



Date: July 20, 2018

Prepared By: Tim Bedeaux

Purpose: Evaluate the instructional materials adoption process in New Mexico and review potential strategies to improve the quality and relevance of instructional materials used in the classroom.

Witness: TJ Parks, Superintendent, Hobbs Municipal Schools, and Rachel Altobelli, Director of Library Services, Albuquerque Public Schools

Expected Outcome: Ensure students and teachers have access to high-quality instructional materials.

Instructional Materials Appropriations, Allocations, Review, and Adoption

The National Conference of State Legislatures' *No Time To Lose* report calls on states to empower teachers with a world-class instructional system that includes rigorous content standards, curricula aligned with those standards, and instructional materials aligned to the curricula. In New Mexico, the alignment of instruction and materials occurs at the school district level, but half of the instructional material funds allocated to school districts must be used to purchase materials on a list adopted by the Public Education Department (PED). School districts also report having to use operational funds to supplement inadequate allocations for instructional materials. New Mexico is poised to improve the adequacy of funding for instructional materials, equity of access to high-quality instructional materials, and local control over how those materials are purchased and used.

While a growing body of national research suggests states should utilize a list of adopted materials to assist schools and school districts that may not have the capacity to conduct a rigorous review of the materials, there is a push from school districts and teachers to allow for more local control over instructional materials. Attempts have been made over the past several years to eliminate the requirement for districts to purchase half of their materials from the adopted list, but none have been successful; the governor's message on a vetoed bill from 2015 stated the elimination of the list would lower standards by allowing school districts to purchase materials that have not been reviewed for alignment with New Mexico academic content standards. It is unclear how the elimination of the adopted list would affect current practice, given that charter schools already have the flexibility to purchase materials not on the adopted list under current law, some materials are adopted by PED as "supplementary" without undergoing a content review, and school districts can use operational funding to purchase any materials they wish to purchase.

Instructional Materials in New Mexico

Instructional Material Law

The Instructional Material Law lays out provisions for how funds are provided for the purchase of instructional materials. The law considers the appropriation of funds to PED and factors to be considered for allocations to school districts, private schools, and state institutions. The

Though subject-specific adoption cycles are not codified in statute, they are required by PED administrative rule. PED staff explained the use of the cycle simplifies the review process from a logistical standpoint; instead of creating a teacher review team for many subjects each year, PED's Instructional Materials Bureau (IMB) only needs to oversee teams for one or two subjects per year. IMB is currently staffed by the bureau chief and one other full-time staff.

law also creates a process by which instructional materials are reviewed to ensure alignment with state academic content standards.

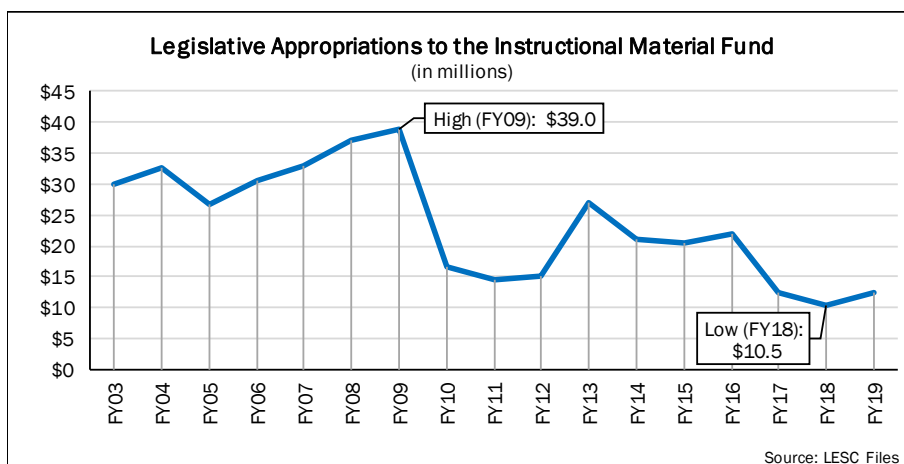
Appropriations to the Instructional Material Fund. Section 22-15-5 NMSA 1978 creates the instructional material fund, a nonreverting fund used for the purchase of instructional materials. The fund is administered by PED and contains money appropriated by the Legislature through a categorical appropriation.

Appropriations to the instructional material fund have decreased significantly since the Great Recession. In FY09, the instructional materials appropriation peaked at \$39 million; in FY19, the Legislature appropriated \$12.5 million, an amount slightly more than a low of \$10.5 million in FY18. During a special session to address FY17 revenue shortfalls, the Legislature began appropriating instructional material funds from the public school capital outlay fund (PSCOF). Laws 2016 (2nd Special Session), Chapter 2 (Senate Bill 4) set aside \$25 million in public school capital outlay fund revenue per year until FY22 to be appropriated for transportation and instructional materials. All of the FY17 and FY18 and a portion of the FY19 instructional materials appropriations were made with public school capital outlay dollars.

Instructional Materials Appropriations by Source
(in millions)

	FY16	FY17	FY18	FY19
General Fund	\$21.9			\$8.0
PSCOF		\$12.5	\$10.5	\$4.5

Source: LESC Files



PED delayed the adoption of kindergarten through 12th grade science materials from 2017 to 2018, and math from 2018 to 2019. Because science is a subject that requires a large appropriation to fund, the delay will save a considerable amount of funding in the 2018-2019 school year with PED having adopted only PE and health materials in the summer of 2017. However, the delay also created a large inequity in the funding needed to purchase subjects adopted in other years. PED's website indicates this change will be permanent for the foreseeable future.

PED adopts and the Legislature funds new materials specific to subjects on a six-year cycle, but school districts are not required to replace materials on the same cycle. As shown in the table on the following page, PED adopts materials for physical education (PE) and health, science and the arts, math and career-technical education (CTE), English language arts and other languages, and social studies. However, the subjects adopted year to year require significantly different appropriations from the Legislature and investments from school districts to fully fund the adoption cycle. For instance, materials for PE and health classes to be purchased this year will cost less than next year's science materials.

Fluctuations in annual appropriations make it difficult for school districts to budget for instructional materials purchases. Additionally, the Legislature has not provided sufficient funding for instructional materials in recent years, with school districts reporting they use funds from their operational budget to cover the cost of instructional materials. Many school districts report purchasing consumables for

multiple subjects annually and saving excess funds for larger, more expensive subject adoptions.

PED IMB Adoption Cycle by Summer of Review Institute

2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
PE, Health K-12 Science			PE, Health K-12 Science						PE, Health			PE, Health						
The Arts K-12 Math			The Arts K-12 Math						delay			K-12 Science			K-12 Science			
CTE			CTE						delay			K-12 Math			Math			
9-12 ELA, CORE Reading, Languages			9-12 ELA, CORE Reading, Languages						9-12 ELA, CORE Reading, Languages			9-12 ELA, CORE Reading, Languages						
K-8 ELA, CORE Reading, Languages			K-8 ELA, CORE Reading, Languages						K-8 ELA, CORE Reading, Languages			K-8 ELA, CORE Reading, Languages						
Social Studies			Social Studies						Social Studies			Social Studies						

Source: PED

Instructional Materials Allocations. The instructional material law provides parameters for how funds are to be distributed to school districts, charter schools, state-supported schools, private schools, and the adult basic education system. Section 22-15-9 NMSA 1978 requires PED to transfer an amount for adult basic education materials to the adult basic education fund administered by the Higher Education Department (HED). The allocation for adult basic education is made in an amount equal to one quarter of the previous year’s adult basic education enrollment. PED distributes an amount to HED for adult basic education before the remainder of the allocation is split between school districts and charter schools, and state-supported schools.

In previous years, allocations were also made to private schools before allocations to public schools. However, a 2015 ruling by the New Mexico Supreme Court in *Moses v. Skandera* found allocations to private schools were unconstitutional. PED redistributed \$5.1 million previously allocated to private schools to public schools and state supported schools in FY17 and has not since made allocations to private schools. However, the Supreme Court of the United States remanded the case, now known as *Moses v. Ruskowski*, back to the New Mexico Supreme Court for further consideration.

After the distribution is made to adult basic education, PED allocates the remainder of the appropriation to school districts, charter schools, and state-supported schools based on their enrollment count on the first reporting date of the current school year. PED allocates a majority of available instructional material funds to school districts, charter schools, and state-supported schools at the beginning of the fiscal year based on enrollment from the first reporting date of the prior year. The department then adjusts the allocation on January 15th using the enrollment from the first reporting date of the current school year. To account for enrollment growth in instructional materials allocations, Section 22-15-9 NMSA 1978 requires PED to count new students at an amount six times the per-student rate. However, final allocations shown on PED’s

In 2015, the New Mexico Supreme Court held in *Moses v. Ruskowski* (formerly *Moses v. Skandera*) that instructional materials allocations to private school students violate the Constitution of the State of New Mexico. The court ruled PED may still purchase secular materials and distribute them to private schools for the benefit of eligible students at those schools. Section 22-15-9 NMSA 1978 still authorizes allocations to private schools, but the general appropriations acts of recent years have included language preventing allocations to private schools, consistent with the court’s decision.

In light of a decision by the Supreme Court of the United States (SCOTUS) in *Trinity Church of Columbia v. Pauley*, SCOTUS remanded *Moses v. Ruskowski* back to the New Mexico Supreme Court for further consideration. SCOTUS held in *Trinity* that denying an institution a generally available benefit on the basis of the institution’s religious identity violates the free exercise clause of the First Amendment of the United States Constitution because it requires a religious school to choose between obtaining a publicly available benefit and remaining a religious institution. The parties in *Moses v. Ruskowski* presented oral arguments to the New Mexico Supreme Court in May 2018, but the Court has not yet issued a final judgment.

website do not appear to account for enrollment growth. It is unclear if PED accounts for “new pupils” as required by statute; allocation spreadsheets for FY16, FY17, and FY18 show school districts, charter schools, and state-supported schools receiving a flat per-student amount based on their enrollment on the first reporting date, regardless of whether their enrollment was higher or lower in previous years.

Instructional Materials Review and Adoption

According to PED staff, the instructional materials review process is fully funded by content publishers. Stipends to teachers for instructional material reviews are subsidized by textbook publishing companies, which submit a processing fee alongside their response to a PED request for applications (RFA) for instructional materials. PED submits a budget adjustment request (BAR) for fees collected from publishing companies used to provide stipends to teachers for the review of instructional materials. Notably, publisher fees for the science review institute were much smaller than fees for PE and health and social studies institutes.

Section 22-15-8 NMSA 1978 requires PED to establish procedures for the adoption of a list of instructional materials aligned with state academic content and performance standards. Statute requires PED to ensure parents and other community members are involved in the adoption process. PED administrative rule details the six-year adoption cycle for which PED’s Instructional Materials Bureau (IMB) creates teams of teachers to review potential new materials for each subject up for adoption.

Annual Summer Review Institute. Each summer, PED holds a summer review institute, assembling a team of teachers of the subject up for adoption to benchmark materials on a rubric of state standards and other textbook quality indicators. At the beginning of each summer, level two and level three-A teachers may apply to be on review teams, and, if selected by PED, receive a stipend to review materials for one week. For the review of science and art materials that occurred in June 2018, PED employed a team of approximately 45 science teachers and 15 art teachers, who earned stipends of \$1,700 to \$1,800 for their participation. PED staff provides one day of in-person training on the rubric before teachers begin their review. In addition to a benchmarking list of content standards in each grade for the subject, the rubric asks teachers to evaluate other relevant information, including whether the material helps teachers plan substantive discussions, contains resources to support the attainment of academic vocabulary, and offers equitable strategies to address the needs of all learners.

PED Spending on Summer Review Institute

(in thousands)

	FY16	FY17	FY18
Subject	Social Studies	PE and Health	Science
BAR	\$157.1	\$273.6	\$41.2

Source: LFC Files

While school districts are required to use 50 percent of their instructional materials allocations to purchase items on the multiple list, it appears districts have flexibility to choose from core basal and supplementary materials at their discretion. This practice gives school districts flexibility to choose materials that fit their context, but because supplementary materials either failed to meet the required score of 90 percent of possible points to be considered core basal or were placed on the list without being reviewed, it raises the question of whether students statewide will receive equitable access to high-quality instructional materials.

PED adopts a list of all materials reviewed called the “multiple list,” categorizing materials as either “core basal” or “supplementary” materials. Materials that earn 90 percent of the possible points in the review process are adopted as core basal materials, defined in Section 6.75.2.7 NMAC as “materials that constitute the necessary instructional components of a course of study, generally including a student edition, a teacher edition, and workbooks.” Materials that score below 90 percent are adopted as supplementary, defined in Section 6.75.2.7 NMAC as “materials used to reinforce, enrich, or extend the basic program of instruction...[including] bundles, packages, classroom kits, sets, libraries, and collections.” PED also may elect to place materials on the list as supplementary without reviewing their content. Materials on the multiple list are listed by their format, whether textbook or digital, and their price.



PED posts some of the results of the review institute online, but the results are incomplete, inconsistent, opaque, and likely require guidance to understand. Only the results of the three most recent content reviews for health and physical education, social studies, and kindergarten through eighth grade English language arts are available online. Math, high school English language arts, and CTE material reviews are not publicly available. Additionally, PED posts the final scored rubrics for only a portion of the materials reviewed. In 2016, PED published a final list of scores for social studies materials, but did not do so in 2017 for health and physical education or in 2015 for kindergarten through eighth grade English language arts. PED does not publish a tool to help school districts compare materials across each subject, grade level, or review category. The materials posted online still require teachers or school district officials to make a considerable effort to comprehend the documents and compare the materials.

The adopted multiple list designates each item “CB” for core basal materials and “SU” for supplementary, but does not provide the materials’ rubric score or other further detail. This requires school and school district administrators to be familiar with the terminology used in the instructional material adoption law when reviewing the multiple list.

Instructional Materials Purchases and School District Challenges. Paragraph C of Section 22-15-9 NMSA 1978 requires school districts to spend 50 percent of their allocation on instructional materials adopted by PED. It appears statute gives school districts the flexibility to choose from both core basal and supplementary materials as long as the materials appear on the PED adopted multiple list, though it is unclear if this is PED’s practice. The remaining 50 percent of funds may be used to purchase materials not on the adopted list as long as they are not religious, sectarian, or nonsecular materials.

Pursuant to the Charter Schools Act, charter schools are exempt from the 50 percent requirements in statute.

Due to inconsistent reporting from school districts, it is difficult to track how actual school district instructional material expenditures relate to allocations. A 2014 Legislative Finance Committee report on PED’s oversight of instructional materials notes 92 percent of school districts reported insufficient funding for instructional materials, requiring many school districts to use funds from their operational budget to cover the cost of materials. The report also notes school districts habitually save portions of their allocation for larger and more costly adoption cycles like English language arts, math, and science. Expenditure data reported by school districts in more recent years tend to show expenditures on instructional materials have continued to outpace allocations in many school districts, suggesting school districts are continuing to use funds carried over from previous instructional material allocations or are using operational funds.

Instructional Materials Waivers. Section 22-2-2.1 NMSA 1978 requires PED to approve all reasonable requests to waive the purchase of instructional materials from the multiple list for schools that exceed educational standards. Waivers granted for this purpose would be granted for the school year following the request and would remain in effect as long as a school continues to exceed educational standards. Neither statute nor department regulations define “educational standards.” It is unclear how many school districts have applied for waivers to purchase materials not on the multiple list or how many of these requests PED grants.

New Mexico Practices in a National Context

Several aspects of New Mexico’s instructional material adoption process are nearly in alignment with best practices identified by national research. A comprehensive review of previous research by the Brookings Institute titled *The Challenges of Curriculum Materials as a Reform Lever* explains transparent and rigorous state adoption

New Mexico uses an adopted list, but because the online results of the review are incomplete and can be difficult to interpret, the transparency of the adoption process is limited. Adopted lists are most useful to teachers and administrators when they trust the process that was used to create the list.

lists can relieve teachers and school districts from the burden of identifying materials aligned with content standards. Often, teachers and school districts have difficulty determining the quality of instructional materials, likely because comparative textbook quality data, especially data that benchmarks materials on state standards, do not widely exist. The Brookings report suggests states develop an adopted list or use a list developed by a nonprofit, and even incentivize school districts to purchase a portion of their materials from that list.

Steps can be taken to improve the usability of New Mexico’s adopted list. As an example, the nonprofit EdReports conducts reviews of English and mathematics instructional materials and reports the scores of all materials based on their focus and coherence, rigor, and usability. EdReports compares and scores textbooks in each of these domains for each grade level and publishes comparative scores on the nonprofit’s website. Each score contains a link to more information specific to each domain, showing detail for why each material received the score it did. Because New Mexico is already scoring materials in several domains, including adherence to state standards, usability, and other relevant information, PED could easily share score reports for materials structure similar to that of EdReports to allow teachers and school district administrators to make meaningful comparisons.

Sample of EdReports Instructional Material Rankings

	FOCUS & COHERENCE	RIGOR & MATHEMATICAL PRACTICES	USABILITY	Create Custom Comparisons						
Title (35)	Kindergarten	1st Grade	2nd Grade	3rd Grade	4th Grade	5th Grade	6th Grade	7th Grade	8th Grade	
Agile Mind Middle School Mathematics (2016) Agile Mind Show Reports							13/14	13/14	13/14	
Big Ideas Math (2013) Big Ideas Learning, LLC Show Reports							5/14	6/14	10/14	
Bridges In Mathematics (2015) The Math Learning Center Show Reports	13/14	13/14	13/14	12/14	12/14	12/14				

Source: EdReports

Ensuring high-quality materials reach the classroom is only half of the equation; states must also take steps to ensure high quality materials are integrated as part of a world-class instructional system. *No Time to Lose* notes the course syllabi of top-performing countries “specify learning objectives, materials to be used, appropriate assessments,

and papers and projects to be completed,” but those systems expect teachers to develop lesson plans based on the content provided. Ensuring materials and instruction are aligned may increase the efficacy of those materials. In New Mexico, those decisions are generally made at the school district level and sometimes even the school level.

Even if states identify which materials and content are the highest quality, they still must determine which materials are *actually* being used in the classroom, and whether student outcomes align with what is expected based on the initial review of the materials. New Mexico has begun collecting data on which textbooks are being used in classrooms by requiring school districts to report which materials are purchased from adopted and non-adopted sources. However, the data collected by PED cannot yet determine which materials are most effective because the department does not evaluate how or if the materials are used.

There is no requirement for teachers to use materials that are purchased, which can result in wasted funds at the school district level. A survey of teachers in five states, including New Mexico, found between 72 and 80 percent of teachers reported using materials they developed or materials developed by their colleagues at least once a week, compared with 43 to 53 percent of teachers who use materials created by external organizations or publishers. More data would need to be collected to understand whether adopted materials are being used, and, if so, how their effectiveness compares with non-adopted materials. New Mexico will also need to consider how to begin benchmarking open-source materials found on the internet.

Increasingly, teachers have been turning to the internet for peer-developed lesson plans on sites like Pinterest and Teachers Pay Teachers. Resources found on the internet are free, but are not reviewed for rigor or adherence to state content standards. Teachers who use open-source materials may spend significant time searching for the right materials or adapting those materials to fit state standards.

Review of Proposed Legislation

In 2017, LESC endorsed and the Legislature unanimously passed House Bill 42, Instructional Material Definitions & Fund, which would have provided school districts with additional flexibility by eliminating the requirement that school districts use 50 percent of their allocation on materials on PED’s multiple list. **See Attachment 1, HB42 (2017), Instructional Material Definitions and Fund.** HB42 also amended the definition of “instructional material” to include original source material from primary sources, like historical documents or original literary works, as well as electronic content resources, excluding hardware like CDs and DVDs. The bill would have allowed school districts to spend their allocations on anything that met the definition of an instructional material. The governor vetoed HB42, stating the bill lowered standards by allowing school districts to purchase materials that have not been reviewed, despite the fact that charter schools already have this option under current law.

HB42 eliminated all references to private school students in the Instructional Material Law, consistent with the New Mexico Supreme Court’s decision in *Moses v. Skandera*, and changed the enrollment count for the purpose of allocating instructional materials funds from the first to the second reporting date.

PED noted several concerns with HB42, most of which revolved around the review process. PED argued elimination of the requirement that school districts use 50 percent of their instructional material allocation to purchase materials from PED’s multiple list would result in decreased incentive for publishers to engage in and subsidize the state review process. While the law would still require PED to review

instructional materials, PED was concerned it would have a reduced funding pool to conduct the summer review institute, which could severely diminish the quality of the reviews and could end up eliminating the reviews entirely. PED also noted school districts would be burdened with completing their own review of materials and would be forced to negotiate contracts with content providers. This could result in inequities statewide, where school districts with diminished capacity to negotiate could be charged more money for materials that are not aligned with state standards.

Future Considerations

The Legislature has an opportunity to rethink how instructional materials are evaluated, purchased, and used in the classroom. The Legislature should aim to improve the instructional materials process for the benefit of students, teachers, and school districts and consider the following questions.

- How can the Legislature ensure all students have access to high-quality instructional materials? How can the Legislature provide sufficient funds for instructional materials? How can the Legislature ensure funding is supporting materials that teachers will find valuable and usable?
- How can the Legislature ensure funding for instructional materials is consistent from year to year, even if the state adopts materials from different subjects each year?
- What are the implications of allowing school districts, schools, or teachers more flexibility to use materials not on the adopted list? Should the Legislature more clearly define when flexibility should be offered (e.g. after demonstrating high academic achievement)?



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

HOUSE BILL 42

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Sheryl Williams Stapleton

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC EDUCATION; AMENDING SECTIONS OF THE PUBLIC SCHOOL CODE TO EXPAND THE DEFINITION OF "INSTRUCTIONAL MATERIAL", REQUIRE TIMELY ALLOCATIONS AND LIMIT APPLICATION OF THE MULTIPLE LIST.

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:

(1) accreditation review requirements as provided in Section 22-2-2 NMSA 1978;

.205073.5

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

1 (2) the length of the school day requirement
2 as provided in Section 22-2-8.1 NMSA 1978;

3 (3) the individual class load requirement as
4 provided in Section 22-10A-20 NMSA 1978; and

5 (4) the subject area requirement as provided
6 in Section 22-13-1 NMSA 1978 [~~and~~

7 ~~(5) purchase of instructional material from~~
8 ~~the department-approved multiple list requirement as provided~~
9 ~~in Section 22-15-8 NMSA 1978].~~

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

14 (1) the graduation requirement as provided in
15 Section 22-13-1.1 NMSA 1978;

16 (2) evaluation standards for school personnel;
17 and

18 (3) other requirements of the Public School
19 Code that impede innovation in education if the waiver request
20 is supported by the teachers at the requesting school and the
21 requesting school's local school board.

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

.205073.5

1 standards.

2 D. The department shall only waive requirements
3 that do not conflict with the federal No Child Left Behind Act
4 of 2001 or rules adopted pursuant to that act."

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

7 "22-15-2. DEFINITIONS.--As used in the Instructional
8 Material Law:

9 A. "division" or "bureau" means the instructional
10 material bureau of the department;

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

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

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

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

.205073.5

1 F. "additional [~~pupil~~] student" means a [~~pupil~~]
 2 student in a school district's or state institution's [~~or~~
 3 ~~private school's~~] current year's certified [~~forty-day~~] second
 4 reporting date membership above the number certified in the
 5 school district's or state institution's [~~or private school's~~]
 6 prior year's [~~forty-day~~] second reporting date membership;

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

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

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

14 "22-15-3. BUREAU--CHIEF.--

15 A. The "instructional material bureau" is created
 16 within the department [~~of education~~].

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

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

21 "22-15-4. BUREAU--DUTIES.--Subject to the policies and
 22 rules of the department, the bureau shall:

23 A. administer the provisions of the Instructional
 24 Material Law;

25 B. enforce rules for the handling, safekeeping and

.205073.5

1 distribution of instructional material and instructional
 2 material funds and for inventory and accounting procedures to
 3 be followed by school districts and state institutions [~~and~~
 4 ~~private schools~~] pursuant to the Instructional Material Law;

5 C. withdraw or withhold the privilege of
 6 participating in the free use of instructional material in case
 7 of any violation of or noncompliance with the provisions of the
 8 Instructional Material Law or any rules adopted pursuant to
 9 that law;

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

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

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

19 "22-15-5. INSTRUCTIONAL MATERIAL FUND.--

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

.205073.5

1 of the Instructional Material Law.

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

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

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

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

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

23 A. Any qualified student or person eligible to
 24 become a qualified student attending a public school or a state
 25 institution [~~or a private school~~] approved by the department in

.205073.5

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

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

13 C. Any school district or state institution [~~or~~
 14 ~~private school~~] as agent receiving instructional material
 15 pursuant to the Instructional Material Law is responsible for
 16 distribution of the instructional material for use by eligible
 17 students and for the safekeeping of the instructional
 18 material."

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

21 "22-15-8. MULTIPLE LIST--SELECTION--REVIEW PROCESS.--

22 A. The department [~~shall~~] may adopt a multiple list
 23 to be made available to students pursuant to the Instructional
 24 Material Law. At least ten percent of instructional material
 25 on the multiple list concerning language arts and social

.205073.5

1 studies shall contain material that is relevant to the
2 cultures, languages, history and experiences of multi-ethnic
3 students. The department shall ensure that parents and other
4 community members are involved in the adoption process at the
5 state level.

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

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

20 (1) a summer review institute at which basal
21 materials in the content area under adoption will be
22 facilitated by content and performance experts in the content
23 area and reviewed by reviewers;

24 (2) that level two and level three-A teachers
25 are reviewers of record; provided that level one teachers,

.205073.5

1 college students completing teacher preparation programs,
 2 parents and community leaders will be recruited and partnered
 3 with the reviewers of record;

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

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

10 D. Participants in the summer review institute
 11 [~~shall~~] may receive a stipend commensurate with the level of
 12 responsibility and participation as determined by department
 13 rule.

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

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

19 "22-15-9. DISTRIBUTION OF FUNDS FOR INSTRUCTIONAL
 20 MATERIAL.--

21 A. [~~On or before~~] No later than April 1 of each
 22 year, the department shall allocate to each school district or
 23 state institution [~~or private school~~] as agent not less than
 24 ninety percent of its estimated entitlement as determined from
 25 the estimated [~~forty-day~~] second reporting date membership for

.205073.5

1 the next school year. A school district's or state
 2 institution's [~~or private school's~~] entitlement is that portion
 3 of the total amount of the annual appropriation less a
 4 deduction for a reasonable reserve for emergency expenses that
 5 its [~~forty-day~~] second reporting date membership bears to the
 6 [~~forty-day~~] second reporting date membership of the entire
 7 state. For the purpose of this allocation, additional [~~pupils~~]
 8 students shall be counted as six [~~pupils~~] students. The
 9 allocation for adult basic education shall be based on a full-
 10 time equivalency obtained by multiplying the total previous
 11 year's enrollment by .25. The department shall transfer the
 12 amount of the allocation for adult basic education to the adult
 13 basic education fund.

14 B. [~~On or before~~] No later than January 15 of each
 15 year, the department shall recompute each entitlement using the
 16 [~~forty-day~~] second reporting date membership for that year,
 17 except for adult basic education, and shall allocate the
 18 balance of the annual appropriation adjusting for any over- or
 19 under-estimation made in the first allocation.

20 C. [~~An amount not to exceed fifty percent of the~~
 21 ~~allocations attributed to each school district or state~~
 22 ~~institution may be used for instructional material not included~~
 23 ~~on the multiple list provided for in Section 22-15-8 NMSA 1978,~~
 24 ~~and] Up to twenty-five percent of [~~this amount~~] the allocations
 25 attributed to each school district or state institution may be~~

.205073.5

1 used for other classroom materials. [~~The local superintendent~~
 2 ~~may apply to the department for a waiver of the use of funds~~
 3 ~~allocated for the purchase of instructional material either~~
 4 ~~included or not included on the multiple list. If the waiver~~
 5 ~~is granted, the school district shall not be required to submit~~
 6 ~~a budget adjustment request to the department. Private schools~~
 7 ~~may expend up to fifty percent of their instructional material~~
 8 ~~funds for items that are not on the multiple list; provided~~
 9 ~~that no funds shall be expended for religious, sectarian or~~
 10 ~~nonsecular materials; and provided further that all~~
 11 ~~instructional material purchases shall be through an in-state~~
 12 ~~depository.]~~

13 D. The department shall establish procedures for
 14 the distribution of funds directly to school districts and
 15 state institutions. Prior to the final distribution of funds
 16 to any school district or charter school, the department shall
 17 verify that the local school board or governing body has
 18 adopted a policy that requires that every student have a
 19 textbook for each class that conforms to curriculum
 20 requirements and that allows students to take those textbooks
 21 home.

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

25 ~~F.] E. A school district or state institution~~

.205073.5

1 that has funds remaining for the purchase of instructional
 2 material at the end of the fiscal year shall retain those
 3 funds for expenditure in subsequent years. [~~Any balance~~
 4 ~~remaining in an instructional material account of a private~~
 5 ~~school at the end of the fiscal year shall remain available~~
 6 ~~for reimbursement by the department for instructional~~
 7 ~~material purchases in subsequent years.]"~~

8 SECTION 10. Section 22-15-10 NMSA 1978 (being Laws
 9 1967, Chapter 16, Section 214, as amended) is amended to
 10 read:

11 "22-15-10. SALE OR LOSS OR RETURN OF INSTRUCTIONAL
 12 MATERIAL.--

13 A. With the approval of the chief, instructional
 14 material acquired by a school district or state institution
 15 [~~or private school~~] pursuant to the Instructional Material
 16 Law may be sold at a price determined by officials of the
 17 school district or state institution [~~or private school~~].
 18 The selling price shall not exceed the cost of the
 19 instructional material to the state.

20 B. A school district or state institution [~~or~~
 21 ~~private school~~] may hold the parent or student responsible
 22 for the loss, damage or destruction of instructional material
 23 while the instructional material is in the possession of the
 24 student. A school district may withhold the grades, diploma
 25 and transcripts of the student responsible for damage or loss

.205073.5

1 of instructional material until the parent or student has
 2 paid for the damage or loss. When a parent or student is
 3 unable to pay for damage or loss, the school district shall
 4 work with the parent or student to develop an alternative
 5 program in lieu of payment. Where a parent is determined to
 6 be indigent according to guidelines established by the
 7 department, the school district shall bear the cost.

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

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

16 ~~E.]~~ D. Upon order of the chief, a school district
 17 or state institution [~~or private school~~] shall transfer to
 18 the department or its designee instructional material,
 19 purchased with instructional material funds, that is in
 20 usable condition and for which there is no use expected by
 21 the respective schools."

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

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

.205073.5

1 school district and state institution [~~or private school~~]
 2 shall keep accurate records of all instructional material,
 3 including cost records, on forms and by procedures prescribed
 4 by the bureau."

5 SECTION 12. Section 22-15-12 NMSA 1978 (being Laws
 6 1967, Chapter 16, Section 216, as amended) is amended to
 7 read:

8 "22-15-12. ANNUAL REPORT.--Annually, at a time
 9 specified by the department, each local school board of a
 10 school district and each governing authority of a state
 11 institution [~~or private school~~] acquiring instructional
 12 material pursuant to the Instructional Material Law shall
 13 file a report with the department that includes an itemized
 14 list of instructional material purchased by the eligible
 15 entity, by vendor; the total cost of the instructional
 16 material; the average per-student cost; and the year-end cash
 17 balance."

18 SECTION 13. Section 22-15-14 NMSA 1978 (being Laws
 19 1967, Chapter 16, Section 218, as amended) is amended to
 20 read:

21 "22-15-14. REPORTS--BUDGETS.--

22 A. Annually, the department [~~of education~~] shall
 23 submit a budget for the ensuing fiscal year to the department
 24 of finance and administration showing the expenditures for
 25 instructional material to be paid out of the instructional

.205073.5

1 material fund, including reasonable transportation charges
2 and emergency expenses.

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

7 SECTION 14. REPEAL.--Section 22-15-8.2 NMSA 1978 (being
8 Laws 2006, Chapter 58, Section 1) is repealed.

9 SECTION 15. EFFECTIVE DATE.--The effective date of the
10 provisions of this act is July 1, 2017.

11 - 15 -

underscored material = new
[bracketed material] = delete

12
13
14
15
16
17
18
19
20
21
22
23
24
25

.205073.5