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AN ACT

RELATING TO PUBLIC EDUCATION; AMENDING SECTIONS OF THE PUBLIC SCHOOL CODE TO EXPAND THE DEFINITION OF "INSTRUCTIONAL MATERIAL", REQUIRE TIMELY ALLOCATIONS AND LIMIT APPLICATION OF THE MULTIPLE LIST.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 22-2-2.1 NMSA 1978 (being Laws 2003, Chapter 104, Section 1, as amended) is amended to read:

"22-2-2.1. ADDITIONAL DEPARTMENT DUTIES--WAIVER OF CERTAIN REQUIREMENTS.--

A. The department shall approve all reasonable requests to waive the following for all public schools that exceed educational standards as determined by the department:

(1) accreditation review requirements as provided in Section 22-2-2 NMSA 1978;

(2) the length of the school day requirement as provided in Section 22-2-8.1 NMSA 1978;

(3) the individual class load requirement as provided in Section 22-10A-20 NMSA 1978; and

(4) the subject area requirement as provided in Section 22-13-1 NMSA 1978.

B. Upon receiving a waiver request from a public school that exceeds educational standards and in addition to the requirements set forth in Subsection A of this section,

1 the department may waive:

2 (1) the graduation requirement as provided
3 in Section 22-13-1.1 NMSA 1978;

4 (2) evaluation standards for school
5 personnel; and

6 (3) other requirements of the Public School
7 Code that impede innovation in education if the waiver
8 request is supported by the teachers at the requesting school
9 and the requesting school's local school board.

10 C. Waivers granted pursuant to this section shall
11 begin in the school year following that in which a public
12 school exceeds educational standards and may remain in effect
13 as long as the school continues to exceed educational
14 standards.

15 D. The department shall only waive requirements
16 that do not conflict with the federal No Child Left Behind
17 Act of 2001 or rules adopted pursuant to that act."

18 **SECTION 2.** Section 22-15-2 NMSA 1978 (being Laws 1967,
19 Chapter 16, Section 206, as amended) is amended to read:

20 "22-15-2. DEFINITIONS.--As used in the Instructional
21 Material Law:

22 A. "division" or "bureau" means the instructional
23 material bureau of the department;

24 B. "director" or "chief" means the chief of the
25 bureau;

1 C. "instructional material" means school textbooks
2 and other educational media that are used as the basis for
3 instruction, including combinations of textbooks, learning
4 kits, original source material from primary sources,
5 supplementary material, electronic media and content
6 resources, excluding electronic devices and hardware, that
7 support digital learning formats and educational programs;

8 D. "multiple list" means a written list of those
9 instructional materials approved by the department;

10 E. "membership" means the total enrollment of
11 qualified students on the second reporting date of the school
12 year entitled to the free use of instructional material
13 pursuant to the Instructional Material Law;

14 F. "additional student" means a student in a
15 school district's or state institution's current year's
16 certified second reporting date membership above the number
17 certified in the school district's or state institution's
18 prior year's second reporting date membership;

19 G. "school district" includes charter schools; and

20 H. "other classroom materials" means materials
21 other than textbooks that are used to support direct
22 instruction to students."

23 **SECTION 3.** Section 22-15-3 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 207, as amended) is amended to read:

25 "22-15-3. BUREAU--CHIEF.--

1 A. The "instructional material bureau" is created
2 within the department.

3 B. The secretary shall appoint a chief of the
4 bureau."

5 **SECTION 4.** Section 22-15-4 NMSA 1978 (being Laws 1967,
6 Chapter 16, Section 208, as amended) is amended to read:

7 "22-15-4. BUREAU--DUTIES.--Subject to the policies and
8 rules of the department, the bureau shall:

9 A. administer the provisions of the Instructional
10 Material Law;

11 B. enforce rules for the handling, safekeeping and
12 distribution of instructional material and instructional
13 material funds and for inventory and accounting procedures to
14 be followed by school districts and state institutions
15 pursuant to the Instructional Material Law;

16 C. withdraw or withhold the privilege of
17 participating in the free use of instructional material in
18 case of any violation of or noncompliance with the provisions
19 of the Instructional Material Law or any rules adopted
20 pursuant to that law;

21 D. enforce rules relating to the use and operation
22 of instructional material depositories in the instructional
23 material distribution process; and

24 E. enforce rules that require local school boards
25 to implement a process that ensures that parents and other

1 community members are involved in the instructional material
2 review process."

3 **SECTION 5.** Section 22-15-5 NMSA 1978 (being Laws 1967,
4 Chapter 16, Section 209, as amended) is amended to read:

5 "22-15-5. INSTRUCTIONAL MATERIAL FUND.--

6 A. The state treasurer shall establish a
7 nonreverting fund to be known as the "instructional material
8 fund". The fund consists of appropriations, gifts, grants,
9 donations and any other money credited to the fund. The fund
10 shall be administered by the department, and money in the
11 fund is appropriated to the department to carry out the
12 provisions of the Instructional Material Law.

13 B. The instructional material fund shall be used
14 for the purpose of paying for the cost of purchasing
15 instructional material pursuant to the Instructional Material
16 Law. Transportation charges for the delivery of
17 instructional material to a school district or a state
18 institution as agent and emergency expenses incurred in
19 providing instructional material to students may be included
20 as a cost of purchasing instructional material. Charges for
21 rebinding of used instructional material may also be included
22 as a cost of purchasing instructional material."

23 **SECTION 6.** Section 22-15-6 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 210, as amended) is amended to read:

25 "22-15-6. DISBURSEMENTS FROM THE INSTRUCTIONAL MATERIAL

1 FUND.--Disbursements from the instructional material fund
2 shall be by warrant of the department of finance and
3 administration upon vouchers issued by the public education
4 department."

5 SECTION 7. Section 22-15-7 NMSA 1978 (being Laws 1967,
6 Chapter 16, Section 211, as amended) is amended to read:

7 "22-15-7. STUDENTS ELIGIBLE--DISTRIBUTION.--

8 A. Any qualified student or person eligible to
9 become a qualified student attending a public school or a
10 state institution approved by the department in any grade
11 from kindergarten through the twelfth grade of instruction is
12 entitled to the free use of instructional material. Any
13 student enrolled in an early childhood education program as
14 defined by Section 22-13-3 NMSA 1978 is entitled to the free
15 use of instructional material.

16 B. Instructional material shall be distributed to
17 school districts and state institutions as agents for the
18 benefit of students entitled to the free use of the
19 instructional material.

20 C. Any school district or state institution as
21 agent receiving instructional material pursuant to the
22 Instructional Material Law is responsible for distribution of
23 the instructional material for use by eligible students and
24 for the safekeeping of the instructional material."

25 SECTION 8. Section 22-15-8 NMSA 1978 (being Laws 1967,

1 Chapter 16, Section 212, as amended) is amended to read:

2 "22-15-8. MULTIPLE LIST--SELECTION--REVIEW PROCESS.--

3 A. The department may adopt a multiple list to be
4 made available to students pursuant to the Instructional
5 Material Law. At least ten percent of instructional material
6 on the multiple list concerning language arts and social
7 studies shall contain material that is relevant to the
8 cultures, languages, history and experiences of multi-ethnic
9 students. The department shall ensure that parents and other
10 community members are involved in the adoption process at the
11 state level.

12 B. Pursuant to the provisions of the Instructional
13 Material Law, each school district or state institution as
14 agent may select instructional material for the use of its
15 students from the multiple list adopted by the department.
16 Local school boards shall give written notice to parents and
17 other community members and shall invite parental involvement
18 in the adoption process at the district level. Local school
19 boards shall also give public notice, which notice may
20 include publication in a newspaper of general circulation in
21 the school district.

22 C. The department shall establish by rule an
23 instructional material review process for the adoption of
24 instructional material on the multiple list. The process
25 shall include:

1 (1) a summer review institute at which basal
2 materials in the content area under adoption will be
3 facilitated by content and performance experts in the content
4 area and reviewed by reviewers;

5 (2) that level two and level three-A
6 teachers are reviewers of record; provided that level one
7 teachers, college students completing teacher preparation
8 programs, parents and community leaders will be recruited and
9 partnered with the reviewers of record;

10 (3) that reviewed materials shall be scored
11 and ranked primarily against how well they align with state
12 academic content and performance standards, but
13 research-based effectiveness may also be considered; and

14 (4) the adoption of supplementary materials
15 that are not reviewed.

16 D. Participants in the summer review institute
17 shall receive a stipend commensurate with the level of
18 responsibility and participation as determined by department
19 rule.

20 E. The department shall charge a processing fee to
21 vendors of instructional materials not to exceed the retail
22 value of the instructional material submitted for adoption."

23 **SECTION 9.** Section 22-15-9 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 213, as amended) is amended to read:

25 "22-15-9. DISTRIBUTION OF FUNDS FOR INSTRUCTIONAL

1 MATERIAL.--

2 A. No later than April 1 of each year, the
3 department shall allocate to each school district or state
4 institution as agent not less than ninety percent of its
5 estimated entitlement as determined from the estimated second
6 reporting date membership for the next school year. A school
7 district's or state institution's entitlement is that portion
8 of the total amount of the annual appropriation less a
9 deduction for a reasonable reserve for emergency expenses
10 that its second reporting date membership bears to the second
11 reporting date membership of the entire state. For the
12 purpose of this allocation, additional students shall be
13 counted as six students. The allocation for adult basic
14 education shall be based on a full-time equivalency obtained
15 by multiplying the total previous year's enrollment by .25.
16 The department shall transfer the amount of the allocation
17 for adult basic education to the adult basic education fund.

18 B. No later than January 15 of each year, the
19 department shall recompute each entitlement using the second
20 reporting date membership for that year, except for adult
21 basic education, and shall allocate the balance of the annual
22 appropriation adjusting for any over- or under-estimation
23 made in the first allocation.

24 C. Up to twenty-five percent of the allocations
25 attributed to each school district or state institution may

1 be used for other classroom materials.

2 D. The department shall establish procedures for
3 the distribution of funds directly to school districts and
4 state institutions. Prior to the final distribution of funds
5 to any school district or charter school, the department
6 shall verify that the local school board or governing body
7 has adopted a policy that requires that every student have a
8 textbook for each class that conforms to curriculum
9 requirements and that allows students to take those textbooks
10 home.

11 E. A school district or state institution that has
12 funds remaining for the purchase of instructional material at
13 the end of the fiscal year shall retain those funds for
14 expenditure in subsequent years."

15 **SECTION 10.** Section 22-15-10 NMSA 1978 (being Laws
16 1967, Chapter 16, Section 214, as amended) is amended to read:

17 "22-15-10. SALE OR LOSS OR RETURN OF INSTRUCTIONAL
18 MATERIAL.--

19 A. With the approval of the chief, instructional
20 material acquired by a school district or state institution
21 pursuant to the Instructional Material Law may be sold at a
22 price determined by officials of the school district or state
23 institution. The selling price shall not exceed the cost of
24 the instructional material to the state.

25 B. A school district or state institution may hold HB 42
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1 the parent or student responsible for the loss, damage or
2 destruction of instructional material while the instructional
3 material is in the possession of the student. A school
4 district may withhold the grades, diploma and transcripts of
5 the student responsible for damage or loss of instructional
6 material until the parent or student has paid for the damage
7 or loss. When a parent or student is unable to pay for damage
8 or loss, the school district shall work with the parent or
9 student to develop an alternative program in lieu of payment.
10 Where a parent is determined to be indigent according to
11 guidelines established by the department, the school district
12 shall bear the cost.

13 C. A school district or state institution that has
14 funds remaining for the purchase of instructional material at
15 the end of the fiscal year shall retain those funds for
16 expenditure in subsequent years.

17 D. Upon order of the chief, a school district or
18 state institution shall transfer to the department or its
19 designee instructional material, purchased with instructional
20 material funds, that is in usable condition and for which
21 there is no use expected by the respective schools."

22 SECTION 11. Section 22-15-11 NMSA 1978 (being Laws
23 1967, Chapter 16, Section 215, as amended) is amended to read:

24 "22-15-11. RECORD OF INSTRUCTIONAL MATERIAL.--Each
25 school district and state institution shall keep accurate

1 records of all instructional material, including cost records,
2 on forms and by procedures prescribed by the bureau."

3 **SECTION 12.** Section 22-15-12 NMSA 1978 (being Laws
4 1967, Chapter 16, Section 216, as amended) is amended to read:

5 "22-15-12. ANNUAL REPORT.--Annually, at a time
6 specified by the department, each local school board of a
7 school district and each governing authority of a state
8 institution acquiring instructional material pursuant to the
9 Instructional Material Law shall file a report with the
10 department that includes an itemized list of instructional
11 material purchased by the eligible entity, by vendor; the
12 total cost of the instructional material; the average
13 per-student cost; and the year-end cash balance."

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14 **SECTION 13.** Section 22-15-14 NMSA 1978 (being Laws
15 1967, Chapter 16, Section 218, as amended) is amended to read:

16 "22-15-14. REPORTS--BUDGETS.--

17 A. Annually, the department shall submit a budget
18 for the ensuing fiscal year to the department of finance and
19 administration showing the expenditures for instructional
20 material to be paid out of the instructional material fund,
21 including reasonable transportation charges and emergency
22 expenses.

23 B. Upon request, the department shall make reports
24 to the legislature and the governor concerning the
25 administration and execution of the Instructional Material

1 Law."

2 SECTION 14. REPEAL.--Section 22-15-8.2 NMSA 1978 (being
3 Laws 2006, Chapter 58, Section 1) is repealed.

4 SECTION 15. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2017._____

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