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HOUSE BILL 73

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

PAULINE K. GUBBELS

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO EDUCATION; ALLOWING LOCAL SCHOOL DISTRICTS, STATE INSTITUTIONS, PRIVATE SCHOOLS OR ADULT BASIC EDUCATION CENTERS THE OPTION OF PURCHASING INSTRUCTIONAL MATERIAL DIRECTLY FROM A PUBLISHER; AMENDING SECTIONS OF THE PUBLIC SCHOOL CODE.

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

Section 1. Section 22-2-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 5, as amended) is amended to read:

"22-2-2. STATE BOARD--DUTIES.-- Without limiting those powers granted to the state board pursuant to Section 22-2-1 NMSA 1978, the state board shall perform the following duties:

A. properly and uniformly enforce the provisions of the Public School Code;

B. determine policy for the operation of all public schools and vocational education programs in the state;

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1 C. appoint a state superintendent;

2 D. adopt regulations to administer the purchase and
3 loan of instructional material to students pursuant to the
4 Instructional Material Law [and adopt regulations relating to
5 the use and operation of instructional material depositories in
6 the instructional material distribution process];

7 E. adopt regulations to allow school districts,
8 state institutions, private schools and adult basic education
9 centers the option of purchasing instructional material directly
10 from a publisher or his authorized agent;

11 [E-] F. designate courses of instruction to be
12 taught in all public schools in the state;

13 [F-] G. assess and evaluate all state institutions
14 and those private schools that desire state accreditation;

15 [G-] H. determine the qualifications for and issue a
16 certificate to any person teaching, assisting teachers,
17 supervising an instructional program, counseling, providing
18 special instructional services or administering in public
19 schools, according to law and according to a system of
20 classification adopted and published by the state board;

21 [H-] I. suspend or revoke a certificate held by a
22 certified school instructor or certified school administrator,
23 according to law, for incompetency, immorality or for any other
24 good and just cause;

25 [I-] J. make full and complete reports on

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1 consolidation of school districts to the legislature;

2 [J-] K. prescribe courses of instruction,
3 requirements for graduation and standards for all public
4 schools, for private schools seeking state accreditation and for
5 the educational programs conducted in state institutions other
6 than New Mexico military institute;

7 [K-] L. adopt regulations for the administration of
8 all public schools and bylaws for its own administration;

9 [L-] M. require periodic reports on forms prescribed
10 by it from all public schools and attendance reports from
11 private schools;

12 [M-] N. authorize adult educational programs to be
13 conducted in schools under its jurisdiction and promulgate and
14 publish regulations governing all such adult educational
15 programs;

16 [N-] O. require any school under its jurisdiction
17 that sponsors athletic programs involving sports to mandate that
18 the participating student obtain catastrophic health and
19 accident insurance coverage, such coverage to be offered through
20 the school and issued by an insurance company duly licensed
21 pursuant to the laws of New Mexico;

22 [O-] P. require all accrediting agencies for public
23 schools in the state to act with its approval;

24 [P-] Q. accept and receive all grants of money from
25 the federal government or any other agency for public school

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1 purposes and disburse the money in the manner and for the
2 purpose specified in the grant;

3 [Q-] R. require prior approval for any educational
4 program in a public school that is to be conducted, sponsored,
5 carried on or caused to be carried on by a private organization
6 or agency;

7 [R-] S. approve or disapprove all rules or
8 regulations promulgated by any association or organization
9 attempting to regulate any public school activity and invalidate
10 any rule or regulation in conflict with any regulation
11 promulgated by the state board. The state board may require
12 performance and financial audits of any association or
13 organization attempting to regulate any public school activity.
14 The state board shall have no power or control over the rules or
15 regulations or the bylaws governing the administration of the
16 internal organization of the association or organization;

17 [S-] T. review decisions made by the governing board
18 or officials of any organization or association regulating any
19 public school activity, and any decision of the state board
20 shall be final in respect thereto;

21 [T-] U. accept or reject any charitable gift, grant,
22 devise or bequest. The particular gift, grant, devise or
23 bequest accepted shall be considered an asset of the state;

24 [U-] V. establish and maintain regional centers, at
25 its discretion, for conducting cooperative services between

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1 public schools and school districts within and among those
2 regions and to facilitate regulation and evaluation of school
3 programs;

4 [V.-] W. assess and evaluate for accreditation
5 purposes at least one-third of all public schools each year
6 through visits by department of education personnel to
7 investigate the adequacy of pupil gain in standard required
8 subject matter, adequacy of pupil activities, functional
9 feasibility of public school and school district organization,
10 adequacy of staff preparation and other matters bearing upon the
11 education of the students;

12 [W.-] X. provide for management and other necessary
13 personnel to operate any public school or school district that
14 has failed to meet requirements of law, state board standards or
15 state board regulations; provided that the operation of the
16 public school or school district shall not include any
17 consolidation or reorganization without the approval of the
18 local school board of that school district. Until such time as
19 requirements of law, standards or regulations have been met and
20 compliance is assured, the powers and duties of the local school
21 board shall be suspended;

22 [X.-] Y. establish and implement a plan that provides
23 for technical assistance to local school boards through
24 workshops and other in-service training methods; provided,
25 however, that no plan shall require mandatory attendance by any

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1 member of a local school board;

2 [Y-] Z. submit a plan applying for funds available
3 under Public Law 94-142 and disburse these funds in the manner
4 and for the purposes specified in the plan; and

5 [Z-] AA. enforce requirements for home schools.

6 Upon finding that a home school is not in compliance with law,
7 the state board shall have authority to order that a student
8 attend a public school or a private school."

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

11 "22-15-4. BUREAU--DUTIES.--Subject to the policies and
12 regulations of the state board, the bureau shall:

13 A. administer the provisions of the Instructional
14 Material Law;

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

20 C. withdraw or withhold the privilege of
21 participating in the free use of instructional material in case
22 of any violation of or noncompliance with the provisions of the
23 Instructional Material Law or any regulations adopted pursuant
24 thereto; and

25 D. enforce regulations relating to the use and

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1 operation of instructional material depositories [~~in the~~
2 ~~instructional material~~] for local school districts, state
3 institutions, private schools or adult basic education centers
4 that acquire instructional material through that distribution
5 process. "

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

8 "22-15-5. INSTRUCTIONAL MATERIAL FUND. --

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

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

14 Transportation charges for the delivery of instructional
15 material to a school district, a state institution, a private
16 school as agent or an adult basic education center [~~as agent~~]
17 and emergency expenses incurred in providing instructional
18 material to students may be included as a cost of purchasing
19 instructional material. Charges for rebinding of used
20 instructional materials that appear on the multiple list
21 pursuant to Section 22-15-8 NMSA 1978 may also be included as a
22 cost of purchasing instructional material. "

23 Section 4. Section 22-15-7 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 211, as amended) is amended to read:

25 "22-15-7. STUDENTS ELIGIBLE--DISTRIBUTION. --

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1 A. Any qualified student or person eligible to
2 become a qualified student attending a public school, a state
3 institution or a private school ~~[approved]~~ accredited by the
4 state board in any grade from first through the twelfth grade of
5 instruction is entitled to the free use of instructional
6 material. Any student enrolled in an early childhood education
7 program as defined by Section 22-13-3 NMSA 1978 or person
8 eligible to become an early childhood education student as
9 defined by that section attending a private early childhood
10 education program approved by the state board is entitled to the
11 free use of instructional material. Any student in an adult
12 basic education program approved by the state board is entitled
13 to the free use of instructional material.

14 B. Instructional material shall be distributed to
15 school districts, state institutions, private schools as agent
16 and adult basic education centers ~~[as agents]~~ for the benefit of
17 students entitled to the free use of the instructional material.

18 C. Any school district, state institution, private
19 school as agent or adult basic education center ~~[as agent]~~
20 receiving instructional material pursuant to the Instructional
21 Material Law is responsible for distribution of the
22 instructional material for use ~~[of]~~ by eligible students and for
23 the safekeeping of the instructional material."

24 Section 5. Section 22-15-8 NMSA 1978 (being Laws 1967,
25 Chapter 16, Section 212, as amended) is amended to read:

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1 "22-15-8. MULTIPLE LIST--SELECTION. --

2 A. The state board shall adopt a multiple list to be
3 made available to students pursuant to the Instructional
4 Material Law. The state board shall ensure that parents and
5 other community members are involved in the adoption process at
6 the state level.

7 B. Pursuant to the provisions of the Instructional
8 Material Law, each school district, state institution, private
9 school as agent or adult basic education center [~~as agent~~] may
10 select instructional material for the use of its students from
11 the multiple list adopted by the state board. Local school
12 boards shall give written notice to parents and other community
13 members and shall invite parental involvement in the adoption
14 process at the district level. Local school boards shall also
15 give public notice, which notice may include publication in a
16 newspaper of general circulation in the school district."

17 Section 6. Section 22-15-10 NMSA 1978 (being Laws 1967,
18 Chapter 16, Section 214, as amended) is amended to read:

19 "22-15-10. SALE OR LOSS OR RETURN OF INSTRUCTIONAL
20 MATERIAL. --

21 A. With the approval of the chief, instructional
22 material [~~distributed to~~] acquired by a school district, state
23 institution, private school or adult basic education center
24 pursuant to the Instructional Material Law may be sold at a
25 price determined by officials of the school district, state

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1 institution, private school or adult basic education center.
2 The selling price shall not exceed the cost of the instructional
3 material to the state.

4 B. A school district, state institution, private
5 school as agent or adult basic education center [~~as agent~~] may
6 hold the parent, guardian or student responsible for the loss,
7 damage or destruction of instructional material while the
8 instructional material [~~was~~] is in the possession of the
9 student. A school district may withhold the grades, diploma and
10 transcripts of the student responsible for damage or loss of
11 instructional material until the parent, guardian or student has
12 paid for the damage or loss. When a parent, guardian or student
13 is unable to pay for damage or loss, the school district shall
14 work with the parent, guardian or student to develop an
15 alternative program in lieu of payment. Where a parent or
16 guardian is determined to be indigent according to guidelines
17 established by the state board [~~of education~~], the local school
18 district shall bear the cost.

19 C. All money collected by a school district, state
20 institution, private school as agent or adult basic education
21 center [~~as agent~~] for the sale, loss, damage or destruction of
22 instructional material received pursuant to the Instructional
23 Material Law shall be [~~transmitted~~] sent to the department of
24 education. The department of education shall credit the
25 instructional material account of the school district, state

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1 institution, private school or adult basic education center and
2 deposit the money received with the state treasurer for credit
3 to the instructional material fund. The department of education
4 shall account for and distribute materials pursuant to
5 procedures established by the department of education.

6 D. Upon order of the chief, a school district, state
7 institution, private school or adult basic education center
8 shall transfer as ordered to the department of education or its
9 designee instructional material purchased directly from a
10 publisher or his agent or purchased from [the] an instructional
11 material [fund which] depository that is in usable condition and
12 for ~~[that]~~ which there is no use expected by the respective
13 schools. "

14 Section 7. Section 22-15-11 NMSA 1978 (being Laws 1967,
15 Chapter 16, Section 215, as amended) is amended to read:

16 "22-15-11. RECORD OF INSTRUCTIONAL MATERIAL. -- [A. ~~The~~
17 ~~division shall keep accurate records of the cost of all~~
18 ~~instructional material distributed pursuant to the Instructional~~
19 ~~Material Law.~~

20 B.] Each school district, state institution, private
21 school or adult basic education center shall keep accurate
22 records of all instructional material distributed to it,
23 including the cost of the material, pursuant to the
24 Instructional Material Law on forms and by procedures prescribed
25 by the division. "

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1 Section 8. Section 22-15-12 NMSA 1978 (being Laws 1967,
2 Chapter 16, Section 216, as amended) is amended to read:

3 "22-15-12. ANNUAL REPORT. -- Annually, at a time specified
4 by the department of education, each local school board of a
5 school district and each governing authority of a state
6 institution, private school or adult basic education center
7 [receiving] that acquires instructional material pursuant to the
8 Instructional Material Law shall file a report with the
9 department of education. "

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

14 "22-15-13. CONTRACTS WITH PUBLISHERS. --

15 A. The state board may enter into a contract with a
16 publisher or [~~a publisher's~~] his authorized agent for the
17 purchase and delivery of instructional material selected from
18 the multiple list adopted by the state board.

19 B. [~~Payment for~~] Instructional material purchased
20 [by] pursuant to a contract between the state board and a
21 publisher or his authorized agent on behalf of a school
22 district, state institution, private school or adult basic
23 education center shall be [~~made~~] paid for only upon performance
24 of the contract and the delivery and receipt of the
25 instructional material.

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C. Each publisher or ~~[publisher's]~~ his authorized agent contracting with the state 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 an exact copy of the item of instructional material to be furnished under the contract;

(2) that the instructional material furnished pursuant to the contract shall be of the same quality in regard to paper, binding, printing, illustrations, subject matter and authorship as the copy filed with the state board; and

(3) that if instructional material under the contract is sold elsewhere in the United States for a price less than that agreed upon in the contract with the state, the price to the state shall be reduced to the same amount. "

State of New Mexico
House of Representatives

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4 **FORTY-THIRD LEGISLATURE**
5 **FIRST SESSION, 1997**
6
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8
9 **February 19, 1997**
10

11 **Mr. Speaker:**
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13 **Your EDUCATION COMMITTEE, to whom has been referred**
14

15 **HOUSE BILLS 73 and 193**
16

17 **has had them under consideration and reports same with**
18 **recommmendation that they DO NOT PASS, but that**

19 **HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR**
20 **HOUSE BILLS 73 and 193**
21

22 **DO PASS, and thence referred to the APPROPRIATIONS AND**
23 **FINANCE COMMITTEE.**
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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HECS/HB 73 AND HB 193

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Respectfully submitted,

Samuel F. Vigil, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Mallory, Nicely, S.M Williams, Wright

Absent: None

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HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR
HOUSE BILL 73 AND 193

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

AN ACT

RELATING TO EDUCATION; ALLOWING LOCAL SCHOOL DISTRICTS, STATE INSTITUTIONS, PRIVATE SCHOOLS OR ADULT BASIC EDUCATION CENTERS THE OPTION OF PURCHASING INSTRUCTIONAL MATERIAL DIRECTLY FROM A PUBLISHER; INCREASING DISTRIBUTIONS FROM INSTRUCTIONAL MATERIAL ACCOUNTS; AMENDING SECTIONS OF THE PUBLIC SCHOOL CODE.

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

Section 1. Section 22-2-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 5, as amended) is amended to read:

"22-2-2. STATE BOARD--DUTIES.-- Without limiting those powers granted to the state board pursuant to Section 22-2-1 NMSA 1978, the state board shall perform the following duties:

- A. properly and uniformly enforce the provisions of the Public School Code;
- B. determine policy for the operation of all public schools and vocational education programs in the state;
- C. appoint a state superintendent;
- D. adopt regulations to administer the purchase and

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loan of instructional material to students pursuant to the Instructional Material Law [~~and adopt regulations relating to the use and operation of instructional material depositories in the instructional material distribution process~~];

1 E. adopt regulations to allow school districts, state institutions, private schools and adult basic education centers the option of acquiring state adopted instructional material directly from a publisher or his authorized agent;

2 ~~[E.]~~ F. designate courses of instruction to be
3 taught in all public schools in the state;

4 ~~[F.]~~ G. assess and evaluate all state institutions
5 and those private schools that desire state accreditation;

6 ~~[G.]~~ H. determine the qualifications for and issue a
7 certificate to any person teaching, assisting teachers,
8 supervising an instructional program, counseling, providing
9 special instructional services or administering in public
10 schools, according to law and according to a system of
11 classification adopted and published by the state board;

12 ~~[H.]~~ I. suspend or revoke a certificate held by a
13 certified school instructor or certified school administrator,
14 according to law, for incompetency, immorality or for any other
15 good and just cause;

16 ~~[I.]~~ J. make full and complete reports on
17 consolidation of school districts to the legislature;

18 ~~[J.]~~ K. prescribe courses of instruction,
19 requirements for graduation and standards for all public
20 schools, for private schools seeking state accreditation and for
21 the educational programs conducted in state institutions other
22 than New Mexico military institute;

23 ~~[K.]~~ L. adopt regulations for the administration of
24 all public schools and bylaws for its own administration;

25 ~~[L.]~~ M. require periodic reports on forms prescribed

1 by it from all public schools and attendance reports from private
2 schools;

3 [M-] N. authorize adult educational programs to be
4 conducted in schools under its jurisdiction and promulgate and
5 publish regulations governing all such adult educational programs;

6 [N-] O. require any school under its jurisdiction that
7 sponsors athletic programs involving sports to mandate that the
8 participating student obtain catastrophic health and accident
9 insurance coverage, such coverage to be offered through the school
10 and issued by an insurance company duly licensed pursuant to the
11 laws of New Mexico;

12 [O-] P. require all accrediting agencies for public
13 schools in the state to act with its approval;

14 [P-] Q. accept and receive all grants of money from the
15 federal government or any other agency for public school purposes
16 and disburse the money in the manner and for the purpose specified
17 in the grant;

18 [Q-] R. require prior approval for any educational
19 program in a public school that is to be conducted, sponsored,
20 carried on or caused to be carried on by a private organization or
21 agency;

22 [R-] S. approve or disapprove all rules or regulations
23 promulgated by any association or organization attempting to
24 regulate any public school activity and invalidate any rule or
25 regulation in conflict with any regulation promulgated by the state
26 board. The state board may require performance and financial
27 audits of any association or organization attempting to regulate
28 any public school activity. The state board shall have no power or

1 control over the rules or regulations or the bylaws governing the
 2 administration of the internal organization of the association or
 3 organization;

4 [S.] T. review decisions made by the governing board or
 5 officials of any organization or association regulating any public
 6 school activity, and any decision of the state board shall be final
 7 in respect thereto;

8 [T.] U. accept or reject any charitable gift, grant,
 9 devise or bequest. The particular gift, grant, devise or bequest
 10 accepted shall be considered an asset of the state;

11 [U.] V. establish and maintain regional centers, at its
 12 discretion, for conducting cooperative services between public
 13 schools and school districts within and among those regions and to
 14 facilitate regulation and evaluation of school programs;

15 [V.] W. assess and evaluate for accreditation purposes
 16 at least one-third of all public schools each year through visits
 17 by department of education personnel to investigate the adequacy of
 18 pupil gain in standard required subject matter, adequacy of pupil
 19 activities, functional feasibility of public school and school
 20 district organization, adequacy of staff preparation and other
 21 matters bearing upon the education of the students;

22 [W.] X. provide for management and other necessary
 23 personnel to operate any public school or school district that has
 24 failed to meet requirements of law, state board standards or state
 25 board regulations; provided that the operation of the public school
 or school district shall not include any consolidation or
 reorganization without the approval of the local school board of
 that school district. Until such time as requirements of law,

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1 standards or regulations have been met and compliance is assured,
2 the powers and duties of the local school board shall be suspended;

3 ~~[X.]~~ Y. establish and implement a plan that provides
4 for technical assistance to local school boards through workshops
5 and other in-service training methods; provided, however, that no
6 plan shall require mandatory attendance by any member of a local
7 school board;

8 ~~[Y.]~~ Z. submit a plan applying for funds available
9 under Public Law 94-142 and disburse these funds in the manner and
10 for the purposes specified in the plan; and

11 ~~[Z.]~~ AA. enforce requirements for home schools. Upon
12 finding that a home school is not in compliance with law, the state
13 board shall have authority to order that a student attend a public
14 school or a private school."

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

17 "22-15-4. BUREAU--DUTIES.--Subject to the policies and
18 regulations of the state board, the bureau shall:

19 A. administer the provisions of the Instructional
20 Material Law;

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

C. withdraw or withhold the privilege of participating
in the free use of instructional material in case of any violation
of or noncompliance with the provisions of the Instructional

1 Material Law or any regulations adopted pursuant thereto; and

2 D. enforce regulations relating to the use and
3 operation of instructional material depositories [~~in the~~
4 ~~instructional material~~] for local school districts, state
5 institutions, private schools or adult basic education centers that
6 acquire instructional material through that distribution process."

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

9 "22-15-5. INSTRUCTIONAL MATERIAL FUND. --

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

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

15 Transportation charges for the delivery of instructional material
16 to a school district, a state institution, a private school as
17 agent or an adult basic education center [~~as agent~~] and emergency
18 expenses incurred in providing instructional material to students
19 may be included as a cost of purchasing instructional material.
20 Charges for rebinding of used instructional materials that appear
21 on the multiple list pursuant to Section 22-15-8 NMSA 1978 may also
22 be included as a cost of purchasing instructional material."

23 Section 4. Section 22-15-7 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 211, as amended) is amended to read:

25 "22-15-7. STUDENTS ELIGIBLE-- DISTRIBUTION. --

A. Any qualified student or person eligible to become a
qualified student attending a public school, a state institution or
a private school [~~approved~~] accredited by the state board in any

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1 grade from first through the twelfth grade of instruction is
2 entitled to the free use of instructional material. Any student
3 enrolled in an early childhood education program as defined by
4 Section 22-13-3 NMSA 1978 or person eligible to become an early
5 childhood education student as defined by that section attending a
6 private early childhood education program approved by the state
7 board is entitled to the free use of instructional material. Any
8 student in an adult basic education program approved by the state
9 board is entitled to the free use of instructional material.

10 B. Instructional material shall be distributed to
11 school districts, state institutions, private schools as agent and
12 adult basic education centers [~~as agents~~] for the benefit of
13 students entitled to the free use of the instructional material.

14 C. Any school district, state institution, private
15 school as agent or adult basic education center [~~as agent~~]
16 receiving instructional material pursuant to the Instructional
17 Material Law is responsible for distribution of the instructional
18 material for use [~~of~~] by eligible students and for the safekeeping
19 of the instructional material."

20 Section 5. Section 22-15-8 NMSA 1978 (being Laws 1967,
21 Chapter 16, Section 212, as amended) is amended to read:

22 "22-15-8. MULTIPLE LIST--SELECTION. --

23 A. The state board shall adopt a multiple list to be
24 made available to students pursuant to the Instructional Material
25 Law. The state board shall ensure that parents and other community
members are involved in the adoption process at the state level.

B. Pursuant to the provisions of the Instructional
Material Law, each school district, state institution, private

1 school as agent or adult basic education center [~~as agent~~] may
 2 select instructional material for the use of its students from the
 3 multiple list adopted by the state board. Local school boards
 4 shall give written notice to parents and other community members
 5 and shall invite parental involvement in the adoption process at
 6 the district level. Local school boards shall also give public
 7 notice, which notice may include publication in a newspaper of
 8 general circulation in the school district."

9 Section 6. Section 22-15-10 NMSA 1978 (being Laws 1967,
 10 Chapter 16, Section 214, as amended) is amended to read:

11 "22-15-10. SALE OR LOSS OR RETURN OF INSTRUCTIONAL
 12 MATERIAL. --

13 A. With the approval of the chief, instructional
 14 material [~~distributed to~~] acquired by a school district, state
 15 institution, private school or adult basic education center
 16 pursuant to the Instructional Material Law may be sold at a price
 17 determined by officials of the school district, state institution,
 18 private school or adult basic education center. The selling price
 19 shall not exceed the cost of the instructional material to the
 20 state.

21 B. A school district, state institution, private school
 22 as agent or adult basic education center [~~as agent~~] may hold the
 23 parent, guardian or student responsible for the loss, damage or
 24 destruction of instructional material while the instructional
 25 material [~~was~~] is in the possession of the student. A school
 district may withhold the grades, diploma and transcripts of the
 student responsible for damage or loss of instructional material
 until the parent, guardian or student has paid for the damage or

1 loss. When a parent, guardian or student is unable to pay for
2 damage or loss, the school district shall work with the parent,
3 guardian or student to develop an alternative program in lieu of
4 payment. Where a parent or guardian is determined to be indigent
5 according to guidelines established by the state board ~~[of~~
6 ~~education]~~, the local school district shall bear the cost.

7 C. All money collected by a school district, state
8 institution, private school as agent or adult basic education
9 center ~~[as agent]~~ for the sale, loss, damage or destruction of
10 instructional material received pursuant to the Instructional
11 Material Law shall be ~~[transmitted]~~ sent to the department of
12 education. The department of education shall credit the
13 instructional material account of the school district, state
14 institution, private school or adult basic education center and
15 deposit the money received with the state treasurer for credit to
16 the instructional material fund. The department of education shall
17 account for and distribute materials pursuant to procedures
18 established by the department of education.

19 D. Upon order of the chief, a school district, state
20 institution, private school or adult basic education center shall
21 transfer as ordered to the department of education or its designee
22 instructional material ~~[purchased from the instructional material~~
23 ~~fund which]~~ acquired directly from a publisher or his authorized
24 agent that is in usable condition and for ~~[that]~~ which there is no
25 use expected by the respective schools. "

Section 7. Section 22-15-9 NMSA 1978 (being Laws 1967,
Chapter 16, Section 213, as amended) is amended to read:

"22-15-9. INSTRUCTIONAL MATERIAL ACCOUNTS-- CREDIT

1 ALLOCATIONS. --

2 A. The department of education shall establish a
3 separate instructional material account for each school district,
4 state institution, private school or adult basic education center
5 in the state having students in attendance entitled to the free use
6 of instructional material pursuant to the Instructional Material
7 Law.

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

22 On or before January 15 of each year, the department of
23 education shall recompute each entitlement using the forty-day
24 membership for that year, except for adult basic education, and
25 shall allocate the balance of the annual appropriation compensating
for any over- or under-estimation of credit made in the first
allocation. In the event the funds remaining for this allocation
are insufficient to compensate for an over- or under-estimation of

1 credit made in the first allocation, the final recomputed over- or
2 under-allocation of credit shall be carried forward by the
3 department of education to be credited or debited to the allocation
4 for the ensuing school year.

5 C. An amount not to exceed [~~thirty~~] forty percent of
6 total credit allocations attributed to each individual
7 instructional material account [~~shall~~], at the request of the local
8 school district or the appropriate governing body and institution,
9 shall be distributed directly to each public school district or
10 state institution [~~or adult basic education center~~] for
11 instructional materials not included on the multiple list provided
12 for in Section 22-15-8 NMSA 1978. Adult basic education centers
13 may expend up to one hundred percent of their instructional
14 material funds for items that are not on the multiple list.

15 D. Any balance remaining in an instructional material
16 account of a school district, state institution, private school or
17 adult basic education center at the end of the fiscal year shall
18 remain available for expenditure in subsequent years. "

19 Section 8. Section 22-15-11 NMSA 1978 (being Laws 1967,
20 Chapter 16, Section 215, as amended) is amended to read:

21 "22-15-11. RECORD OF INSTRUCTIONAL MATERIAL. -- [~~A. The~~
22 ~~division shall keep accurate records of the cost of all~~
23 ~~instructional material distributed pursuant to the Instructional~~
24 ~~Material Law.~~

25 ~~B.]~~ Each school district, state institution, private
school or adult basic education center shall keep accurate records
of all instructional material distributed to it, including the cost
of the material, pursuant to the Instructional Material Law on

1 forms and by procedures prescribed by the division."

2 Section 9. Section 22-15-12 NMSA 1978 (being Laws 1967,
3 Chapter 16, Section 216, as amended) is amended to read:

4 "22-15-12. ANNUAL REPORT.--Annually, at a time specified by
5 the department of education, each local school board of a school
6 district and each governing authority of a state institution,
7 private school or adult basic education center [~~receiving~~] that
8 acquires instructional material pursuant to the Instructional
9 Material Law shall file a report with the department of education."

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

14 "22-15-13. CONTRACTS WITH PUBLISHERS.--

15 A. The state board may enter into a contract with a
16 publisher or [~~a publisher's~~] his authorized agent for the purchase
17 and delivery of instructional material selected from the multiple
18 list adopted by the state board.

19 B. [~~Payment for~~] Instructional material purchased [~~by~~]
20 pursuant to a contract between the state board and a publisher or
21 his authorized agent on behalf of a school district, state
22 institution, private school or adult basic education center shall
23 be [~~made~~] paid for only upon performance of the contract and the
24 delivery and receipt of the instructional material.

25 C. Each publisher or [~~publisher's~~] his authorized agent
contracting with the state for the sale of instructional material
shall agree:

- (1) to file a copy of each item of instructional

Underscored material = new
[bracketed material] = delete

1 material to be furnished under the contract with the state board
2 with a certificate attached identifying it as an exact copy of the
3 item of instructional material to be furnished under the contract;

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

8 (3) that if instructional material under the
9 contract is sold elsewhere in the United States for a price less
10 than that agreed upon in the contract with the state, the price to
11 the state shall be reduced to the same amount. "

Underscored material = new
[bracketed material] = delete