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**SENATE BILL 494**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Cynthia L. Nava**

**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;**

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

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

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

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

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

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

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

25 A. administer the provisions of the Instructional

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1 Material Law;

2 B. enforce ~~[regulations]~~ rules for the handling,  
3 safekeeping and distribution of instructional material and  
4 instructional material funds and for inventory and accounting  
5 procedures to be followed by school districts, state  
6 institutions, private schools and adult basic education  
7 centers pursuant to the Instructional Material Law;

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

13 ~~D. enforce regulations relating to the use and~~  
14 ~~operation of instructional material depositories in the~~  
15 ~~instructional material distribution process]~~

16 D. enforce rules that require local school boards  
17 to implement a process that ensures that parents and other  
18 community members are involved in the instructional material  
19 review process;

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

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

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

7                   "22-15-5. INSTRUCTIONAL MATERIAL FUND. --

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

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

22                   Section 4. 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 OF INSTRUCTIONAL  
25 MATERIAL. --

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1           ~~[A. The state board shall adopt a multiple list to~~  
2 ~~be made available to students pursuant to the Instructional~~  
3 ~~Material Law. The state board shall ensure that parents and~~  
4 ~~other community members are involved in the adoption process~~  
5 ~~at the state level.~~

6           B.] Pursuant to the provisions of the Instructional  
7 Material Law, each local school [~~district~~] board, state  
8 institution, private school as agent or adult basic education  
9 center may select instructional material for the use of its  
10 students [~~from the multiple list adopted by the state board~~];  
11 provided that none of the instructional material purchased is  
12 of a sectarian, partisan or denominational character or a  
13 religious nature. Local school boards shall give written  
14 notice to parents and other community members and shall invite  
15 parental involvement in the [~~adoption~~] selection process at  
16 the school district level. Local school boards shall also  
17 give public notice, which notice may include publication in a  
18 newspaper of general circulation in the school district. "

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

21           "22-15-9. DISTRIBUTION OF FUNDS FOR INSTRUCTIONAL  
22 MATERIAL. --

23           A. On or before July 1 of each year, the  
24 department of education shall allocate to each school  
25 district, state institution or private school not less than

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

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

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

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1 ~~the multiple list.~~

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

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

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

22           "22-15-12. ANNUAL REPORT. -- Annually, at a time specified  
23 by the department of education, each local school board ~~[of a~~  
24 ~~school district]~~ and each governing authority of a state  
25 institution, private school or adult basic education center

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1 acquiring instructional material pursuant to the Instructional  
2 Material Law shall file a report with the department of  
3 education that includes an accurate record of all  
4 instructional material purchased, including cost records, on  
5 forms and by procedures prescribed by the department. "

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

10 "22-15-13. CONTRACTS WITH PUBLISHERS. --

11 A. ~~[The state]~~ A local school board, state  
12 institution, private school as agent or adult basic education  
13 center may enter into a contract with a publisher or a  
14 publisher's authorized agent for the purchase and delivery of  
15 instructional material ~~[selected from the multiple list~~  
16 ~~adopted by the state board]~~.

17 B. Payment for instructional material purchased by  
18 ~~[the state]~~ a local school board, state institution, private  
19 school as agent or adult basic education center shall be made  
20 only upon performance of the contract and the delivery and  
21 receipt of the instructional material.

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

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

6                    ~~(2)~~ (1) that the instructional material  
7 furnished pursuant to the contract shall be of the same  
8 quality in regard to paper, binding, printing, illustrations,  
9 subject matter and authorship as the ~~[copy filed with the~~  
10 ~~state board]~~ copies sold to other states; and

11                    [~~(3)~~] (2) that if instructional material  
12 under the contract is sold elsewhere in the United States for  
13 a price less than that agreed upon in the contract with the  
14 ~~[state]~~ local school board, state institution, private school  
15 as agent or adult basic education center, the price ~~[to the~~  
16 ~~state]~~ shall be reduced to the same amount.

17                    D. Each contract executed for the acquisition of  
18 instructional material shall include the right of the local  
19 school board, state institution, private school as agent or  
20 adult basic education center to transcribe and reproduce  
21 instructional material in media appropriate for the use of  
22 students with visual impairment who are unable to use  
23 instructional material in conventional print and form.  
24 Publishers of adopted textbooks shall be required to provide  
25 those materials to the local school board, state institution,

1 private school as agent or adult basic education center in an  
2 electronic format specified by the educational entity that is  
3 readily translatable into braille and can be used for large  
4 print or speech access within a time period specified by the  
5 educational entity."

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

8 Section 9. EFFECTIVE DATE. -- The effective date of the  
9 provisions of this act is July 1, 2001.

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