

1 AN ACT

2 RELATING TO INSTRUCTIONAL MATERIALS; TRANSFERRING THE
3 RESPONSIBILITY FOR INSTRUCTIONAL MATERIALS FOR ADULT BASIC
4 EDUCATION FROM THE PUBLIC EDUCATION DEPARTMENT TO THE HIGHER
5 EDUCATION DEPARTMENT; ALLOWING PRIVATE SCHOOLS TO PURCHASE
6 OFF THE MULTIPLE LIST; LIMITING PRIVATE SCHOOL PURCHASES TO
7 IN-STATE DEPOSITORIES; CLARIFYING PROVISIONS OF THE
8 INSTRUCTIONAL MATERIAL FUND; RECONCILING MULTIPLE AMENDMENTS
9 TO THE SAME SECTION OF LAW IN LAWS 2007.

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

12 Section 1. Section 21-1-27.6 NMSA 1978 (being Laws
13 1995, Chapter 56, Section 2, as amended) is amended to read:

14 "21-1-27.6. ADULT BASIC EDUCATION--DISTRIBUTION OF
15 MONEY--OBJECTIVE FORMULA--HIGHER EDUCATION DEPARTMENT--
16 ADOPTION OF FORMULA.--The higher education department in
17 consultation with representatives of adult basic education
18 administrative sites shall create an equitable formula for
19 the distribution of money in the adult basic education fund,
20 including funding for instructional materials for adult basic
21 education students. In establishing an equitable formula,
22 the department shall consider the types of programs
23 conducted, the cost of service delivery, the types and cost
24 of instructional materials and the socioeconomic profiles of
25 the adult receiving services. The department shall review

1 the formula and any proposed changes with the adult basic
2 education administrative sites prior to adoption or
3 amendment."

4 Section 2. A new section of Chapter 21, Article 1 NMSA
5 1978 is enacted to read:

6 "ADULT BASIC EDUCATION--INSTRUCTIONAL MATERIALS.--The
7 higher education department shall promulgate rules on the
8 purchase and provision of instructional materials for the
9 free use of adult basic education students. The rules shall
10 include:

11 A. the responsibilities of adult basic education
12 administrative units as agents for the benefit of students
13 entitled to the free use of instructional materials; and

14 B. inventory and accounting procedures to be
15 followed by the adult basic education administrative units."

16 Section 3. Section 22-15-4 NMSA 1978 (being Laws 1967,
17 Chapter 16, Section 208, as amended) is amended to read:

18 "22-15-4. BUREAU--DUTIES.--Subject to the policies and
19 rules of the department, the bureau shall:

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

22 B. enforce rules for the handling, safekeeping and
23 distribution of instructional material and instructional
24 material funds and for inventory and accounting procedures to
25 be followed by school districts, state institutions and

1 private schools pursuant to the Instructional Material Law;

2 C. withdraw or withhold the privilege of
3 participating in the free use of instructional material in
4 case of any violation of or noncompliance with the provisions
5 of the Instructional Material Law or any rules adopted
6 pursuant to that law;

7 D. enforce rules relating to the use and operation
8 of instructional material depositories in the instructional
9 material distribution process; and

10 E. enforce rules that require local school boards
11 to implement a process that ensures that parents and other
12 community members are involved in the instructional material
13 review process."

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

16 "22-15-5. INSTRUCTIONAL MATERIAL FUND.--

17 A. The state treasurer shall establish a
18 nonreverting fund to be known as the "instructional material
19 fund". The fund consists of appropriations, gifts, grants,
20 donations and any other money credited to the fund. The fund
21 shall be administered by the department, and money in the
22 fund is appropriated to the department to carry out the
23 provisions of the Instructional Material Law.

24 B. The instructional material fund shall be used
25 for the purpose of paying for the cost of purchasing

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

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

13 "22-15-7. STUDENTS ELIGIBLE--DISTRIBUTION.--

14 A. Any qualified student or person eligible to
15 become a qualified student attending a public school, a state
16 institution or a private school approved by the department in
17 any grade from first through the twelfth grade of instruction
18 is entitled to the free use of instructional material. Any
19 student enrolled in an early childhood education program as
20 defined by Section 22-13-3 NMSA 1978 or person eligible to
21 become an early childhood education student as defined by
22 that section attending a private early childhood education
23 program approved by the department is entitled to the free
24 use of instructional material.

25 B. Instructional material shall be distributed to

1 school districts, state institutions and private schools as
2 agents for the benefit of students entitled to the free use
3 of the instructional material.

4 C. Any school district, state institution or
5 private school as agent receiving instructional material
6 pursuant to the Instructional Material Law is responsible for
7 distribution of the instructional material for use by
8 eligible students and for the safekeeping of the
9 instructional material."

10 Section 6. 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--REVIEW PROCESS.--

13 A. The department shall adopt a multiple list to
14 be made available to students pursuant to the Instructional
15 Material Law. At least ten percent of instructional material
16 on the multiple list concerning language arts and social
17 studies shall contain material that is relevant to the
18 cultures, languages, history and experiences of multi-ethnic
19 students. The department shall ensure that parents and other
20 community members are involved in the adoption process at the
21 state level.

22 B. Pursuant to the provisions of the Instructional
23 Material Law, each school district, state institution or
24 private school as agent may select instructional material for
25 the use of its students from the multiple list adopted by the

1 department. Local school boards shall give written notice to
2 parents and other community members and shall invite parental
3 involvement in the adoption process at the district level.
4 Local school boards shall also give public notice, which
5 notice may include publication in a newspaper of general
6 circulation in the school district.

7 C. The department shall establish by rule an
8 instructional material review process for the adoption of
9 instructional material on the multiple list. The process
10 shall include:

11 (1) a summer review institute at which basal
12 materials in the content area under adoption will be
13 facilitated by content and performance experts in the content
14 area and reviewed by reviewers;

15 (2) that level two and level three-A
16 teachers are reviewers of record; provided that level one
17 teachers, college students completing teacher preparation
18 programs, parents and community leaders will be recruited and
19 partnered with the reviewers of record;

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

24 (4) the adoption of supplementary materials
25 that are not reviewed.

1 D. Participants in the summer review institute
2 shall receive a stipend commensurate with the level of
3 responsibility and participation as determined by department
4 rule.

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

8 Section 7. Section 22-15-9 NMSA 1978 (being Laws 1967,
9 Chapter 16, Section 213, as amended by Laws 2007, Chapter
10 284, Section 1 and by Laws 2007, Chapter 285, Section 2) is
11 amended to read:

12 "22-15-9. DISTRIBUTION OF FUNDS FOR INSTRUCTIONAL
13 MATERIAL.--

14 A. On or before April 1 of each year, the
15 department shall allocate to each school district, state
16 institution or private school as agent not less than ninety
17 percent of its estimated entitlement as determined from the
18 estimated forty-day membership for the next school year. A
19 school district's, state institution's or private school's
20 entitlement is that portion of the total amount of the annual
21 appropriation less a deduction for a reasonable reserve for
22 emergency expenses that its forty-day membership bears to the
23 forty-day membership of the entire state. For the purpose of
24 this allocation, additional pupils shall be counted as six
25 pupils. The allocation for adult basic education shall be

1 based on a full-time equivalency obtained by multiplying the
2 total previous year's enrollment by .25. The department
3 shall transfer the amount of the allocation for adult basic
4 education to the adult basic education fund.

5 B. On or before January 15 of each year, the
6 department shall recompute each entitlement using the
7 forty-day membership for that year, except for adult basic
8 education, and shall allocate the balance of the annual
9 appropriation adjusting for any over- or under-estimation
10 made in the first allocation.

11 C. An amount not to exceed fifty percent of the
12 allocations attributed to each school district or state
13 institution may be used for instructional material not
14 included on the multiple list provided for in Section 22-15-8
15 NMSA 1978, and up to twenty-five percent of this amount may
16 be used for other classroom materials. The local
17 superintendent may apply to the department for a waiver of
18 the use of funds allocated for the purchase of instructional
19 material either included or not included on the multiple
20 list. If the waiver is granted, the school district shall
21 not be required to submit a budget adjustment request to the
22 department. Private schools may expend up to fifty percent
23 of their instructional material funds for items that are not
24 on the multiple list; provided that no funds shall be
25 expended for religious, sectarian or nonsecular materials;

1 and provided further that all instructional material
2 purchases shall be through an in-state depository.

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

12 E. The department shall provide payment to an
13 in-state depository on behalf of a private school for
14 instructional material.

15 F. A school district or state institution that has
16 funds remaining for the purchase of instructional material at
17 the end of the fiscal year shall retain those funds for
18 expenditure in subsequent years. Any balance remaining in an
19 instructional material account of a private school at the end
20 of the fiscal year shall remain available for reimbursement by
21 the department for instructional material purchases in
22 subsequent years."

23 Section 8. Section 22-15-10 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 214, as amended) is amended to read:

25 "22-15-10. SALE OR LOSS OR RETURN OF INSTRUCTIONAL

1 MATERIAL.--

2 A. With the approval of the chief, instructional
3 material acquired by a school district, state institution or
4 private school pursuant to the Instructional Material Law may
5 be sold at a price determined by officials of the school
6 district, state institution or private school. The selling
7 price shall not exceed the cost of the instructional material
8 to the state.

9 B. A school district, state institution or private
10 school may hold the parent or student responsible for the
11 loss, damage or destruction of instructional material while
12 the instructional material is in the possession of the
13 student. A school district may withhold the grades, diploma
14 and transcripts of the student responsible for damage or loss
15 of instructional material until the parent or student has paid
16 for the damage or loss. When a parent or student is unable to
17 pay for damage or loss, the school district shall work with
18 the parent or student to develop an alternative program in
19 lieu of payment. Where a parent is determined to be indigent
20 according to guidelines established by the department, the
21 school district shall bear the cost.

22 C. A school district or state institution that has
23 funds remaining for the purchase of instructional material at
24 the end of the fiscal year shall retain those funds for
25 expenditure in subsequent years.

1 D. All money collected by a private school for the
2 sale, loss, damage or destruction of instructional material
3 received pursuant to the Instructional Material Law shall be
4 sent to the department.

5 E. Upon order of the chief, a school district,
6 state institution or private school shall transfer to the
7 department or its designee instructional material, purchased
8 with instructional material funds, that is in usable condition
9 and for which there is no use expected by the respective
10 schools."

11 Section 9. Section 22-15-11 NMSA 1978 (being Laws 1967,
12 Chapter 16, Section 215, as amended) is amended to read:

13 "22-15-11. RECORD OF INSTRUCTIONAL MATERIAL.--Each
14 school district, state institution or private school shall
15 keep accurate records of all instructional material, including
16 cost records, on forms and by procedures prescribed by the
17 bureau."

18 Section 10. Section 22-15-12 NMSA 1978 (being Laws
19 1967, Chapter 16, Section 216, as amended) is amended to read:

20 "22-15-12. ANNUAL REPORT.--Annually, at a time
21 specified by the department, each local school board of a
22 school district and each governing authority of a state
23 institution or private school acquiring instructional material
24 pursuant to the Instructional Material Law shall file a report
25 with the department that includes an itemized list of

1 instructional material purchased by the eligible entity, by
2 vendor; the total cost of the instructional material; the
3 average per-student cost; and the year-end cash balance."

4 Section 11. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2010. _____

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