

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 408

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,  
2000**

INTRODUCED BY  
Rod Adair

AN ACT

RELATING TO EDUCATION; REMOVING THE INSTRUCTIONAL MATERIAL  
BUREAU; AMENDING SECTIONS OF THE INSTRUCTIONAL MATERIAL LAW.

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;~~

~~E.] A. "instructional material" means school  
textbooks and other educational media;~~

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

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

1           ~~E.]~~ B. "membership" means the total enrollment of  
2 qualified students on the fortieth day of the school year  
3 entitled to the free use of instructional material pursuant  
4 to the Instructional Material Law; and

5           ~~F.]~~ C. "additional pupil" means a pupil in a  
6 school district's, state institution's or private school's  
7 current year's certified forty-day membership above the  
8 number certified in the school district's, state  
9 institution's or private school's prior year's forty-day  
10 membership."

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

13           "22-15-4. [~~BUREAU~~] DEPARTMENT OF EDUCATION--DUTIES.--  
14 Subject to the policies and [~~regulations~~] rules of the state  
15 board, the [~~bureau~~] department of education shall:

16           A. administer the provisions of the Instructional  
17 Material Law;

18           B. enforce [~~regulations~~] rules for the handling,  
19 safekeeping and distribution of instructional material and  
20 instructional material funds and for inventory and accounting  
21 procedures to be followed by school districts, state  
22 institutions, private schools and adult basic education  
23 centers pursuant to the Instructional Material Law;

24           C. withdraw or withhold the privilege of  
25 participating in the free use of instructional material in  
case of any violation of or noncompliance with the provisions  
of the Instructional Material Law or any [~~regulations~~] rules

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

1 adopted pursuant thereto; and

2 D. ~~[enforce regulations]~~ develop procedures  
3 relating to the use and operation of instructional material  
4 depositories in the instructional material 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  
10 be known as the "instructional material fund".

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

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

25 "22-15-8. ~~[MULTIPLE LIST]~~ INSTRUCTIONAL MATERIAL--  
SELECTION.--

A. The state board shall ~~[adopt a multiple list]~~

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

1 provide lists of instructional material to be made available  
2 to students pursuant to the Instructional Material Law. [~~The~~  
3 ~~state board shall ensure that parents and other community~~  
4 ~~members are involved in the adoption process at the state~~  
5 ~~level.~~]

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

17 C. No school district, state institution, private  
18 school as agent or adult basic education center may select  
19 instructional material that has any secular, denominational  
20 or religious purpose except as indicated in the Historical  
21 Codes Act."

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

25 "22-15-9. DISTRIBUTION OF FUNDS FOR INSTRUCTIONAL  
MATERIAL.--

A. On or before July 1 of each year, the

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

1 department of education shall allocate to each school  
2 district, state institution or private school not less than  
3 ninety percent of its estimated entitlement as determined  
4 from the estimated forty-day membership for the next school  
5 year. A school district's, state institution's or private  
6 school's entitlement is that portion of the total amount of  
7 the annual appropriation less a deduction for a reasonable  
8 reserve for emergency expenses that its forty-day membership  
9 bears to the forty-day membership of the entire state. For  
10 the purpose of this allocation, additional pupils shall be  
11 counted as six pupils. The allocation for adult basic  
12 education shall be based on a full-time equivalency obtained  
13 by multiplying the total previous year's enrollment by .25.

14 B. On or before January 15 of each year, the  
15 department of education shall recompute each entitlement  
16 using the forty-day membership for that year, except for  
17 adult basic education, and shall allocate the balance of the  
18 annual appropriation adjusting for any over- or under-  
19 estimation made in the first allocation.

20 ~~[C. An amount not to exceed thirty percent of the~~  
21 ~~allocations attributed to each local school district, state~~  
22 ~~institution or adult basic education center may be used for~~  
23 ~~instructional material not included on the multiple list~~  
24 ~~provided for in Section 22-15-8 NMSA 1978. Adult basic~~  
25 ~~education centers may expend up to one hundred percent of~~  
~~their instructional material funds for items that are not on~~  
~~the multiple list.~~

.131714.1GJ

underscored material = new  
[bracketed material] = delete

1           ~~D.]~~ C. The department of education shall establish  
2 procedures for the distribution of funds directly to local  
3 school districts, state institutions and adult basic  
4 education centers. The department of education shall  
5 distribute funds to private schools on a reimbursement basis  
6 for instructional material. [~~included on the multiple list~~  
7 ~~provided for in Section 22-15-8 NMSA 1978.~~

8           ~~E.]~~ D. A school district, state institution or  
9 adult basic education center that has funds remaining for the  
10 purchase of instructional material at the end of the fiscal  
11 year shall retain those funds for expenditure in subsequent  
12 years. Any balance remaining in an instructional material  
13 account of a private school at the end of the fiscal year  
14 shall remain available for reimbursement by the department of  
15 education for instructional material purchases in subsequent  
16 years."

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~~] department of  
22 education, instructional material acquired by a school  
23 district, state institution, private school or adult basic  
24 education center pursuant to the Instructional Material Law  
25 may be sold at a price determined by officials of the school  
district, state institution, private school or adult basic  
education center. The selling price shall not exceed the

underscored material = new  
[bracketed material] = delete

1 cost of the instructional material to the state.

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

17 ~~[C. A school district, state institution or adult~~  
18 ~~basic education center that has funds remaining for the~~  
19 ~~purchase of instructional material at the end of the fiscal~~  
20 ~~year shall retain those funds for expenditure in subsequent~~  
21 ~~years.~~

22 ~~D.]~~ C. All money collected by a private school for  
23 the sale, loss, damage or destruction of instructional  
24 material received pursuant to the Instructional Material Law  
25 shall be sent to the department of education.

~~[E.]~~ D. Upon order of the [~~chief~~] department of  
education, a school district, state institution, private

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

1 school or adult basic education center shall transfer to the  
2 department of education or its designee instructional  
3 material, purchased with instructional material funds, that  
4 is in usable condition and for which there is no use expected  
5 by the respective schools."

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

8 "22-15-11. RECORD OF INSTRUCTIONAL MATERIAL.--Each  
9 school district, state institution, private school or adult  
10 basic education center shall keep accurate records of all  
11 instructional material, including cost records, on forms and  
12 by procedures prescribed by the ~~[division]~~ department of  
13 education."

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

18 "22-15-13. CONTRACTS WITH PUBLISHERS.--

19 A. The state board may enter into a contract with  
20 a publisher or a publisher's authorized agent for the  
21 purchase and delivery of instructional material selected  
22 ~~[from the multiple list adopted]~~ by the state board.

23 B. Payment for instructional material purchased by  
24 the state board shall be made only upon performance of the  
25 contract and the delivery and receipt of the instructional  
material.

C. Each publisher or publisher's authorized agent



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

1 contracting with the state for the sale of instructional  
2 material shall agree:

3 (1) to file a copy of each item of  
4 instructional material to be furnished under the contract  
5 with the state board with a certificate attached identifying  
6 it as an exact copy of the item of instructional material to  
7 be furnished under the contract;

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

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

17 Section 9. REPEAL.--Section 22-15-3 NMSA 1978 (being  
18 Laws 1967, Chapter 16, Section 207, as amended) is repealed.