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SENATE BILL 285

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

INTRODUCED BY  
Cynthia Nava

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO INSTRUCTIONAL MATERIAL; ELIMINATING THE MULTIPLE LIST; GIVING MORE AUTHORITY TO LOCAL SCHOOL BOARDS AND OTHER EDUCATIONAL ENTITIES; ENSURING THAT STATE FUNDS ARE NOT USED TO PURCHASE MATERIALS OF A SECTARIAN, PARTISAN OR DENOMINATIONAL CHARACTER OR A RELIGIOUS NATURE; LOWERING THE PERCENTAGE DISTRIBUTION OF ESTIMATED ENTITLEMENT; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

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1 bureau;

2 C. "instructional material" means school textbooks  
3 and other educational media that are used as the basis for  
4 instruction, including combinations of textbooks, learning  
5 kits, supplementary materials and electronic media;

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

8 ~~E.]~~ D. "membership" means the ~~[total]~~ average  
9 enrollment of qualified students on the fortieth, ~~[day]~~  
10 eightieth and one hundred twentieth days of the prior school  
11 year entitled to the free use of instructional material  
12 pursuant to the Instructional Material Law; and

13 ~~[F.]~~ E. "additional pupil" means a pupil in a  
14 school district's, state institution's, ~~[or]~~ private school's  
15 or adult basic education center's current year's certified  
16 ~~[forty-day]~~ membership above the number certified in the  
17 school district's, state institution's, ~~[or]~~ private school's  
18 or adult basic education center's prior year's ~~[forty-day]~~  
19 membership."

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

22 "22-15-4. BUREAU--DUTIES.--Subject to the policies and  
23 ~~[regulations]~~ rules of the state board, the bureau shall:

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

B. enforce ~~[regulations]~~ rules for the handling,  
safekeeping and distribution of instructional material and

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1 instructional material funds and for inventory and accounting  
2 procedures to be followed by school districts, state  
3 institutions, private schools and adult basic education  
4 centers pursuant to the Instructional Material Law;

5 C. withdraw or withhold the privilege of  
6 participating in the free use of instructional material in  
7 case of any violation of or noncompliance with the provisions  
8 of the Instructional Material Law or any ~~[regulations]~~ rules  
9 adopted pursuant thereto; ~~[and~~

10 ~~D. enforce regulations relating to the use and~~  
11 ~~operation of instructional material depositories in the~~  
12 ~~instructional material distribution process]~~

13 D. 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 E. ensure that materials purchased by private  
18 schools are not of a sectarian, partisan or denominational  
19 character or a religious nature by requiring private schools  
20 to submit a list with titles and a brief summary of content  
21 of all materials purchased with state instructional material  
22 funds; and

23 F. require an annual report from each local school  
24 board, state institution, private school or adult basic  
25 education center that acquires instructional material  
pursuant to the Instructional Material Law."

Section 3. Section 22-15-5 NMSA 1978 (being Laws 1967,

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1 Chapter 16, Section 209, as amended) is amended to read:

2 "22-15-5. INSTRUCTIONAL MATERIAL FUND.--

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

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

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

19 "22-15-8. ~~[MULTIPLE LIST]~~ SELECTION OF MATERIALS.--

20 ~~[A. The state board shall adopt a multiple list to~~  
21 ~~be made available to students pursuant to the Instructional~~  
22 ~~Material Law. The state board shall ensure that parents and~~  
23 ~~other community members are involved in the adoption process~~  
24 ~~at the state level.~~

25 B.] Pursuant to the provisions of the  
Instructional Material Law, each local school ~~[district]~~  
board, state institution, private school as agent or adult

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1 basic education center may select instructional material for  
2 the use of its students [~~from the multiple list adopted by~~  
3 ~~the state board~~]; provided that none of the instructional  
4 material purchased is of a sectarian, partisan or  
5 denominational character or a religious nature. Local school  
6 boards shall give written notice to parents and other  
7 community members and shall invite parental involvement in  
8 the [~~adoption~~] selection process at the school district  
9 level. Local school boards shall also give public notice,  
10 which notice may include publication in a newspaper of  
11 general circulation in the school district."

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

14 "22-15-9. DISTRIBUTION OF FUNDS FOR INSTRUCTIONAL  
15 MATERIAL.--

16 A. On or before July 1 of each year, the  
17 department of education shall allocate to each school  
18 district, state institution or private school not less than  
19 [~~ninety~~] seventy-five percent of its estimated entitlement as  
20 determined from the estimated [~~forty-day~~] membership for the  
21 next school year. A school district's, state institution's  
22 or private school's entitlement is that portion of the total  
23 amount of the annual appropriation less a deduction for a  
24 reasonable reserve for emergency expenses that its [~~forty-~~  
25 ~~day~~] membership bears to the [~~forty-day~~] membership of the  
entire state. For the purpose of this allocation, additional  
pupils shall be counted as six pupils. The allocation for

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1 adult basic education shall be based on a full-time  
2 equivalency obtained by multiplying the total previous year's  
3 enrollment by .25.

4 B. On or before January 15 of each year, the  
5 department of education shall recompute each entitlement  
6 [~~using the forty-day membership for that year, except for~~  
7 ~~adult basic education~~] and shall allocate the balance of the  
8 annual appropriation adjusting for any over- or under-  
9 estimation made in the first allocation.

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

18 ~~D.]~~ C. The department of education shall establish  
19 procedures for the distribution of funds directly to local  
20 school districts, state institutions and adult basic  
21 education centers. The department of education shall  
22 distribute funds to private schools on a reimbursement basis  
23 for instructional material [~~included on the multiple list~~  
24 ~~provided for in Section 22-15-8 NMSA 1978~~]; provided that  
25 none of the instructional material purchased is of a  
sectarian, partisan or denominational character or a  
religious nature.

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1           ~~[E-]~~ D. A school district, state institution or  
2 adult basic education center that has funds remaining for the  
3 purchase of instructional material at the end of the fiscal  
4 year shall retain those funds for expenditure in subsequent  
5 years. Any balance remaining in an instructional material  
6 account of a private school at the end of the fiscal year  
7 shall remain available for reimbursement by the department of  
8 education for instructional material purchases in subsequent  
9 years."

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

12           "22-15-12. ANNUAL REPORT.--Annually, at a time  
13 specified by the department of education, each local school  
14 board [~~of a school district~~] and each governing authority of  
15 a state institution, private school or adult basic education  
16 center acquiring instructional material pursuant to the  
17 Instructional Material Law shall file a report with the  
18 department of education that includes an accurate record of  
19 all instructional material purchased, including cost records,  
20 on forms and by procedures prescribed by the department."

21           Section 7. Section 22-15-13 NMSA 1978 (being Laws 1967,  
22 Chapter 16, Section 217, as amended by Laws 1993, Chapter  
23 156, Section 6 and also by Laws 1993, Chapter 226, Section  
24 44) is amended to read:

25           "22-15-13. CONTRACTS WITH PUBLISHERS.--  
          A. [~~The state~~] A local school board, state  
institution, private school as agent or adult basic education

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1 center may enter into a contract with a publisher or a  
2 publisher's authorized agent for the purchase and delivery of  
3 instructional material [~~selected from the multiple list~~  
4 ~~adopted by the state board~~].

5 B. Payment for instructional material purchased by  
6 the [~~state~~] local school board, state institution, private  
7 school as agent or adult basic education center shall be made  
8 only upon performance of the contract and the delivery and  
9 receipt of the instructional material.

10 C. Each publisher or publisher's authorized agent  
11 contracting with [~~the state~~] a local school board, state  
12 institution, private school as agent or adult basic education  
13 center for the sale of instructional material shall agree:

14 [~~(1) to file a copy of each item of~~  
15 ~~instructional material to be furnished under the contract~~  
16 ~~with the state board with a certificate attached identifying~~  
17 ~~it as an exact copy of the item of instructional material to~~  
18 ~~be furnished under the contract;~~

19 ~~(2)]~~ (1) that the instructional material  
20 furnished pursuant to the contract shall be of the same  
21 quality in regard to paper, binding, printing, illustrations,  
22 subject matter and authorship as the [~~copy filed with the~~  
23 ~~state board~~] copies sold to other states; and

24 ~~(3)]~~ (2) that if instructional material  
25 under the contract is sold elsewhere in the United States for  
a price less than that agreed upon in the contract with [~~the~~  
state] a local school board, state institution, private



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1 school as agent or adult basic education center, the price  
2 [~~to the state~~] shall be reduced to the same amount.

3 D. Each contract executed for the acquisition of  
4 instructional material shall include the right of the local  
5 school board, state institution, private school as agent or  
6 adult basic education center to transcribe and reproduce  
7 instructional material in media appropriate for the use of  
8 students with visual impairment who are unable to use  
9 instructional material in conventional print and form.  
10 Publishers of adopted textbooks also shall be required to  
11 provide those materials to the local school board, state  
12 institution, private school as agent or adult basic education  
13 center in an electronic format specified by the educational  
14 entity that is readily translatable into braille and also can  
15 be used for large print or speech access within a time period  
16 specified by the educational entity."

17 Section 8. REPEAL.--Section 22-15-11 NMSA 1978 (being  
18 Laws 1967, Chapter 16, Section 215, as amended) is repealed.

19 Section 9. EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2000.