

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 122

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Cynthia L. Nava

AN ACT

RELATING TO INSTRUCTIONAL MATERIAL; ELIMINATING THE MULTIPLE LIST; GIVING MORE AUTHORITY TO LOCAL SCHOOL BOARDS AND OTHER EDUCATIONAL ENTITIES; ENSURING THAT STATE FUNDS ARE NOT USED TO PURCHASE MATERIALS OF A SECTARIAN, PARTISAN OR DENOMINATIONAL CHARACTER OR A RELIGIOUS NATURE; LOWERING THE PERCENTAGE DISTRIBUTION OF ESTIMATED ENTITLEMENT; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 22-15-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 206, as amended) is amended to read:

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

A. "division" or "bureau" means the instructional material bureau in the department of education;

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

C. "instructional material" means school textbooks and other educational media that are used as the basis for

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 instruction, including combinations of textbooks, learning
2 kits, supplementary materials and electronic media;

3 ~~[D. "multiple list" means a written list of those~~
4 ~~instructional materials approved by the state board;~~

5 ~~E.]~~ D. "membership" means the ~~[total]~~ average
6 enrollment of qualified students on the fortieth, ~~[day]~~
7 eightieth and one hundred twentieth days of the prior school
8 year entitled to the free use of instructional material
9 pursuant to the Instructional Material Law; and

10 ~~[F.]~~ E. "additional pupil" means a pupil in a
11 school district's, state institution's, ~~[or]~~ private school's
12 or adult basic education center's current year's certified
13 ~~[forty-day]~~ membership above the number certified in the
14 school district's, state institution's, ~~[or]~~ private school's
15 or adult basic education center's prior year's ~~[forty-day]~~
16 membership."

17 Section 2. Section 22-15-4 NMSA 1978 (being Laws 1967,
18 Chapter 16, Section 208, as amended) is amended to read:

19 "22-15-4. BUREAU--DUTIES.--Subject to the policies and
20 regulations of the state board, the bureau shall:

21 A. administer the provisions of the Instructional
22 Material Law;

23 B. enforce regulations for the handling,
24 safekeeping and distribution of instructional material and
25 instructional material funds and for inventory and accounting
procedures to be followed by school districts, state
institutions, private schools and adult basic education
centers pursuant to the Instructional Material Law;

C. withdraw or withhold the privilege of

underscored material = new
[bracketed material] = delete

1 participating in the free use of instructional material in
2 case of any violation of or noncompliance with the provisions
3 of the Instructional Material Law or any regulations adopted
4 pursuant thereto; [~~and~~

5 ~~D. enforce regulations relating to the use and~~
6 ~~operation of instructional material depositories in the~~
7 ~~instructional material distribution process]~~

8 D. enforce rules that require local school boards
9 to implement a process that ensures that parents and other
10 community members are involved in the instructional material
11 review process;

12 E. ensure that instructional material purchased by
13 private schools is not of a sectarian, partisan or
14 denominational character or a religious nature by requiring
15 private schools to submit a list with titles and a brief
16 summary of content of all instructional material purchased
17 with state instructional material funds; and

18 F. require an annual report from each local school
19 board, state institution, private school or adult basic
20 education center that acquires instructional material pursuant
21 to the Instructional Material Law."

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

24 "22-15-5. INSTRUCTIONAL MATERIAL FUND.--

25 A. The state treasurer shall establish a fund to
be known as the "instructional material fund".

B. The instructional material fund shall be used
for the purpose of paying for the cost of purchasing
instructional material pursuant to the Instructional Material

underscored material = new
[bracketed material] = delete

1 Law. Transportation charges for the delivery of instructional
2 material to a school district, a state institution, a private
3 school as agent or an adult basic education center and
4 emergency expenses incurred in providing instructional
5 material to students may be included as a cost of purchasing
6 instructional material. Charges for rebinding of used
7 instructional ~~[materials that appear on the multiple list~~
8 ~~pursuant to Section 22-15-8 NMSA 1978]~~ material may also be
9 included as a cost of purchasing instructional material."

10 Section 4. Section 22-15-8 NMSA 1978 (being Laws 1967,
11 Chapter 16, Section 212, as amended) is amended to read:

12 "22-15-8. [~~MULTIPLE LIST~~] SELECTION OF INSTRUCTIONAL
13 MATERIAL.--

14 ~~[A. The state board shall adopt a multiple list to~~
15 ~~be made available to students pursuant to the Instructional~~
16 ~~Material Law. The state board shall ensure that parents and~~
17 ~~other community members are involved in the adoption process~~
18 ~~at the state level.~~

19 B.] Pursuant to the provisions of the Instructional
20 Material Law, each local school [~~district~~] board, state
21 institution, private school as agent or adult basic education
22 center may select instructional material for the use of its
23 students [~~from the multiple list adopted by the state board~~];
24 provided that none of the instructional material purchased is
25 of a sectarian, partisan or denominational character or a
religious nature. Local school boards shall give written
notice to parents and other community members and shall invite
parental involvement in the [~~adoption~~] selection process at
the school district level. Local school boards shall also

underscored material = new
[bracketed material] = delete

1 give public notice, which notice may include publication in a
2 newspaper of general circulation in the school district."

3 Section 5. Section 22-15-9 NMSA 1978 (being Laws 1967,
4 Chapter 16, Section 213, as amended) is amended to read:

5 "22-15-9. DISTRIBUTION OF FUNDS FOR INSTRUCTIONAL
6 MATERIAL.--

7 A. On or before July 1 of each year, the
8 department of education shall allocate to each school
9 district, state institution or private school not less than
10 [~~ninety~~] seventy-five percent of its estimated entitlement as
11 determined from the estimated [~~forty-day~~] membership for the
12 next school year. A school district's, state institution's or
13 private school's entitlement is that portion of the total
14 amount of the annual appropriation less a deduction for a
15 reasonable reserve for emergency expenses that its [~~forty-day~~]
16 membership bears to the [~~forty-day~~] membership of the entire
17 state. For the purpose of this allocation, additional pupils
18 shall be counted as six pupils. The allocation for adult
19 basic education shall be based on a full-time equivalency
20 obtained by multiplying the total previous year's enrollment
21 by .25.

22 B. On or before January 15 of each year, the
23 department of education shall recompute each entitlement
24 [~~using the forty-day membership for that year, except for~~
25 ~~adult basic education~~] and shall allocate the balance of the
annual appropriation adjusting for any over- or under-
estimation made in the first allocation.

[~~C. An amount not to exceed thirty percent of the~~
~~allocations attributed to each local school district, state~~

underscored material = new
[bracketed material] = delete

1 ~~institution or adult basic education center may be used for~~
2 ~~instructional material not included on the multiple list~~
3 ~~provided for in Section 22-15-8 NMSA 1978. Adult basic~~
4 ~~education centers may expend up to one hundred percent of~~
5 ~~their instructional material funds for items that are not on~~
6 ~~the multiple list.~~

7 ~~D.]~~ C. The department of education shall establish
8 procedures for the distribution of funds directly to local
9 school districts, state institutions and adult basic education
10 centers. The department of education shall distribute funds
11 to private schools on a reimbursement basis for instructional
12 material [~~included on the multiple list provided for in~~
13 ~~Section 22-15-8 NMSA 1978~~]; provided that none of the
14 instructional material purchased is of a sectarian, partisan
15 or denominational character or a religious nature.

16 ~~[E.]~~ D. A school district, state institution or
17 adult basic education center that has funds remaining for the
18 purchase of instructional material at the end of the fiscal
19 year shall retain those funds for expenditure in subsequent
20 years. Any balance remaining in an instructional material
21 account of a private school at the end of the fiscal year
22 shall remain available for reimbursement by the department of
23 education for instructional material purchases in subsequent
24 years."

25 Section 6. Section 22-15-12 NMSA 1978 (being Laws 1967,
Chapter 16, Section 216, as amended) is amended to read:

"22-15-12. ANNUAL REPORT.--Annually, at a time specified
by the department of education, each local school board [~~of a~~
~~school district~~] and each governing authority of a state

underscored material = new
[bracketed material] = delete

1 institution, private school or adult basic education center
2 acquiring instructional material pursuant to the Instructional
3 Material Law shall file a report with the department of
4 education that includes an accurate record of all
5 instructional material purchased, including cost records, on
6 forms and by procedures prescribed by the department."

7 Section 7. Section 22-15-13 NMSA 1978 (being Laws 1967,
8 Chapter 16, Section 217, as amended by Laws 1993, Chapter 156,
9 Section 6 and also by Laws 1993, Chapter 226, Section 44) is
10 amended to read:

11 "22-15-13. CONTRACTS WITH PUBLISHERS.--

12 A. ~~[The state]~~ A local school board, state
13 institution, private school as agent or adult basic education
14 center may enter into a contract with a publisher or a
15 publisher's authorized agent for the purchase and delivery of
16 instructional material ~~[selected from the multiple list~~
17 ~~adopted by the state board]~~.

18 B. Payment for instructional material purchased by
19 ~~[the state]~~ a local school board, state institution, private
20 school as agent or adult basic education center shall be made
21 only upon performance of the contract and the delivery and
22 receipt of the instructional material.

23 C. Each publisher or publisher's authorized agent
24 contracting with ~~[the state]~~ a local school board, state
25 institution, private school as agent or adult basic education
center for the sale of instructional material shall agree:

~~[(1) to file a copy of each item of~~
~~instructional material to be furnished under the contract with~~
~~the state board with a certificate attached identifying it as~~

underscored material = new
[bracketed material] = delete

1 ~~an exact copy of the item of instructional material to be~~
2 ~~furnished under the contract;~~

3 ~~(2)]~~ (1) that the instructional material
4 furnished pursuant to the contract shall be of the same
5 quality in regard to paper, binding, printing, illustrations,
6 subject matter and authorship as the ~~[copy filed with the~~
7 ~~state board]~~ copies sold to other states; and

8 ~~[(3)]~~ (2) that if instructional material
9 under the contract is sold elsewhere in the United States for
10 a price less than that agreed upon in the contract with the
11 ~~[state]~~ local school board, state institution, private school
12 as agent or adult basic education center, the price to the
13 state shall be reduced to the same amount.

14 D. Each contract executed for the acquisition of
15 instructional material shall include the right of the local
16 school board, state institution, private school as agent or
17 adult basic education center to transcribe and reproduce
18 instructional material in media appropriate for the use of
19 students with visual impairment who are unable to use
20 instructional material in conventional print and form.

21 Publishers of adopted textbooks shall be required to provide
22 those materials to the local school board, state institution,
23 private school as agent or adult basic education center in an
24 electronic format specified by the educational entity that is
25 readily translatable into braille and can be used for large
print or speech access within a time period specified by the
educational entity."

Section 8. REPEAL.--Section 22-15-11 NMSA 1978 (being
Laws 1967, Chapter 16, Section 215, as amended) is repealed.

underscored material = new
~~[bracketed material] = delete~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Section 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2002.

- 9 -