

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 413

50th Legislature, 1st Session, 2011

Tracking Number: .184868.1

Short Title: School District Power Over Inst. Material

Sponsor(s): Senator Cynthia Nava

Analyst: Eilani Gerstner

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Bill Summary:

SB 413 amends the *Instructional Material Law* to allow, school districts or state institutions to, without requesting approval from the Public Education Department (PED):

- use 100 percent of their instructional material allocation on material not on the multiple list; and
- use up to 25 percent of their instructional material allocation for other classroom materials.

Fiscal Impact:

SB 413 does not contain an appropriation.

Substantive Issues:

- By rule, PED requires a publisher to designate an in-state distribution point (or in-state depository) for the distribution of instructional material and to act as the agent for the publisher for the requisition, billing, and receipt of payment for the purchase of instructional material.
- According to PED, currently there are two authorized New Mexico Instructional Material Depositories: Archway and MMI Educational. An authorized depository is a facility authorized to serve as agent representing multiple publishers and other educational entities for the purpose of managing district/school instructional material orders. The depository is responsible for accounting, acquisition, storage, distribution, and disposition of adopted and supplemental instructional materials.
- Current law allows a local superintendent to apply to PED for a waiver of the use of funds allocated for the purchase of instructional material.
- In 2010, according to the PED bill analysis, three districts and one state institution applied for waivers:
 - Clayton Municipal Schools moved \$39,795.58 into supplementary expenditures;
 - Gadsden Independent Schools moved \$300,000 into supplementary expenditures;

- Silver Consolidated Schools moved \$1,482 into supplementary expenditures; and
 - the Juvenile Justice Services Division of the Children, Youth and Families Department moved \$6,656 into supplementary expenditures.
- Current law provides charter schools with an automatic waiver of the requirements for the purchase of instructional material.
 - If enacted, the SB 413 would not change the requirement in current law that accredited private schools use 50 percent of their instructional material allocation for materials on the multiple list.

Background

- Originally called the “Free Textbook Fund,” the Instructional Material Fund was first created 1967 in the *School Textbook Law*. The fund was to be used “for the purpose of paying for the cost of purchasing instructional material pursuant to the *School Textbook Law*,” which was amended in 1975 to become the *Instructional Material Law*, and the Free Textbook Fund was renamed the Instructional Material Fund.
- Administered by the Instructional Material Bureau at PED, the *Instructional Material Law* entitles any qualified student enrolled in an early childhood education program or in grades 1 through 12 in a public school, an accredited private school or a state supported school to the free use of instructional material.
- The *Instructional Material Law* provides for the distribution of funds for the purchase of instructional material on a per-pupil basis.
- Among its provisions, the law:
 - requires, on or before April 1 of each year, for PED to allocate to each school district, state institution, or private school not less than 90 percent of its estimated entitlement for the school year. On or before January 15 of each year, PED is required to recompute each entitlement using the membership of the first reporting date (first Wednesday in October) and allocate the balance of the annual appropriation, adjusting for any over- or under-estimation made in the first allocation;
 - allows a school district and state institution to expend at least 50 percent of their allocation to purchase instructional material from the state-adopted multiple list. The remaining 50 percent of the allocation may be used to purchase instructional material not included on the state-adopted multiple list and up to 25 percent of this portion of the allocation may be used to purchase “other classroom materials,” which are defined as materials other than textbooks that are used to support direct instruction to students.
 - requires accredited private schools to receive the same amount of per-pupil funding as public schools. However, private schools are allowed to expend up to 50 percent of their instructional material allocation for items that are not on the multiple list provided that (1) no funds are expended for religious, sectarian or nonsecular materials; and (2) all instructional material purchases are made through an in-state

depository. Payments to a p depository for private schools are required to be paid by PED; and

- allows any funds remaining at the end of a fiscal year to be retained by a school district, and state institution for expenditure in subsequent years. Private schools are not allowed to retain end of the fiscal year balances; however, any balance remains available for reimbursement by PED for the purchase of instructional material in subsequent years.

Related Bills:

HB 310 *Electronic Instructional Materials for School*

SB 261 *Instructional Material Adoption Cycle*