to satisfy such course credit requirements.

Section 2. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

²⁰ United States Department of Labor, Employment and Training Administration, Apprentices, <http://www.doleta.gov/oa/apprentices.cfm> (last visited January 3, 2018).

²¹ Email from Florida Department of Education, Governmental Relations, Apprenticeship Programs (January 5, 2018).

²² Email from Florida Department of Education, Division of Career and Adult Education, Apprenticeship Information (January 5, 2018).

²³ Section 446.021(5), F.S.

²⁴ Rule 6A-23.010(1), F.A.C.

²⁵ Email, Florida Department of Education, Agency Legislative Bill Analysis, HB 525, (March 3, 2017).

²⁶ Florida Department of Education, Career and Adult Education, Preapprenticeship Programs, <http://www.fldoe.org/core/fileparse.php/5626/urlt/adult-preapprenticeship.pdf> (last visited January 5, 2018).

2. Expenditures:

See Fiscal Comments

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

Indeterminable

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

According to the DOE, the Florida Automated System for Transferring Education Records (FASTER) would require an outside contractor position of 40 hours at \$56 per hour, totaling \$2,240.00, to update the database.²⁷

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not Applicable.

²⁷ *Supra* note 21.

1 A bill to be entitled
 2 An act relating to high school graduation
 3 requirements; amending s. 1003.4282, F.S.; authorizing
 4 the use of credits earned upon completion of a
 5 registered apprenticeship or preapprenticeship to
 6 satisfy specified high school graduation credit
 7 requirements; requiring that the State Board of
 8 Education approve and identify apprenticeship and
 9 preapprenticeship programs for such purpose; providing
 10 an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Paragraph (a) of subsection (8) of section
 15 1003.4282, Florida Statutes, is amended to read:

16 1003.4282 Requirements for a standard high school
 17 diploma.—

18 (8) CAREER EDUCATION COURSES THAT SATISFY HIGH SCHOOL
 19 CREDIT REQUIREMENTS.—

20 (a) Participation in career education courses engages
 21 students in their high school education, increases academic
 22 achievement, enhances employability, and increases postsecondary
 23 success. By July 1, 2014, the department shall develop, for
 24 approval by the State Board of Education, multiple, additional
 25 career education courses or a series of courses that meet the

26 requirements set forth in s. 1003.493(2), (4), and (5) and this
 27 subsection and allow students to earn credit in both the career
 28 education course and courses required for high school graduation
 29 under this section and s. 1003.4281.

30 1. The state board must determine if sufficient academic
 31 standards are covered to warrant the award of academic credit.

32 2. Career education courses must include workforce and
 33 digital literacy skills and the integration of required course
 34 content with practical applications and designated rigorous
 35 coursework that results in one or more industry certifications
 36 or clearly articulated credit or advanced standing in a 2-year
 37 or 4-year certificate or degree program, which may include high
 38 school junior and senior year work-related internships or
 39 apprenticeships. The department shall negotiate state licenses
 40 for material and testing for industry certifications. The
 41 instructional methodology used in these courses must be
 42 comprised of authentic projects, problems, and activities for
 43 contextually learning the academics.

44 3. A student who earns credit upon completion of an
 45 apprenticeship or preapprenticeship program registered with the
 46 Department of Education under chapter 446 may use such credit to
 47 satisfy the high school graduation credit requirements in
 48 paragraph (3)(e) or paragraph (3)(g). The state board shall
 49 approve and identify in the Course Code Directory the
 50 apprenticeship and preapprenticeship programs from which earned

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51 | credit may be used pursuant to this subparagraph.

52 | Section 2. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 827 Instructional Materials
SPONSOR(S): Donalds
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee		Brink	DavisGreene
2) PreK-12 Appropriations Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

State law establishes state and local school district requirements for the adoption and purchase of instructional materials for public schools. Current law provides multiple opportunities for public review and input at the state and local level. The bill expands upon these opportunities by requiring the State Board of Education (SBE) and each district school board to establish procedures by which members of the public can recommend instructional materials for adoption.

The bill transfers the responsibility for adopting state instructional materials from the Commissioner of Education to the SBE. Under the bill, the SBE must adopt instructional materials for a given academic subject at a regularly scheduled state board meeting no later than July 1 of the year before the 5-year adoption cycle is scheduled to begin and allow public comment on instructional materials at any meeting in which an adoption is considered. The bill also specifies that members of the public must be provided access to, and the opportunity to submit comments on, instructional materials recommended for adoption by state instructional materials reviewers and that any submitted comments related to a specific recommended instructional material must be provided to the SBE as part of its consideration.

The bill provides that instructional materials recommended for adoption may be more rigorous than the Next Generation Sunshine State Standards (NGSSS), so long as they are aligned with the NGSSS. The bill also requires the state instructional materials reviewer affidavit to include a statement that, to the best of the reviewer's knowledge, instructional materials he or she recommends for adoption are, at a minimum, aligned to the NGSSS. If the SBE finds that instructional materials fully meet or are more rigorous than the NGSSS, the materials are not subject to preadoption public review procedures by the local school district; however, a district school board may still initiate such procedures if he or she has evidence that the materials are not aligned to the NGSSS or do not meet state adoption criteria or standards.

The bill requires that instructional materials purchased using instructional material allocation funds to include professional development and supplemental materials to support high-quality, accurate instruction.

The bill does not appear to have a fiscal impact.

The bill takes effect on July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

“Instructional materials” are items having intellectual content that by design serve as a major tool for assisting in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software.¹

Each district school board has the constitutional duty and responsibility to select and provide adequate instructional materials to each student for core courses in mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12.² School districts may purchase instructional materials from a list of state-reviewed and adopted instructional materials or establish their own review and adoption program.³

Each district school board is responsible for the content of all instructional materials and any other materials used in the classroom, made available in a school library, or included on a reading list, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program, or otherwise purchased or made available to students.⁴

Funding for instructional materials is provided annually by the Legislature in the General Appropriations Act (GAA). The following chart shows GAA funding for instructional materials since FY 2012-13:

Instructional Materials Funding History	
Fiscal Year	Amount
2012-13 ⁵	\$211,665,913
2013-14 ⁶	\$217,277,372
2014-15 ⁷	\$223,382,911
2015-16 ⁸	\$225,830,113
2016-17 ⁹	\$228,792,422
2017-18 ¹⁰	\$230,743,258

¹ See ss. 1006.28(1) and 1006.29(2), F.S.

² See s. 1006.40(2) and (4), F.S. “Adequate instructional materials” means a “sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature.” Section 1006.28(1), F.S.

³ See ss. 1006.283 and 1006.40, F.S.

⁴ Section 1006.28(2)(a)1., F.S.

⁵ Specific Appropriations 6, s. 1 and 84, s. 2, ch. 2012-118, L.O.F.

⁶ Specific Appropriations 7, s. 1 and 87, s. 2, ch. 2013-40, L.O.F.

⁷ Specific Appropriations 9, s. 1 and 96, s. 2, ch. 2014-51, L.O.F.

⁸ Specific Appropriations 7, s. 1 and 90, s. 2, ch. 2015-232, L.O.F.

⁹ Specific Appropriations 7, s. 1 and 94, s. 2, ch. 2016-66, L.O.F.

¹⁰ Section 6, ch. 2017-234, L.O.F.

State Adoption Process

Before adopting instructional materials in a certain subject area, the Department of Education (DOE) publishes specifications for the materials. These specifications detail the courses for which instructional materials are sought and the standards the materials must meet.¹¹ Beginning on or before May 15 of the adoption year, DOE advertises a request for sealed bids or proposals from publishers of instructional materials. The advertisement must require each bidder to furnish electronic sample copies of all instructional materials submitted.¹²

Once all bids have been considered, the commissioner selects and adopts, from the list reported by the state instructional materials reviewers as “suitable, usable, and desirable,” instructional materials for each grade and subject as advertised. The commissioner must always reserve the right to reject any and all bids.¹³ State-adopted instructional materials are available for purchase beginning April 1 of the year following adoption and must be requisitioned from the depository of the publisher.¹⁴

The Commissioner of Education adopts instructional materials according to a 5-year rotating schedule. The commissioner may approve a shorter schedule if the content area requires more frequent revision.¹⁵ DOE annually publishes an official schedule of subject areas calling for adoption for each of the succeeding two years and a tentative schedule for years three through five. Under extenuating circumstances, the commissioner may direct DOE to add one or more subject areas to the official schedule.¹⁶

The following chart shows the adoption schedule for instructional materials through FY 2019-20:

Instructional Materials Adoption Schedule ¹⁷	
Year	Subject
2016-17	Social Studies (K-12)
2017-18	Science (K-12)
2018-19	Mathematics (K-12)
2019-20	English Language Arts (K-12)

State Instructional Materials Reviewers

State instructional materials reviewers are state or national content experts appointed by the Commissioner of Education. The reviewers must be appointed by April 15 of each school year to review the instructional materials up for adoption and evaluate the content for alignment with Next Generation Sunshine State Standards (NGSSS).¹⁸

State instructional material reviewers receive training in competencies related to the evaluation and selection of instructional materials.¹⁹ After receiving training, the reviewers must review the materials for the level of instructional support and the accuracy and appropriateness of progression of introduced content. Instructional materials must be made electronically available to the reviewers.²⁰

¹¹ Florida Department of Education, *2014 Policies and Procedures for the Florida Instructional Materials Adoption*, at 1, available at <http://www.fldoe.org/core/fileparse.php/5574/urlt/PoliciesandProceduresSpecifications.pdf>.

¹² Section 1006.33(1)(a) and (b), F.S. A school district may not request samples in addition to the electronic sample copies. Section 1006.33(1)(b), F.S.

¹³ Section 1006.34(2)(a), F.S.

¹⁴ Sections 1006.36(1) and 1006.37(1), F.S.; *see also* s. 1006.28(2)(b), F.S.

¹⁵ Section 1006.36(1), F.S.

¹⁶ Section 1006.36(2), F.S.

¹⁷ Florida Department of Education, *Florida Instructional Materials Adoption Schedule for Adoption Years 2015-16 through 2019-20* (Feb. 3, 2015), available at <http://www.fldoe.org/core/fileparse.php/5574/urlt/AdoptionCycle.pdf>.

¹⁸ Section 1006.29(1)(b), F.S.

¹⁹ Section 1006.29(5), F.S.

²⁰ Section 1006.29(1)(b), F.S.

The initial review of the materials is made by only two of the three reviewers. If the two reviewers reach different results, the third reviewer must break the tie. The reviewers must independently make recommendations to the commissioner regarding materials that should be placed on the state-adopted list through an electronic feedback review system.²¹

Each state instructional materials reviewer must sign an affidavit stating that he or she:

- will faithfully discharge the duties imposed as a state instructional materials reviewer;
- has no interest in any publishing or manufacturing organization that produces or sells instructional materials;
- is in no way connected with the distribution of the instructional materials;
- does not have any direct or indirect pecuniary interest in the business or profits of any person engaged in manufacturing, publishing, or selling instructional materials designed for use in public schools;
- will not accept any emolument or promise of future reward from anyone intending to bias his or her judgment in the selection of materials to be adopted; and
- understands that it is unlawful to discuss matters relating to instructional materials submitted for adoption with any publisher or manufacturer of instructional materials, except during the period when the publisher or manufacturer is providing a presentation for the reviewer.²²

The law specifies standards to which reviewers must adhere when reviewing instructional materials. Reviewers must:

- only recommend instructional materials that are accurate, objective, balanced, noninflammatory, current, free of pornography, and suited to student needs and their ability to comprehend the material;
- include only instructional materials that accurately portray the ethnic, socioeconomic, cultural, religious, physical, and racial diversity of our society;
- include only materials that accurately portray, whenever appropriate, humankind's place in ecological systems;
- include materials that encourage thrift, fire prevention, and humane treatment of people and animals;
- require, when appropriate to the comprehension of students, that materials for social science, history, or civics classes contain the Declaration of Independence and the Constitution of the United States; and
- only recommend instructional materials that do not reflect unfairly upon persons because of their race, color, creed, national origin, ancestry, gender, religion, disability, socioeconomic status, or occupation.²³

Each district school superintendent, at the request of the commissioner, must nominate one classroom teacher or district-level content supervisor to review two or three of the submissions recommended by the state instructional materials reviewers. School districts must ensure that these district reviewers are provided with the support and time necessary to accomplish a thorough review of the instructional materials. District reviewers must independently rate the recommended submissions on the instructional usability of the resources.²⁴ Persons selected as school district reviewers must complete training, developed by DOE, related to the evaluation and selection of instructional materials.²⁵

²¹ *Id.*

²² Section 1006.30, F.S.

²³ Section 1006.31(2), F.S. (2017)

²⁴ Section 1006.29(1)(c), F.S.

²⁵ Section 1006.29(5), F.S.

Before the commissioner includes instructional materials on the state-adopted list, the public is provided electronic access for 14 days to review instructional materials submitted for adoption.²⁶ The DOE makes the instructional materials evaluation instrument, which allows users to complete an online evaluation with comments, available for submissions on reviewed materials during this period.²⁷

Purchasing Instructional Materials on the State-Adopted List

If a district school board adopts instructional materials from the state-adopted list, then within the first three years of the state adoption of that instructional material the school district superintendent must purchase the instructional material.²⁸ The superintendent must keep adequate records and accounts for all financial transactions related to instructional materials.²⁹ The superintendent must notify DOE by April 1 of each year of the state-adopted instructional materials that will be requisitioned. The notification must include a district school board plan for instructional materials use to assist in determining if adequate instructional materials have been requisitioned.³⁰

District Instructional Materials Adoption Programs

The law authorizes a district school board, or consortium of school districts, to implement its own instructional materials program.³¹ A school district or consortium of school districts that implements its own program is not required to purchase instructional materials from the state-adopted list,³² requisition instructional materials from the publisher's depository,³³ or follow the same review cycle used for state instructional materials adoption.³⁴

If a district school board chooses to implement its own instructional materials program, the school board must adopt rules implementing the program. The rules must include its processes, criteria, and requirements for:

- selecting instructional materials reviewers, one or more of who must be a parent with children in public schools;
- reviewing and selecting instructional materials, including a thorough review of curriculum content;
- providing for reviewer recommendations;
- adopting instructional materials by the district school board; and
- purchasing instructional materials³⁵

The rules must also:³⁶

- identify, by subject area, a review cycle for instructional materials;
- specify the qualifications for, selection process for, and the duties of instructional materials reviewers, including compliance with statutorily prescribed conflict of interest affidavits and state instructional materials reviewer duties;

²⁶ See Florida Department of Education, *2014 Policies and Procedures for the Florida Instructional Materials Adoption*, at 4, available at <http://www.fldoe.org/core/fileparse.php/5574/urlt/PoliciesandProceduresSpecifications.pdf>.

²⁷ See id at 4.

²⁸ Section 1006.37(1), F.S.

²⁹ Section 1006.28(3)(a), F.S.

³⁰ Section 1006.28(3)(b), F.S.

³¹ See s. 1006.283, F.S.

³² Section 1006.40(7), F.S.

³³ Section 1006.37(3), F.S.

³⁴ See s. 1006.283(2)(b), F.S. However, the district school superintendent must certify to the Department of Education by March 31 of each year that all instructional materials for core courses used by the district are aligned with applicable state standards. A list of the core instructional materials that will be used or purchased for use by the school district must be included in the certification. Section 1006.283(1), F.S.

³⁵ Section 1006.283(2)(a), F.S.

³⁶ Section 1006.283(2)(b), F.S.

- require that all instructional materials recommended by a reviewer be accompanied by the reviewer's statement that the materials align with the applicable state standards;
- establish a process for certifying the accuracy of instructional materials;
- require reviewer and publisher compliance with the law prohibiting the acceptance or solicitation of money or inducements to influence approval or purchase of instructional materials;³⁷ and
- incorporate the requirements of state law regarding publisher duties, responsibilities, and requirements.³⁸

In addition, the rules must provide for:

- conducting an open, noticed school board hearing to receive public comment on the instructional materials recommended for adoption by the district school board;
- conducting an open, noticed meeting, held on a different date, to approve an annual plan for adopting instructional materials; and
- posting student editions of instructional materials recommended for adoption by the district school board on the school district website at least 20 days in advance of public hearings and public meetings.³⁹

Notices for public meetings and hearings must specifically identify the instructional materials up for review and adoption and the manner in which the materials can be accessed by the public.⁴⁰

The school district must establish a process that enables the public to submit comments regarding the recommended instructional materials to the school board for the board members to review. The rules must also specify a process for notifying parents of their ability to access their child's instructional materials. This notification must be displayed on the school district's website and provided annually, in writing, to all parents of enrolled students.⁴¹

Requirements for Instructional Materials Publishers and Manufacturers

Whether operating pursuant to the state's instructional materials program or a district instructional materials program, publishers and manufacturers of instructional materials must, among other things:

- submit electronic sample copies of the instructional material;
- submit evidence that the provided materials address the required state standards and are accessible through the district's digital classrooms plan and a variety of electronic, digital, and mobile devices;
- furnish instructional materials at a price not to exceed the lowest price offered in other states;
- automatically reduce the price of instructional materials or provide materials free of charge if provided to other states at a reduced rate or free of charge;
- disclose the authors of the instructional materials; and
- keep the materials revised, free from all errors, and up-to-date.⁴²

³⁷ Like state instructional materials reviewers, district reviewers must sign an affidavit required under s. 1006.30, F.S., stating, in part, that they will faithfully discharge their duties and not accept payment or benefit from anyone for their recommendations. Section 1006.283(2)(b)3., F.S.

³⁸ See *infra* text accompanying notes 51 and 52 for an explanation of the duties, responsibilities, and requirements of publishers and manufacturers with regard to instructional materials; see also s. 1006.38, F.S.

³⁹ Section 1006.283(2)(b)8., F.S.

⁴⁰ Sections 1006.283(2)(b)8. and 1006.40(4)(b), F.S. Reasonable safeguards must be established against the unauthorized use, reproduction, and distribution of instructional materials posted online for public review and comment. Section 1006.283(2)(b)8.a., F.S.

⁴¹ Sections 1006.283(2)(b)9. and 11. and 1006.40(4)(b), F.S.

⁴² Sections 1006.38 and 1006.283(2)(b)7., F.S. With regard to the state's instructional materials program, publishers and manufacturers must maintain a depository in Florida for the in-state distribution of instructional materials to school districts from the depository or contract with a depository in the state. Section 1006.38 (11), (12), and (13), F.S.

Additionally, publishers and manufacturers of instructional materials are prohibited from offering any emolument, money, or other valuable thing or any inducement, to any district school board official or instructional materials reviewer to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional materials. Violating this prohibition is a second degree misdemeanor and will result in a ban from practicing business in the state for one calendar year.⁴³

Public Review of Instructional Materials

Prior to the purchase of any instructional material, whether from the state-adopted list or through a district-established instructional materials review process, a district school board must:

- establish a process to allow student editions of recommended instructional materials to be accessed and viewed online by the public at least 20 calendar days before the required school board hearing and public meeting. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption;
- conduct an open, noticed school board hearing to receive public comment on the recommended instructional materials;
- conduct an open, noticed public meeting to approve an annual instructional materials plan to identify any instructional materials that will be purchased. This public meeting must be held on a different date than the school board hearing;
- provide notice for the school board hearing and the public meeting that specifically states the instructional materials being reviewed and how the instructional materials can be accessed for public review;
- establish a process for public comment on, and review of, the recommended instructional materials.⁴⁴

The school board hearing must allow the parent of a public school student or a resident of the county to proffer evidence that an instructional material recommended for purchase does not align to the Next Generation Sunshine State Standards (NGSSS), does not meet state adoption criteria, or is not suitable to student needs or appropriate for students in the course or age group for which the instructional material would be used, taking into consideration course expectations based on the district's student progression plan and course descriptions in the course code directory.⁴⁵

In addition, the school board must establish a process by which the district notifies parents of their ability to access their children's instructional materials. The notification must be displayed prominently on the school district's website and provided annually in written format to all parents of enrolled students.⁴⁶

Effect of Proposed Changes

The bill revises the state instructional materials adoption process by providing the responsibility for adopting instructional materials to the State Board of Education (SBE) rather than the Commissioner of Education. The SBE must adopt instructional materials at a regularly scheduled meeting no later than July 1 of the year before the 5-year adoption period is scheduled to begin.

The SBE must allow public comment on instructional materials at any meeting in which an adoption is considered. The bill also requires that the public be granted access to, and the opportunity to submit comments on, instructional materials recommended for adoption by state instructional materials

⁴³ Section 1006.32(1) and (4), F.S. A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a fine not exceeding \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

⁴⁴ Sections 1006.40(4)(b) and 1006.283(2)(b)8., 9., and 11., F.S.

⁴⁵ Sections 1006.40(4)(b) and 1006.283(2)(b)8., 9., and 11., F.S. (2017)

⁴⁶ Section 1006.283(2)(b)11., F.S.

reviewers. Any submitted comment on a specific recommended instructional material must be provided to the SBE as part of its consideration of the instructional material. In addition, any virtual presentation provided by a bidding publisher or manufacturer must be posted on the DOE's website for public access.

The bill specifies that state instructional materials reviewers may recommend for adoption instructional materials with content more rigorous than the NGSSS, so long as the instructional materials, at a minimum, are aligned with the NGSSS. The bill provides that instructional materials that are found by the SBE to fully meet or be more rigorous than the NGSSS are not subject to public review procedures at the school district level; nevertheless, a district school board member may initiate the public review procedures if he or she has evidence that the instructional materials do not meet required criteria and standards for state instructional materials adoption.

The bill requires the state instructional materials reviewer affidavit to include a statement that, to the best of the reviewer's knowledge, any instructional materials recommended for adoption are, at a minimum, aligned to the NGSSS and meet state adoption criteria and standards.

The bill also requires the SBE and each district school board to establish a process by which members of the public can recommend instructional materials for consideration by instructional materials reviewers. Recommendations for consideration of instructional materials at the school district level may only come from parents and residents of the district. The DOE or district school board must contact the publisher of any instructional material recommended for consideration and provide the publisher with the opportunity to submit a bid for evaluation in accordance with the applicable procedures.

The bill requires that instructional materials purchased using instructional materials allocation funds must include professional development and supplemental materials to support high-quality, accurate instruction.

B. SECTION DIRECTORY:

Section 1. Amends s. 1006.283, F.S., requiring district school boards to establish in rule a process by which certain persons may recommend instructional materials for consideration by district instructional materials reviewers.

Section 2. Amends s. 1006.30, F.S., requiring a specified affidavit to include a statement that instructional materials recommended for adoption meet certain requirements.

Section 3. Amends s. 1006.31, F.S., requiring district instructional materials to meet or exceed the Next Generation Sunshine State Standards; requiring public access to and opportunity to comment on instructional materials recommended for adoption; requiring certain comments to be provided to the State Board of Education; authorizing members of the public to recommend instructional materials for consideration; requiring the Department of Education to contact certain publishers; conforming a cross-reference.

Section 4. Amends s. 1006.34, F.S., requiring specified virtual presentations to be posted on the Department of Education's website; providing that the state board, rather than the Commissioner of Education, adopt instructional materials by a certain date; requiring public comment at certain state board meetings; exempting instructional materials from certain public review procedures; authorizing district school board members to initiate certain public review procedures before instructional materials are adopted under certain conditions; conforming a provision.

Section 5. Amends s. 1006.40, F.S., requiring instructional materials purchased using a specific allocation include certain professional development and supplemental materials; conforming a provision.

Section 6. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

On line 255 of the bill, "state board" should be replaced with "district school board" for purposes of initiating public review procedures for instructional materials the district school board is considering for adoption and purchase.

On line 331 of the bill, "supplemental" should be replaced with "ancillary" to reflect terminology used in the state instructional materials adoption process.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
2 An act relating to instructional materials; amending
3 s. 1006.283, F.S.; requiring district school boards to
4 establish in rule a process by which certain persons
5 may recommend instructional materials for
6 consideration by district instructional materials
7 reviewers; amending s. 1006.30, F.S.; requiring a
8 specified affidavit to include a statement that
9 instructional materials recommended for adoption meet
10 certain requirements; amending s. 1006.31, F.S.;
11 requiring district instructional materials to meet or
12 exceed the Next Generation Sunshine State Standards;
13 requiring public access to and opportunity to comment
14 on instructional materials recommended for adoption;
15 requiring certain comments to be provided to the State
16 Board of Education; authorizing members of the public
17 to recommend instructional materials for
18 consideration; requiring the Department of Education
19 to contact certain publishers; conforming a cross-
20 reference; amending s. 1006.34, F.S.; requiring
21 specified virtual presentations to be posted on the
22 Department of Education's website; providing that the
23 state board, rather than the Commissioner of
24 Education, adopt instructional materials by a certain
25 date; requiring public comment at certain state board

26 meetings; exempting instructional materials from
 27 certain public review procedures; authorizing district
 28 school board members to initiate certain public review
 29 procedures before instructional materials are adopted
 30 under certain conditions; conforming a provision;
 31 amending s. 1006.40, F.S.; requiring instructional
 32 materials purchased using a specific allocation
 33 include certain professional development and
 34 supplemental materials; conforming a provision;
 35 providing an effective date.

36

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

38

39 Section 1. Paragraph (b) of subsection (2) of section
 40 1006.283, Florida Statutes, is amended to read:

41 1006.283 District school board instructional materials
 42 review process.—

43 (2)

44 (b) District school board rules must also:

45 1. Identify, by subject area, a review cycle for
 46 instructional materials.

47 2. Specify the qualifications for an instructional
 48 materials reviewer and the process for selecting reviewers; list
 49 a reviewer's duties and responsibilities, including compliance
 50 with the requirements of s. 1006.31; and provide that all

51 instructional materials recommended by a reviewer be accompanied
 52 by the reviewer's statement that the materials align with the
 53 state standards pursuant to s. 1003.41 and the requirements of
 54 s. 1006.31.

55 3. State the requirements for an affidavit to be made by
 56 each district instructional materials reviewer which
 57 substantially meet the requirements of s. 1006.30.

58 4. Comply with s. 1006.32, relating to prohibited acts.

59 5. Establish a process that certifies the accuracy of
 60 instructional materials.

61 6. Incorporate applicable requirements of s. 1006.31,
 62 which relates to the duties of instructional materials
 63 reviewers.

64 7. Incorporate applicable requirements of s. 1006.38,
 65 relating to the duties, responsibilities, and requirements of
 66 publishers of instructional materials.

67 8. Establish the process by which instructional materials
 68 are adopted by the district school board, which must include:

69 a. A process to allow student editions of recommended
 70 instructional materials to be accessed and viewed online by the
 71 public at least 20 calendar days before the school board hearing
 72 and public meeting as specified in this subparagraph. This
 73 process must include reasonable safeguards against the
 74 unauthorized use, reproduction, and distribution of
 75 instructional materials considered for adoption.

76 b. An open, noticed school board hearing to receive public
77 comment on the recommended instructional materials.

78 c. An open, noticed public meeting to approve an annual
79 instructional materials plan to identify any instructional
80 materials that will be purchased through the district school
81 board instructional materials review process pursuant to this
82 section. This public meeting must be held on a different date
83 than the school board hearing.

84 d. Notice requirements for the school board hearing and
85 the public meeting that must specifically state which
86 instructional materials are being reviewed and the manner in
87 which the instructional materials can be accessed for public
88 review. The hearing must allow the parent of a public school
89 student or a resident of the county to proffer evidence that a
90 recommended instructional material does not meet the criteria
91 provided in s. 1006.31(2), taking into consideration course
92 expectations based on the district's comprehensive plan for
93 student progression under s. 1008.25(2) and course descriptions
94 in the course code directory.

95 9. Establish the process by which the district school
96 board shall receive public comment on, and review, the
97 recommended instructional materials.

98 10. Establish the process by which instructional materials
99 will be purchased, including advertising, bidding, and
100 purchasing requirements.

101 11. Establish the process by which the school district
 102 will notify parents of their ability to access their children's
 103 instructional materials through the district's local
 104 instructional improvement system and by which the school
 105 district will encourage parents to access the system. This
 106 notification must be displayed prominently on the school
 107 district's website and provided annually in written format to
 108 all parents of enrolled students.

109 12. Establish the process by which parents and residents
 110 of the county, as defined in s. 1006.28(1)(b), can recommend
 111 instructional materials for consideration by district
 112 instructional materials reviewers. The district school board
 113 shall contact the publisher of any instructional material
 114 recommended for consideration and provide the publisher with the
 115 opportunity to submit a bid for evaluation in accordance with
 116 this section.

117 Section 2. Subsection (7) is added to section 1006.30,
 118 Florida Statutes, to read:

119 1006.30 Affidavit of state instructional materials
 120 reviewers.—Before transacting any business, each state
 121 instructional materials reviewer shall make an affidavit, to be
 122 filed with the department, that:

123 (7) To the best of the reviewer's knowledge, any
 124 instructional materials recommended for adoption are, at a
 125 minimum, aligned to the Next Generation Sunshine State Standards

126 under s. 1003.41 and meet all of the requirements under ss.
 127 1006.31(2) and 1006.34(2)(c).

128 Section 3. Subsection (2) of section 1006.31, Florida
 129 Statutes, is amended, and subsection (4) is added to that
 130 section, to read:

131 1006.31 Duties of the Department of Education and school
 132 district instructional materials reviewer.—The duties of the
 133 instructional materials reviewer are:

134 (2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To use the
 135 selection criteria listed in s. 1006.34(2)(c) ~~s. 1006.34(2)(b)~~
 136 and recommend for adoption only those instructional materials
 137 that are, at a minimum, aligned with the Next Generation
 138 Sunshine State Standards provided for in s. 1003.41. However,
 139 such instructional materials may be more rigorous than the Next
 140 Generation Sunshine State Standards. Instructional materials
 141 recommended by each reviewer shall be, to the satisfaction of
 142 each reviewer, accurate, objective, balanced, noninflammatory,
 143 current, free of pornography and material prohibited under s.
 144 847.012, and suited to student needs and their ability to
 145 comprehend the material presented. Reviewers shall consider for
 146 recommendation materials developed for academically talented
 147 students, such as students enrolled in advanced placement
 148 courses. When recommending instructional materials, each
 149 reviewer shall:

150 (a) Include only instructional materials that accurately

151 | portray the ethnic, socioeconomic, cultural, religious,
 152 | physical, and racial diversity of our society, including men and
 153 | women in professional, career, and executive roles, and the role
 154 | and contributions of the entrepreneur and labor in the total
 155 | development of this state and the United States.

156 | (b) Include only materials that accurately portray,
 157 | whenever appropriate, humankind's place in ecological systems,
 158 | including the necessity for the protection of our environment
 159 | and conservation of our natural resources and the effects on the
 160 | human system of the use of tobacco, alcohol, controlled
 161 | substances, and other dangerous substances.

162 | (c) Include materials that encourage thrift, fire
 163 | prevention, and humane treatment of people and animals.

164 | (d) Require, when appropriate to the comprehension of
 165 | students, that materials for social science, history, or civics
 166 | classes contain the Declaration of Independence and the
 167 | Constitution of the United States. A reviewer may not recommend
 168 | any instructional materials that contain any matter reflecting
 169 | unfairly upon persons because of their race, color, creed,
 170 | national origin, ancestry, gender, religion, disability,
 171 | socioeconomic status, or occupation.

172 | (4) PUBLIC ACCESS AND INPUT.—Members of the public must be
 173 | provided access to, and the opportunity to submit comments on,
 174 | instructional materials recommended for adoption by state
 175 | instructional materials reviewers. Any submitted comment related

176 to a specific recommended instructional material must be
 177 provided to the State Board of Education as part of its
 178 consideration of the instructional material pursuant to s.
 179 1006.34(2)(a). Members of the public must also be permitted to
 180 recommend instructional materials for consideration by state
 181 instructional materials reviewers. The Department of Education
 182 shall contact the publisher of any instructional material
 183 recommended for consideration and provide the publisher with the
 184 opportunity to submit a bid for evaluation in accordance with
 185 this section and s. 1006.34.

186 Section 4. Subsections (1) through (3) of section 1006.34,
 187 Florida Statutes, are amended to read:

188 1006.34 Powers and duties of the commissioner, ~~and the~~
 189 department, and State Board of Education in selecting and
 190 adopting instructional materials.-

191 (1) PROCEDURES FOR EVALUATING INSTRUCTIONAL MATERIALS.-The
 192 State Board of Education shall adopt rules prescribing the
 193 procedures by which the department shall evaluate instructional
 194 materials submitted by publishers and manufacturers in each
 195 adoption. ~~The included in these procedures must provide shall be~~
 196 ~~provisions affording~~ each publisher or manufacturer or his or
 197 her representative with an opportunity to provide a virtual
 198 presentation to state instructional materials reviewers on the
 199 merits of each instructional material submitted in each
 200 adoption. Any virtual presentation provided by a bidding

201 publisher or manufacturer must be posted on the department's
 202 website for public access until the adoption period closes.

203 (2) SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS.—

204 (a) The department shall notify all publishers and
 205 manufacturers of instructional materials who have submitted bids
 206 that within 3 weeks after the deadline for receiving bids, at a
 207 designated time and place, it will open the bids submitted and
 208 deposited with it. At the time and place designated, the bids
 209 shall be opened, read, and tabulated in the presence of the
 210 bidders or their representatives. No one may revise his or her
 211 bid after the bids have been filed. When all bids have been
 212 carefully reviewed ~~considered~~, the commissioner shall prepare
 213 for consideration and adoption by the State Board of Education
 214 ~~the, from the~~ list of suitable, usable, and desirable
 215 instructional materials reported by the state instructional
 216 materials reviewers, ~~select and adopt instructional materials~~
 217 for each grade and subject field in the curriculum of public
 218 elementary, middle, and high schools in which adoptions are made
 219 and in the subject areas designated in the advertisement. The
 220 state board must adopt instructional materials at a regularly
 221 scheduled meeting no later than July 1 of the year before the
 222 adoption period is scheduled to begin pursuant to s. 1006.36.
 223 The state board shall allow public comment on instructional
 224 materials at any meeting in which an adoption is considered. The
 225 adoption shall continue for the period specified in the

226 advertisement, beginning on the ensuing April 1. The adoption
 227 shall not prevent the extension of a contract as provided in
 228 subsection (3). The state board ~~commissioner~~ shall always
 229 reserve the right to reject any and all bids. The commissioner
 230 may ask for new sealed bids from publishers or manufacturers
 231 whose instructional materials were recommended by the state
 232 instructional materials reviewers as suitable, usable, and
 233 desirable; specify the dates for filing such bids and the date
 234 on which they shall be opened; and proceed in all matters
 235 regarding the opening of bids and the awarding of contracts for
 236 adopted instructional materials as required by this part. In all
 237 cases, bids shall be accompanied by a cash deposit or certified
 238 check of from \$500 to \$2,500, as the department may direct. The
 239 state board ~~department~~, in adopting instructional materials,
 240 shall give due consideration both to the prices bid for
 241 furnishing instructional materials and to the report and
 242 recommendations of the state instructional materials reviewers.
 243 When consideration ~~the commissioner has finished with the report~~
 244 of the state instructional materials reviewers' report is
 245 finished ~~reviewers~~, the report shall be filed and preserved with
 246 the department and shall be available at all times for public
 247 inspection.

248 (b) Instructional materials are not subject to public
 249 review procedures under s. 1006.40(4)(b) if the materials are
 250 found by the State Board of Education to fully meet or be more

251 rigorous than the Next Generation Sunshine State Standards under
 252 s. 1003.41 and comply with the adoption criteria and standards
 253 of s. 1006.31(2) and paragraph (c). However, a district school
 254 board member may initiate the public review procedures before
 255 the instructional materials are adopted by the state board if he
 256 or she has evidence that the instructional materials do not meet
 257 the criteria and standards provided in this paragraph.

258 (c) ~~(b)~~ In the selection of instructional materials,
 259 library media, and other reading material used in the public
 260 school system, the standards used to determine the propriety of
 261 the material shall include:

262 1. The age of the students who normally could be expected
 263 to have access to the material.

264 2. The educational purpose to be served by the material.
 265 Priority shall be given to the selection of materials that align
 266 with the Next Generation Sunshine State Standards as provided
 267 for in s. 1003.41 and include the instructional objectives
 268 contained within the curriculum frameworks for career and
 269 technical education and adult and adult general education
 270 adopted by rule of the State Board of Education under s.
 271 1004.92.

272 3. The degree to which the material would be supplemented
 273 and explained by mature classroom instruction as part of a
 274 normal classroom instructional program.

275 4. The consideration of the broad racial, ethnic,

276 socioeconomic, and cultural diversity of the students of this
 277 state.

278
 279 Any instructional material containing pornography or otherwise
 280 prohibited by s. 847.012 may not be used or made available
 281 within any public school.

282 (3) CONTRACT WITH PUBLISHERS OR MANUFACTURERS; BOND.—As
 283 soon as practicable after the State Board of Education
 284 ~~commissioner~~ has adopted any instructional materials and all
 285 bidders that have secured the adoption of any instructional
 286 materials have been notified thereof by registered letter, the
 287 department shall prepare a contract in proper form with every
 288 bidder awarded the adoption of any instructional materials. Each
 289 contract shall be executed by the commissioner, one copy to be
 290 kept by the contractor and one copy to be filed with the
 291 department. After giving due consideration to comments by the
 292 district school boards, the commissioner, with the agreement of
 293 the publisher, may extend or shorten a contract period for a
 294 period not to exceed 2 years; and the terms of any such contract
 295 shall remain the same as in the original contract. Any publisher
 296 or manufacturer to whom any contract is let under this part must
 297 give bond in such amount as the department requires, payable to
 298 the state, conditioned for the faithful, honest, and exact
 299 performance of the contract. The bond must provide for the
 300 payment of reasonable attorney's fees in case of recovery in any

301 suit thereon. The surety on the bond must be a guaranty or
 302 surety company lawfully authorized to do business in the state;
 303 however, the bond shall not be exhausted by a single recovery
 304 but may be sued upon from time to time until the full amount
 305 thereof is recovered, and the department may at any time, after
 306 giving 30 days' notice, require additional security or
 307 additional bond. The form of any bond or bonds or contract or
 308 contracts under this part shall be prepared and approved by the
 309 department. At the discretion of the department, a publisher or
 310 manufacturer to whom any contract is let under this part may be
 311 allowed a cash deposit in lieu of a bond, conditioned for the
 312 faithful, honest, and exact performance of the contract. The
 313 cash deposit, payable to the department, shall be placed in the
 314 Textbook Bid Trust Fund. The department may recover damages on
 315 the cash deposit given by the contractor for failure to furnish
 316 instructional materials, the sum recovered to inure to the
 317 General Revenue Fund.

318 Section 5. Paragraph (a) of subsection (3) and paragraph
 319 (b) of subsection (4) of section 1006.40, Florida Statutes, are
 320 amended to read:

321 1006.40 Use of instructional materials allocation;
 322 instructional materials, library books, and reference books;
 323 repair of books.—

324 (3)(a) Except for a school district or a consortium of
 325 school districts that implements an instructional materials

326 program pursuant to s. 1006.283, each district school board
 327 shall use the annual allocation only for the purchase of
 328 instructional materials that align with state standards, ~~and~~ are
 329 included on the state-adopted list, except as otherwise
 330 authorized in paragraphs (b) and (c), and include professional
 331 development and supplemental materials to support high-quality
 332 accurate instruction.

333 (4) Each district school board is responsible for the
 334 content of all materials used in a classroom or otherwise made
 335 available to students. Each district school board shall adopt
 336 rules, and each district school superintendent shall implement
 337 procedures, that:

338 (b) Except as provided in s. 1006.34(2)(b), provide a
 339 process for public review of, public comment on, and the
 340 adoption of instructional materials that satisfies the
 341 requirements of s. 1006.283(2)(b)8., 9., and 11.

342 Section 6. This act shall take effect July 1, 2018.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: PreK-12 Quality
2 Subcommittee
3 Representative Donalds offered the following:
4 **Amendment**
5 Remove line 202 and insert:
6 website for public access until the evaluation period closes.



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: PreK-12 Quality
 2 Subcommittee

3 Representative Donalds offered the following:

4
5
6
7
8
9
10
11

Amendment

Remove line 255 and insert:

the instructional materials are adopted by the district school
 board if he



Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: PreK-12 Quality
2 Subcommittee
3 Representative Donalds offered the following:
4
5 **Amendment**
6 Remove line 331 and insert:
7 development and ancillary materials to support high-quality