

HOUSE BILL 45

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

INTRODUCED BY

Sheryl Williams Stapleton

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

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; Hf12→**PROVIDING FOR INSTRUCTIONAL MATERIAL TO PRIVATE SCHOOLS UNDER CERTAIN CONDITIONS**;←Hf12 REPEALING THE READING MATERIALS FUND.

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:

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"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:

- (1) accreditation review requirements as provided in Section 22-2-2 NMSA 1978;
- (2) the length of the school day requirement as provided in Section 22-2-8.1 NMSA 1978;
- (3) the individual class load requirement as provided in Section 22-10A-20 NMSA 1978; and
- (4) the subject area requirement as provided in Section 22-13-1 NMSA 1978 [and
- ~~(5) purchase of instructional material from the department-approved multiple list requirement as provided in Section 22-15-8 NMSA 1978].~~

B. Upon receiving a waiver request from a public school that exceeds educational standards and in addition to the requirements set forth in Subsection A of this section, the department may waive:

- (1) the graduation requirement as provided in Section 22-13-1.1 NMSA 1978;
 - (2) evaluation standards for school personnel;
- and
- (3) other requirements of the Public School

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Code that impede innovation in education if the waiver request is supported by the teachers at the requesting school and the requesting school's local school board.

C. Waivers granted pursuant to this section shall begin in the school year following that in which a public school exceeds educational standards and may remain in effect as long as the school continues to exceed educational standards.

D. The department shall only waive requirements that do not conflict with the federal Hf1→~~No Child Left Behind Act of 2001~~←Hf1 Hf1→**Every Student Succeeds Act**←Hf1 or rules adopted pursuant to that act."

SECTION 2. 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 of the department;

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

C. "instructional material" means school textbooks and other educational media that are used as the basis for instruction, including combinations of textbooks, learning kits, original source material from primary sources, supplementary material, [~~and~~] electronic media and content

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resources, excluding electronic devices and hardware, that support digital learning formats and educational programs;

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

E. "membership" means the total enrollment of qualified students on the [~~fortieth day~~] Hfl→second←Hfl Hfl→first←Hfl reporting date of the school year entitled to the free use of instructional material pursuant to the Instructional Material Law;

F. "additional [~~pupil~~] student" means a [~~pupil~~] student in a school district's or state institution's [~~or private school's~~] current year's certified [~~forty day~~] Hfl→second←Hfl Hfl→first←Hfl reporting date membership above the number certified in the school district's or state institution's [~~or private school's~~] prior year's [~~forty day~~] Hfl→second←Hfl Hfl→first←Hfl reporting date membership;

G. "school district" includes [~~state-chartered~~] charter schools; and

H. "other classroom materials" means materials other than textbooks that are used to support direct instruction to students."

SECTION 3. Section 22-15-3 NMSA 1978 (being Laws 1967, Chapter 16, Section 207, as amended) is amended to read:

"22-15-3. BUREAU--CHIEF.--

A. The "instructional material bureau" is created

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within the department [~~of education~~].

B. [~~With approval of the state board~~] The [~~state superintendent~~] secretary shall appoint a chief of the bureau."

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

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

A. administer the provisions of the Instructional Material Law;

B. enforce rules for the handling, safekeeping and distribution of instructional material and instructional material funds and for inventory and accounting procedures to be followed by school districts and state institutions [~~and private schools~~] 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 Material Law or any rules adopted pursuant to that law;

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

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

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review process."

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

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

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

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

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

"22-15-6. DISBURSEMENTS FROM THE INSTRUCTIONAL MATERIAL

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FUND.--Disbursements from the instructional material fund shall be by warrant of the department of finance and administration upon vouchers issued by the public education department [~~of education~~]."

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

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

A. [~~Any~~] A qualified student or person eligible to become a qualified student attending a public school or a state institution [~~or a private school approved by the department~~] in any grade from [~~first~~] kindergarten through the twelfth grade of instruction is entitled to the free use of instructional material. [~~Any~~] A student enrolled in an early childhood education program as defined by Section 22-13-3 NMSA 1978 [~~or person eligible to become an early childhood education student as defined by that section attending a private early childhood education program approved by the department~~] is entitled to the free use of instructional material.

B. Instructional material shall be distributed to school districts and state institutions [~~and private schools as agents~~] for the benefit of students entitled to the free use of the instructional material.

C. [~~Any~~] A school district or state institution [~~or private school as agent~~] receiving instructional material pursuant to the Instructional Material Law is responsible for

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distribution of the instructional material for use by eligible students and for the safekeeping of the instructional material."

Hf12→SECTION 8. A new section of the Instructional Material Law is enacted to read:

“[NEW MATERIAL] INSTRUCTIONAL MATERIAL TO PRIVATE SCHOOLS AS AGENTS FOR PRIVATE SCHOOL STUDENTS.--If sufficient funds are made available to school districts and state institutions to provide each student attending a public school with instructional material for each class or subject that conforms to curriculum requirements that each student is able to take home on a daily basis, and each school district and charter school has certified this to the department, the department may make allocations for instructional material for private school students in an amount to be determined by department rule; provided that the per-student allocation for private school students shall not exceed the per-student allocation for public school students; and provided further that the department shall allocate instructional material only to those private schools that do not discriminate based on race, religion, color, national origin, ancestry, gender, sexual orientation, gender identity or physical or mental disability.”←Hf12

SECTION Hf12→8 9←Hf12. Section 22-15-8 NMSA 1978 (being Laws 1967, Chapter 16, Section 212, as amended) is amended to read:

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

A. The department [~~shall~~] may adopt a multiple list to be made available to students pursuant to the Instructional Material Law. At least ten percent of instructional material on the multiple list concerning language arts and social studies shall contain material that is relevant to the cultures, languages, history and experiences of multi-ethnic students. The department 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 or state institution [~~or private school as agent~~] may select instructional material for the use of its students from the multiple list adopted by the department. Local school boards shall give written notice to parents and other community members and shall invite parental involvement in the adoption process at the district level. Local school boards shall also give public notice, which notice may include publication in a newspaper of general circulation in the school district.

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

- (1) a summer review institute at which basal

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materials in the content area under adoption will be facilitated by content and performance experts in the content area and reviewed by reviewers;

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

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

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

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

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

SECTION Hf12→9 10←Hf12. Section 22-15-9 NMSA 1978 (being Laws 1967, Chapter 16, Section 213, as amended) is amended to read:

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

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

B. [~~On or before~~] No later than January 15 of each year, the department shall recompute each entitlement using the [~~forty-day~~] Hfl→second←Hfl Hfl→first←Hfl reporting date membership for that year, except for adult basic education, and shall allocate the balance of the annual appropriation

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adjusting for any [~~over-~~] overestimation or [~~under-estimation~~] underestimation made in the first allocation.

C. [~~An amount not to exceed fifty percent of the allocations attributed to each school district or state institution may be used for instructional material not included on the multiple list provided for in Section 22-15-8 NMSA 1978, and] Up to twenty-five percent of [this amount] the allocations attributed to each school district or state institution may be used for other classroom materials. [~~The local superintendent may apply to the department for a waiver of the use of funds allocated for the purchase of instructional material either included or not included on the multiple list. If the waiver is granted, the school district shall not be required to submit a budget adjustment request to the department. Private schools may expend up to fifty percent of their instructional material funds for items that are not on the multiple list; provided that no funds shall be expended for religious, sectarian or nonsecular materials; and provided further that all instructional material purchases shall be through an in-state depository.~~]~~

D. The department shall establish procedures for the distribution of funds directly to school districts and state institutions. Prior to the final distribution of funds to any school district or charter school, the department shall verify that the local school board or governing body has

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adopted a policy that requires that every student have a textbook for each class that conforms to curriculum requirements and that allows students to take those textbooks home.

~~[E. The department shall provide payment to an in-state depository on behalf of a private school for instructional material.]~~

F.] E. A school district or state institution that has funds remaining for the purchase of instructional material at the end of the fiscal year shall retain those funds for expenditure in subsequent years. ~~[Any balance remaining in an instructional material account of a private school at the end of the fiscal year shall remain available for reimbursement by the department for instructional material purchases in subsequent years.]~~"

SECTION Hf12→10 11←Hf12. Section 22-15-10 NMSA 1978 (being Laws 1967, Chapter 16, Section 214, as amended) is amended to read:

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

A. With the approval of the chief, instructional material acquired by a school district or state institution ~~[or private school]~~ pursuant to the Instructional Material Law may be sold at a price determined by officials of the school district or state institution ~~[or private school]~~. The selling

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price shall not exceed the cost of the instructional material to the state.

B. A school district or state institution [~~or private school~~] may hold the parent or student responsible for the loss, damage or destruction of instructional material while the instructional material 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 or student has paid for the damage or loss. When a parent or student is unable to pay for damage or loss, the school district shall work with the parent or student to develop an alternative program in lieu of payment. Where a parent is determined to be indigent according to guidelines established by the department, the school district shall bear the cost.

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

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

~~E.]~~ D. Upon order of the chief, a school district or state institution [~~or private school~~] shall transfer to the

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department or its designee instructional material, purchased with instructional material funds, that is in usable condition and for which there is no use expected by the respective schools."

SECTION Hf12→11 12←Hf12. Section 22-15-11 NMSA 1978 (being Laws 1967, Chapter 16, Section 215, as amended) is amended to read:

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

SECTION Hf12→12 13←Hf12. Section 22-15-14 NMSA 1978 (being Laws 1967, Chapter 16, Section 218, as amended) is amended to read:

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

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

B. Upon request, the department [~~of education~~] shall make reports to the [~~state board~~] legislature and the governor concerning the administration and execution of the Instructional Material Law."

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SECTION Hf12→13 14←Hf12. REPEAL.--Section 22-15-8.2 NMSA 1978 (being Laws 2006, Chapter 58, Section 1) is repealed.

SECTION Hf12→14 15←Hf12. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

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