

HOUSE FLOOR SUBSTITUTE FOR  
HOUSE BILL 45

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT

RELATING TO PUBLIC EDUCATION; EXPANDING THE DEFINITION OF  
"INSTRUCTIONAL MATERIAL"; REQUIRING TIMELY ALLOCATION OF  
INSTRUCTIONAL MATERIAL FUNDING; MAKING THE MULTIPLE LIST  
DISCRETIONARY; CHANGING THE DATE FOR DETERMINING MEMBERSHIP  
ENTITLED TO INSTRUCTIONAL MATERIALS; REPEALING THE READING  
MATERIALS FUND; MAKING AN APPROPRIATION.

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:

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

1 school exceeds educational standards and may remain in effect  
2 as long as the school continues to exceed educational  
3 standards.

4 D. The department shall only waive requirements  
5 that do not conflict with the federal [~~No Child Left Behind Act~~  
6 ~~of 2001~~] Every Student Succeeds Act or rules adopted pursuant  
7 to that act."

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

10 "22-15-2. DEFINITIONS.--As used in the Instructional  
11 Material Law:

12 A. "division" or "bureau" means the instructional  
13 material bureau of the department;

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

16 C. "instructional material" means school textbooks  
17 and other educational media that are used as the basis for  
18 instruction, including combinations of textbooks, learning  
19 kits, original source material from primary sources,  
20 supplementary material, [~~and~~] electronic media and content  
21 resources, excluding electronic devices and hardware, that  
22 support digital learning formats and educational programs;

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

25 E. "membership" means the total enrollment of

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1 nonreverting fund to be known as the "instructional material  
 2 fund". The fund consists of appropriations, gifts, grants,  
 3 donations and any other money credited to the fund. The fund  
 4 shall be administered by the department, and money in the fund  
 5 is appropriated to the department to carry out the provisions  
 6 of the Instructional Material Law.

7 B. The instructional material fund shall be used  
 8 ~~[for the purpose of paying]~~ to pay for the cost of purchasing  
 9 instructional material pursuant to the Instructional Material  
 10 Law. Transportation charges for the delivery of instructional  
 11 material to a school district, a state institution or a private  
 12 school as agent and emergency expenses incurred in providing  
 13 instructional material to students may be included as a cost of  
 14 purchasing instructional material. Charges for rebinding of  
 15 used instructional material ~~[that appears on the multiple list  
 16 pursuant to Section 22-15-8 NMSA 1978]~~ may also be included as  
 17 a cost of purchasing instructional material."

18 SECTION 5. Section 22-15-6 NMSA 1978 (being Laws 1967,  
 19 Chapter 16, Section 210, as amended) is amended to read:

20 "22-15-6. DISBURSEMENTS FROM THE INSTRUCTIONAL MATERIAL  
 21 FUND.--Disbursements from the instructional material fund shall  
 22 be by warrant of the department of finance and administration  
 23 upon vouchers issued by the public education department ~~[of  
 24 education]."~~

25 SECTION 6. Section 22-15-7 NMSA 1978 (being Laws 1967,

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## 1 "22-15-8. MULTIPLE LIST--SELECTION--REVIEW PROCESS.--

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

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

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

25 (1) a summer review institute at which basal

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

19           B. [~~On or before~~] No later than January 15 of each  
 20 year, the department shall recompute each entitlement using the  
 21 [~~forty-day~~] first reporting date membership for that year,  
 22 except for adult basic education, and shall allocate the  
 23 balance of the annual appropriation adjusting for any [~~over-~~]  
 24 overestimation or [~~under-estimation~~] underestimation made in  
 25 the first allocation.

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1 requirements and that allows students to take those textbooks  
2 home.

3 E. The department shall provide payment to an  
4 in-state depository on behalf of a private school for  
5 instructional material.

6 F. A school district or state institution that has  
7 funds remaining for the purchase of instructional material at  
8 the end of the fiscal year shall retain those funds for  
9 expenditure in subsequent years. Any balance remaining in an  
10 instructional material account of a private school at the end  
11 of the fiscal year shall remain available for reimbursement by  
12 the department for instructional material purchases in  
13 subsequent years."

14 SECTION 9. Section 22-15-14 NMSA 1978 (being Laws 1967,  
15 Chapter 16, Section 218, as amended) is amended to read:

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

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

23 B. Upon request, the department [~~of education~~]  
24 shall make reports to the [~~state board~~] legislature and the  
25 governor concerning the administration and execution of the

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