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HOUSE BILL 76

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

BARBARA A. PEREA CASEY

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO EDUCATION; ALLOWING LOCAL SCHOOL BOARDS TO PURCHASE
SCHOOL INSTRUCTIONAL MATERIAL DIRECTLY FROM A PUBLISHER;
AMENDING SECTIONS OF THE PUBLIC SCHOOL CODE.

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

Section 1. Section 22-2-2 NMSA 1978 (being Laws 1967,
Chapter 16, Section 5, as amended) is amended to read:

"22-2-2. STATE BOARD--DUTIES.-- Without limiting those
powers granted to the state board pursuant to Section 22-2-1
NMSA 1978, the state board shall perform the following duties:

A. properly and uniformly enforce the provisions of
the Public School Code;

B. determine policy for the operation of all public
schools and vocational education programs in the state;

C. appoint a state superintendent;

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1 D. adopt regulations to administer the purchase and
2 loan of instructional material to students pursuant to the
3 Instructional Material Law [~~and adopt regulations relating to~~
4 ~~the use and operation of instructional material depositories in~~
5 ~~the instructional material distribution process~~];

6 E. adopt regulations to allow school districts to
7 purchase instructional material directly from a publisher or his
8 authorized agent;

9 ~~[E.]~~ F. designate courses of instruction to be
10 taught in all public schools in the state;

11 ~~[F.]~~ G. assess and evaluate all state institutions
12 and those private schools that desire state accreditation;

13 ~~[G.]~~ H. determine the qualifications for and issue a
14 certificate to any person teaching, assisting teachers,
15 supervising an instructional program, counseling, providing
16 special instructional services or administering in public
17 schools, according to law and according to a system of
18 classification adopted and published by the state board;

19 ~~[H.]~~ I. suspend or revoke a certificate held by a
20 certified school instructor or certified school administrator,
21 according to law, for incompetency, immorality or for any other
22 good and just cause;

23 ~~[I.]~~ J. make full and complete reports on
24 consolidation of school districts to the legislature;

25 ~~[J.]~~ K. prescribe courses of instruction,

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1 requirements for graduation and standards for all public
2 schools, for private schools seeking state accreditation and for
3 the educational programs conducted in state institutions;

4 [K-] L. adopt regulations for the administration of
5 all public schools and bylaws for its own administration;

6 [L-] M. require periodic reports on forms prescribed
7 by it from all public schools and attendance reports from
8 private schools;

9 [M-] N. authorize adult educational programs to be
10 conducted in schools under its jurisdiction and promulgate and
11 publish regulations governing all such adult educational
12 programs;

13 [N-] O. require any school under its jurisdiction
14 that sponsors athletic programs involving sports to mandate that
15 the participating student obtain catastrophic health and
16 accident insurance coverage, such coverage to be offered through
17 the school and issued by an insurance company duly licensed
18 pursuant to the laws of New Mexico;

19 [O-] P. require all accrediting agencies for public
20 schools in the state to act with its approval;

21 [P-] Q. accept and receive all grants of money from
22 the federal government or any other agency for public school
23 purposes and disburse the money in the manner and for the
24 purpose specified in the grant;

25 [Q-] R. require prior approval for any educational

1 program in a public school that is to be conducted, sponsored,
2 carried on or caused to be carried on by a private organization
3 or agency;

4 [R-] S. approve or disapprove all rules or
5 regulations promulgated by any association or organization
6 attempting to regulate any public school activity and invalidate
7 any rule or regulation in conflict with any regulation
8 promulgated by the state board. The state board may require
9 performance and financial audits of any association or
10 organization attempting to regulate any public school activity.
11 The state board shall have no power or control over the rules or
12 regulations or the bylaws governing the administration of the
13 internal organization of the association or organization;

14 [S-] T. review decisions made by the governing board
15 or officials of any organization or association regulating any
16 public school activity, and any decision of the state board
17 shall be final in respect thereto;

18 [F-] U. accept or reject any charitable gift, grant,
19 devise or bequest. The particular gift, grant, devise or
20 bequest accepted shall be considered an asset of the state;

21 [U-] V. establish and maintain regional centers, at
22 its discretion, for conducting cooperative services between
23 public schools and school districts within and among those
24 regions and to facilitate regulation and evaluation of school
25 programs;

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1 [V-] W. assess and evaluate for accreditation
2 purposes at least one-third of all public schools each year
3 through visits by department of education personnel to
4 investigate the adequacy of pupil gain in standard required
5 subject matter, adequacy of pupil activities, functional
6 feasibility of public school and school district organization,
7 adequacy of staff preparation and other matters bearing upon the
8 education of the students;

9 [W-] X. provide for management and other necessary
10 personnel to operate any public school or school district that
11 has failed to meet requirements of law, state board standards or
12 state board regulations; provided that the operation of the
13 public school or school district shall not include any
14 consolidation or reorganization without the approval of the
15 local board of that school district. Until such time as
16 requirements of law, standards or regulations have been met and
17 compliance is assured, the powers and duties of the local school
18 board shall be suspended;

19 [X-] Y. establish and implement a plan that provides
20 for technical assistance to local school boards through
21 workshops and other in-service training methods; provided,
22 however, that no plan shall require mandatory attendance by any
23 member of a local school board;

24 [Y-] Z. submit a plan applying for funds available
25 under Public Law 94-142 and disburse these funds in the manner

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1 and for the purposes specified in the plan; and

2 [Z-] AA. enforce requirements for home schools.

3 Upon finding that a home school is not in compliance with law,
4 the state board shall have authority to order that a student
5 attend a public school or a private school."

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

8 "22-15-4. BUREAU--DUTIES.--Subject to the policies and
9 regulations of the state board, the bureau shall:

10 A. administer the provisions of the Instructional
11 Material Law;

12 B. enforce regulations for the handling, safekeeping
13 and distribution of instructional material and instructional
14 material funds, and for inventory and accounting procedures to
15 be followed by school districts, state institutions, private
16 schools and adult basic education centers pursuant to the
17 Instructional Material Law;

18 C. withdraw or withhold the privilege of
19 participating in the free use of instructional material in case
20 of any violation of or noncompliance with the provisions of the
21 Instructional Material Law or any regulations adopted pursuant
22 thereto; and

23 D. enforce regulations relating to the use and
24 operation of instructional material depositories in the
25 instructional material distribution process provided that a

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1 local school district shall not be required to acquire
2 instructional material through an instructional material
3 depository. "

4 Section 3. Section 22-15-5 NMSA 1978 (being Laws 1967,
5 Chapter 16, Section 209, as amended) is amended to read:

6 "22-15-5. INSTRUCTIONAL MATERIAL FUND. --

7 A. The state treasurer shall establish a fund to be
8 known as the "instructional material fund".

9 B. The instructional material fund shall be used for
10 the purpose of paying for the cost of purchasing instructional
11 material pursuant to the Instructional Material Law.

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

21 Section 4. Section 22-15-7 NMSA 1978 (being Laws 1967,
22 Chapter 16, Section 211, as amended) is amended to read:

23 "22-15-7. STUDENTS ELIGIBLE--DISTRIBUTION. --

24 A. Any qualified student or person eligible to
25 become a qualified student attending a public school, a state

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1 institution or a private school ~~[approved]~~ accredited by the
2 state board in any grade from first through the twelfth grade of
3 instruction is entitled to the free use of instructional
4 material. Any student enrolled in an early childhood education
5 program as defined by Section 22-13-3 NMSA 1978 or person
6 eligible to become an early childhood education student as
7 defined by that section attending a private early childhood
8 education program approved by the state board is entitled to the
9 free use of instructional material. Any student in an adult
10 basic education program approved by the state board is entitled
11 to the free use of instructional material.

12 B. Instructional material shall be distributed to
13 school districts, state institutions, private schools and adult
14 basic education centers as agents for the benefit of students
15 entitled to the free use of the instructional material.

16 C. Any school district, state institution, private
17 school or adult basic education center ~~[as agent]~~ receiving
18 instructional material pursuant to the Instructional Material
19 Law is responsible for distribution of the instructional
20 material for use ~~[of]~~ by eligible students and for the
21 safekeeping of the instructional material."

22 Section 5. Section 22-15-8 NMSA 1978 (being Laws 1967,
23 Chapter 16, Section 212, as amended) is amended to read:

24 "22-15-8. MULTIPLE LIST--SELECTION.--

25 A. The state board shall adopt a multiple list to be

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1 made available to students pursuant to the Instructional
2 Material Law. The state board shall ensure that parents and
3 other community members are involved in the adoption process at
4 the state level.

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

15 Section 6. Section 22-15-9 NMSA 1978 (being Laws 1967,
16 Chapter 16, Section 213, as amended) is amended to read:

17 "22-15-9. INSTRUCTIONAL MATERIAL ACCOUNTS-- CREDIT
18 ALLOCATIONS. --

19 [~~A. The department of education shall establish a
20 separate instructional material account for each school
21 district, state institution, private school or adult basic
22 education center in the state having students in attendance
23 entitled to the free use of instructional material pursuant to
24 the Instructional Material Law.~~

25 ~~B.]~~ A. On or before July 1 of each year, the

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

15 On or before January 15 of each year, the department of
16 education shall recompute each entitlement using the forty-day
17 membership for that year, except for adult basic education, and
18 shall allocate the balance of the annual appropriation
19 compensating for any over- or under-estimation [~~of credit~~] made
20 in the first allocation. In the event the funds remaining for
21 this allocation are insufficient to compensate for an over- or
22 under-estimation [~~of credit~~] made in the first allocation, the
23 final recomputed over- or under-allocation [~~of credit~~] shall be
24 carried forward by the department of education to be credited or
25 debited to the allocation for the ensuing school year.

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1 ~~[C.]~~ B. An amount not to exceed thirty percent of
2 ~~[total credit]~~ the allocations attributed to each ~~[individual~~
3 ~~instructional material account shall, at the request of the]~~
4 local school district, ~~[or the appropriate governing body and~~
5 ~~institution, shall be distributed directly to each public school~~
6 ~~district,]~~ state institution or adult basic education center may
7 be used for instructional ~~[materials]~~ material not included on
8 the multiple list provided for in Section 22-15-8 NMSA 1978.

9 C. The department of education shall establish
10 procedures for the distribution of funds directly to local
11 school districts, state institutions or adult basic education
12 centers. The department of education shall distribute funds to
13 private schools on a reimbursement basis for instructional
14 material included on the multiple list provided for in Section
15 22-15-8 NMSA 1978.

16 D. Any ~~[balance remaining in an]~~ instructional
17 material ~~[account of]~~ funds not expended by a school district,
18 state institution ~~[private school]~~ or adult basic education
19 center at the end of the fiscal year shall remain available for
20 expenditure for instructional material in subsequent years. Any
21 balance remaining in an instructional material account of a
22 private school at the end of the fiscal year shall remain
23 available for reimbursement by the department of education for
24 instructional material in subsequent years. "

25 Section 7. Section 22-15-10 NMSA 1978 (being Laws 1967,

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1 Chapter 16, Section 214, as amended) is amended to read:

2 "22-15-10. SALE OR LOSS OR RETURN OF INSTRUCTIONAL
3 MATERIAL. --

4 A. With the approval of the chief, instructional
5 material [~~distributed to~~] acquired by a school district, state
6 institution, private school or adult basic education center
7 pursuant to the Instructional Material Law may be sold at a
8 price determined by officials of the school district, state
9 institution, private school or adult basic education center.
10 The selling price shall not exceed the cost of the instructional
11 material to the state.

12 B. A school district, state institution, private
13 school or adult basic education center [~~as agent~~] may hold the
14 parent, guardian or student responsible for the loss, damage or
15 destruction of instructional material while the instructional
16 material [~~was~~] is in the possession of the student. A school
17 district may withhold the grades, diploma and transcripts of the
18 student responsible for damage or loss of instructional material
19 until the parent, guardian or student has paid for the damage or
20 loss. When a parent, guardian or student is unable to pay for
21 damage or loss, the school district shall work with the parent,
22 guardian or student to develop an alternative program in lieu of
23 payment. Where a parent or guardian is determined to be
24 indigent according to guidelines established by the state board
25 [~~of education~~], the local school district shall bear the cost.

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1 C. All money collected by a school district, state
2 institution [~~private school~~] or adult basic education center [~~as~~
3 ~~agent~~] for the sale, loss, damage or destruction of
4 instructional material received pursuant to the Instructional
5 Material Law shall be [~~transmitted to the department of~~
6 ~~education~~] deposited into that entity's instructional material
7 account. The money collected by a private school for the sale,
8 loss, damage or destruction of instructional material shall be
9 forwarded to the department of education. The department of
10 education shall credit the instructional material account of the
11 [~~school district, state institution,~~] private school [~~or adult~~
12 ~~basic education center~~] and deposit the money received with the
13 state treasurer for credit to the instructional material fund.
14 The department of education shall account for and distribute
15 [~~materials~~] funds to private schools pursuant to procedures
16 established by the department of education.

17 D. Upon order of the chief, a school district, state
18 institution, private school or adult basic education center
19 shall transfer as ordered to the department of education or its
20 designee instructional material purchased from the instructional
21 material fund [~~which~~] that is in usable condition and for [~~that~~
22 which there is no use expected by the respective schools."

23 Section 8. Section 22-15-11 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 215, as amended) is amended to read:

25 "22-15-11. RECORD OF INSTRUCTIONAL MATERIAL. --

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1 ~~[A. The division shall keep accurate records of the~~
2 ~~cost of all instructional material distributed pursuant to the~~
3 ~~Instructional Material Law.~~

4 B.] Each school district, state institution, private
5 school or adult basic education center shall keep accurate
6 records of all instructional material, [~~distributed to it~~
7 ~~pursuant to the Instructional Material Law~~] including cost
8 records, on forms and by procedures prescribed by the division. "

9 Section 9. Section 22-15-12 NMSA 1978 (being Laws 1967,
10 Chapter 16, Section 216, as amended) is amended to read:

11 "22-15-12. ANNUAL REPORT. -- Annually, at a time specified
12 by the department of education, each local school board of a
13 school district and each governing authority of a state
14 institution, private school or adult basic education center
15 [~~receiving~~] acquiring instructional material pursuant to the
16 Instructional Material Law shall file a report with the
17 department of education. "

18 Section 10. Section 22-15-13 NMSA 1978 (being Laws 1967,
19 Chapter 16, Section 217, as amended by Laws 1993, Chapter 156,
20 Section 6 and by Laws 1993, Chapter 226, Section 44) is amended
21 to read:

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

23 A. The state board may enter into a contract with a
24 publisher or [~~a publisher's~~] his authorized agent for the
25 purchase and delivery of instructional material selected from

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1 the multiple list adopted by the state board.

2 B. Payment for instructional material purchased [by]
3 pursuant to a contract between the state board and a publisher
4 or his authorized agent shall be made only upon performance of
5 the contract and the delivery and receipt of the instructional
6 material.

7 C. Each publisher or [~~publisher's~~] authorized agent
8 contracting with the state for the sale of instructional
9 material shall agree:

10 (1) to file a copy of each item of
11 instructional material to be furnished under the contract with
12 the state board with a certificate attached identifying it as an
13 exact copy of the item of instructional material to be furnished
14 under the contract;

15 (2) that the instructional material furnished
16 pursuant to the contract shall be of the same quality in regard
17 to paper, binding, printing, illustrations, subject matter and
18 authorship as the copy filed with the state board; and

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

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