

materials that school districts, charter schools and private schools are able to use their instructional materials allocation to purchase and eliminates the requirement that public schools use 50 percent of their allocation to purchase instructional materials listed on the multiple list and up to 25 percent of this amount for other classroom materials. Lastly, the bill eliminates language requiring PED to verify that each public school and charter school has a policy that every student have a textbook for each class and they are allowed to take those textbooks home.

FISCAL IMPLICATIONS

The bill does not have any direct fiscal implications; however, eliminating prescriptive requirements currently in law will eliminate PED workload and free up school district and charter school resources to purchase instructional materials from much broader sources.

Processing fees submitted by publishers for inclusion on the multiple list entirely fund the review process of core/basal instructional materials. PED notes the bill removes the incentive for publishers to be listed on the multiple list and may eliminate the source of funding that allows for the review of the material to ensure instructional items are aligned with state standards. The statutory review process currently requires vendors to submit a processing fee; materials to be reviewed and scored for alignment with state academic content and performance standards by level two or level three-A teachers. This review process may not be possible if the bill is enacted if vendors no longer submit processing fees to the department for review of their materials.

SIGNIFICANT ISSUES

CURRENT LAW and PRACTICE

The current definition of instructional materials in the Instructional Materials Act is as follows:

“Instructional material means school textbooks and other educational media that are used as the basis for instruction, including combinations of textbooks, learning kits, supplementary material and electronic media.”

Current law requires public school districts, charter schools, and private schools to use 50 percent of their instructional materials allocation to purchase instructional material included on the “multiple list,” which is a written list of instructional materials approved by PED. Generally, each summer PED holds a summer institute, in which text book vendors pay the department to have their materials reviewed. PED effectively provides stipends to educators to review these materials to ensure they meet current state content standards prior to adopting any materials to place on the multiple list.

Under current law, school districts and charter schools are able to use the remaining 50 percent to purchase instructional material that is not included on the multiple list, including the ability to use up to 25 percent of this amount to purchase other classroom materials that are not included in the definition of “instructional materials.” Private schools are able to use the remaining 50 percent for items that are not on the multiple list so long as funds are not spent for religious, sectarian or nonsecular materials and purchases must be made through an in-state depository.

CHANGES PROPOSED BY BILL

The bill changes the definition to include the following:

"instructional material" means school textbooks and other educational media that are used as the basis for instruction, including combinations of textbooks, learning kits, original source material from primary sources, supplementary material, electronic media and resources that support digital learning formats and educational programs, whether or not on the multiple list;

Changes proposed in the bill would allow school districts and charter schools to use their instructional material allocation to purchase anything included in the definition of instructional material, whether adopted and placed on the multiple list or not. The only changes for private school purchases would be the types of materials they are able to purchase. Limitations on how private school allocations are spent are not changed.

PED's analysis notes changes proposed in the bill will allow school districts and charter schools to spend instructional material allocations on materials not aligned to state content standards, potentially significantly hampering student learning. However, given the high stakes for teachers and administrators currently associated with student test scores on standards-based assessment that measure a students' knowledge of state content standards, incentives still exist to ensure materials purchased with the instructional materials allocation are aligned to state standards.

Of potentially more concern is the fact that PED indicates many medium to small sized school districts may lack the administrative capacity to review and select instructional materials that are aligned with state standards. The current review process is funded by text book publishers – they pay PED a fee to have their materials reviewed. PED in turn contracts with level two and level three-A teachers to review materials for alignment with state content standards every summer. PED notes concerns that this process could be terminated if vendors no longer pay the state to have their materials reviewed and placed on a list that entities are required to purchase from. However, changes in the bill still require the department to conduct the summer instructional materials review and it is unclear at this time if elimination of the requirement for school districts and charter schools to spend 50 percent of their allocation on materials reviewed and adopted through this review process will result in vendors not seeking to be placed on the multiple list. Given concerns that some school districts lack administrative capacity to ensure instructional materials are aligned to state content standards – a majority of New Mexico school districts have fewer than 1000 students – it is likely there may still be significant interest in purchasing peer-reviewed materials off the multiple list.

PED's analysis notes inclusion of "electronic media and resources that support digital learning formats and educational programs" may allow for the purchase of items that the department does not consider instructional materials, such tablets, laptops, cell phones, etc. The HEC Amendment addresses PED's concerns by expressly prohibiting the use of instructional material funding to purchase electronic devices.

Additionally, PED notes concerns with eliminating language on page 4 and 5 that requires PED to verify that each school district and charter school has adopted a policy that requires that every student have a textbook for each class that conforms to curriculum requirements and that allows students to take those textbooks home. PED's analysis states "it would eliminate access to textbooks for all students within the classroom and as an extended learning tool in the home." However, the language that is being eliminated does not require each school district and charter school to actually provide students a textbook for each class and allow students to take those books home. Language being eliminated is the requirement to adopt a policy that addresses

these things. Students are currently not guaranteed by statute the right to a book for every class nor the right to take that book home with them.

PERFORMANCE IMPLICATIONS

As noted above, PED states the bill will impact the instructional material review process that results in a list of instructional materials aligned with state standards and provides the following reasons for maintaining the current review process:

- It helps educators by providing lists of vetted materials for specific subject areas.
- It secures economical pricing through the Favored Nation Clause, which guarantees the lowest price as contracted by any state.
- It provides accurate information about the alignment of content to core standards and objectives.
- It provides tools and resources that can be used at the community or state level.
- It provides recommendations to help educators select the very best materials for instruction. (State Instructional Materials Review Association January, 2015)

ADMINISTRATIVE IMPLICATIONS

School districts and charter schools may have some administrative burden if they are required to review instructional materials for conformity with state standards.

TECHNICAL ISSUES

The bill changes the term “forty-day” to “October reporting date”; however, the term that should be used is the “first reporting date”. See Section 22-8-13 NMSA 1978 and Laws 2010, Chapter 116, Section 9.

The bill eliminates the requirement that public schools use at least 50 percent of their instructional materials allocation on materials adopted and placed on the multiple list by PED; however, the bill leaves requirements in place to use 50 percent for materials on the multiple list for private schools, creating an inequity between public and private schools.

RSG/bb/je