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HOUSE BILL 93

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Mary Helen Garcia and Mary Kay Papen

AN ACT

RELATING TO PUBLIC SCHOOLS; ENACTING THE ACADEMIC SUCCESS THROUGH REMEDIATION ACT; PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT IN READING AT THE END OF KINDERGARTEN OR FIRST OR SECOND GRADE SHALL BE PROVIDED WITH INTENSIVE REMEDIATION; PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT IN READING AT THE END OF THIRD GRADE, WITH CERTAIN EXCEPTIONS, SHALL BE RETAINED AND PROVIDED WITH INTENSIVE REMEDIATION; PROVIDING THAT A STUDENT WHO IS NOT ACADEMICALLY PROFICIENT AT THE END OF GRADES FOUR THROUGH EIGHT SHALL NOT BE RETAINED BUT SHALL BE PROVIDED WITH INTENSIVE REMEDIATION; PROVIDING FOR ASSESSMENT, INTERVENTION AND REMEDIATION PROGRAMS TO ADDRESS DEFICIENCIES IDENTIFIED BETWEEN KINDERGARTEN AND THE EIGHTH GRADE; MAKING EXCEPTIONS; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

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1 SECTION 1. A new section of the Public School Code is
2 enacted to read:

3 "[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
4 "Academic Success Through Remediation Act"."

5 SECTION 2. A new section of the Public School Code is
6 enacted to read:

7 "[NEW MATERIAL] PURPOSE OF ACT.--The purpose of the
8 Academic Success Through Remediation Act is to ensure that
9 students who experience difficulties learning to read are
10 provided multiple opportunities for early intervention and
11 remediation from kindergarten through third grade and beyond."

12 SECTION 3. A new section of the Public School Code is
13 enacted to read:

14 "[NEW MATERIAL] DEFINITIONS.--As used in the Academic
15 Success Through Remediation Act:

16 A. "academic proficiency" means a score on the
17 statewide standards-based assessment that is higher than the
18 lowest level established by the department;

19 B. "deficient in reading" means a score range on
20 the screening assessment determined by the department;

21 C. "educational plan for student success" means a
22 student-centered tool developed to define the role of the
23 reading improvement plan within the public school and the
24 school district that addresses methods to improve student
25 learning and success in school and that identifies specific

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1 measures of a student's progress in reading;

2 D. "intensive targeted instruction" means extra
3 instruction in either small groups or as individuals that shall
4 be no less than twenty minutes per day and five days per week
5 or the weekly equivalent;

6 E. "intervention" means targeted instructional
7 practice for individual students or small groups of students
8 aligned with the results of a valid and reliable assessment
9 and, if applicable, response to intervention as defined in
10 Section 22-13-6 NMSA 1978 and department rule;

11 F. "proficient in reading" means a score on the
12 statewide standards-based assessments that is higher than the
13 lowest level established by the department;

14 G. "reading improvement plan" means a written
15 document developed by the student assistance team that
16 describes the specific reading standards required for a certain
17 grade level that a student has not achieved and that prescribes
18 specific remediation programs, which may include, if
19 appropriate, retention in grades kindergarten, one and two,
20 that have demonstrated effectiveness and can be implemented
21 during the intensive targeted instruction within the school day
22 or during summer school or extended day or week programs and
23 with tutoring;

24 H. "remediation programs" includes summer school,
25 extended day or week programs, tutoring, progress-based

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1 monitoring and other research-based models for student
2 improvement;

3 I. "school district" includes both a public school
4 district and a locally chartered or state-chartered charter
5 school;

6 J. "screening assessment" means the assessment that
7 measures the acquisition of reading skills, including but not
8 limited to phonological awareness, phonics, reading fluency,
9 vocabulary and comprehension, and that is approved by the
10 department;

11 K. "student assistance team" means a collaborative
12 group consisting of a student's:

13 (1) teacher;

14 (2) school counselor;

15 (3) school administrator;

16 (4) parent; and

17 (5) if the student or parent wishes, a student
18 advocate chosen by the parent; and

19 L. "valid and reliable assessments" means
20 assessments that:

21 (1) are appropriate to targeted populations;

22 (2) provide predictive values; and

23 (3) are thoroughly tested, peer-reviewed and
24 accepted by authorities and practitioners in the field."

25 SECTION 4. A new section of the Public School Code is

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1 enacted to read:

2 "[NEW MATERIAL] GRADE PROMOTIONS--INTERVENTION--
3 REMEDIATION PROGRAMS--RETENTION POLICIES--RESTRICTIONS.--

4 A. Using data from the 2014-2015 school year, each
5 public school shall establish baseline assessment data on
6 reading proficiency for students in kindergarten and grades one
7 through three. The baseline assessment data shall include
8 levels of performance in reading based on the screening
9 assessment to determine when a student must be provided with an
10 intervention and remediation program.

11 B. Effective with the beginning of the 2015-2016
12 school year, school districts shall approve and bear the cost
13 of intervention and remediation programs and reading
14 improvement plans that have demonstrated effectiveness to
15 provide special instructional assistance to students in
16 kindergarten through third grade who do not demonstrate reading
17 proficiency. Beginning in kindergarten and through third
18 grade, intervention and remediation programs, reading
19 improvement plans and promotion policies shall be adopted and
20 aligned with the screening assessment results and be aligned
21 with common core state standards. The screening assessment
22 shall be given, including, if appropriate, assessments in the
23 student's first and second languages for English language
24 learners and, if students do not demonstrate reading
25 proficiency, reading improvement plans shall be implemented for

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1 students in kindergarten through third grade as follows:

2 (1) at the end of the first nine weeks of the
3 school year, school districts shall administer the screening
4 assessment to students enrolled in kindergarten. The
5 assessment shall screen students for reading skills as defined
6 in this section;

7 (2) at the beginning of the school year,
8 school districts shall administer the screening assessment to
9 students enrolled in first through third grade. The assessment
10 shall screen students for reading skills as defined in this
11 section; and

12 (3) if the screening assessment results for
13 students in grades kindergarten through grade three indicate
14 that a student is deficient in reading, the student assistance
15 team shall develop a reading improvement plan for the student
16 that clearly delineates the student's reading deficiencies and
17 that clearly delineates intervention and remediation programs
18 that shall be included in the plan, including the specific
19 strategies for a parent to use in helping the student achieve
20 reading proficiency. If a parent refuses to allow the student
21 to participate in any prescribed intervention, the school
22 district shall provide an appropriate form that must be signed
23 by the parent that clearly indicates the parent's refusal to
24 allow the student to participate in the prescribed
25 intervention.

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1 C. Beginning with the 2014-2015 school year, the
2 parent of a student who is in kindergarten or first, second or
3 third grade and who is deficient in reading at the end of the
4 first grading period shall be given notice that the student
5 shall be provided with intensive targeted instruction.

6 D. Beginning with the 2014-2015 school year, a
7 student who is deficient in reading at the end of kindergarten
8 or first or second grade may be retained pursuant to an
9 established reading improvement plan.

10 E. Beginning with the 2015-2016 school year, at the
11 end of grade three, grade promotion and retention decisions for
12 each student shall be based upon the determination that the
13 student is:

14 (1) proficient in reading and shall enter the
15 next highest grade;

16 (2) deficient in reading and shall participate
17 in the required level of remediation before the beginning of
18 the student's next school year. Upon certification by the
19 school district that the student is proficient in reading, the
20 student shall enter the next highest grade; or

21 (3) deficient in reading after completion of
22 the prescribed intervention and remediation program and, upon
23 the recommendation of the principal, in consultation with the
24 teacher, shall be retained in the same grade so that the
25 student may become proficient in reading; provided that the

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1 student shall be provided with a reading improvement plan that
2 is different from the prior year's reading improvement plan
3 developed by the student assistance team.

4 F. A parent may petition the school principal to
5 promote the parent's student to the next grade under the
6 following conditions:

7 (1) the student is deficient in reading after
8 completion of the prescribed intervention and remediation
9 programs in grade three;

10 (2) the student is not habitually truant;

11 (3) the student participated in all required
12 levels of remediation prescribed by the school district in the
13 reading improvement plan; and

14 (4) the parent signs a contract that outlines
15 a reading intervention program for the next grade.

16 G. No student shall be retained for a total of more
17 than one school year in grade three as a result of not having
18 attained proficiency in reading.

19 H. In grades four through eight, intervention and
20 remediation programs, reading improvement plans and promotion
21 policies shall be aligned with school-district-approved, valid
22 and reliable assessment results and be aligned with state
23 standards.

24 I. A parent shall be notified in writing no later
25 than the end of the second grading period of each school year

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1 in grades four through eight that the parent's student is not
2 academically proficient, and a conference with the student
3 assessment team shall be held to discuss strategies, including
4 intervention and remediation programs available to assist the
5 student in becoming academically proficient. The student's
6 specific academic deficiencies and the available strategies,
7 intervention and remediation programs shall be presented orally
8 and in writing to the student's parent and a reading
9 improvement plan shall be developed that contains time lines,
10 academic expectations and the measurements to be used to verify
11 that a student has overcome academic deficiencies. The parent
12 shall be provided with specific strategies to use in helping
13 the student achieve reading proficiency. The intervention and
14 remediation programs and reading improvement plan shall be
15 implemented immediately.

16 J. At the end of grades four through eight, grade
17 promotion decisions for each student shall be based upon the
18 determination that the student is:

19 (1) academically proficient and shall enter
20 the next highest grade; or

21 (2) not academically proficient and shall
22 participate in the required level of remediation. An academic
23 proficiency plan shall be developed by the student assistance
24 team outlining time lines and monitoring activities to ensure
25 progress toward overcoming the student's academic deficiencies.

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1 Students who have been evaluated to determine the nature of
2 their academic deficiencies and who have received an
3 intervention and remediation program that is different from the
4 previous year's program but fail to become academically
5 proficient at the end of that year as measured by grades,
6 performance on the screening assessment and other measures
7 identified by the school district shall be provided with an
8 alternate program that shall be implemented immediately. The
9 school district shall include percentages of academically
10 proficient students listed by school and charter school in its
11 annual accountability report required in Section 22-2C-11 NMSA
12 1978.

13 K. To assess each student's growth in reading and
14 other academic subjects, in kindergarten through second grade,
15 school districts shall use the screening assessment, and in
16 grades three through eight, school districts shall use the
17 statewide standards-based assessment.

18 L. The cost of summer school and extended day
19 intervention and remediation programs offered in grades nine
20 through twelve shall be borne by the parent; however, in cases
21 in which parents are determined to be indigent according to
22 guidelines established by the department, the school district
23 shall bear those costs.

24 M. A student in grades one through eight who does
25 not demonstrate reading proficiency for two successive school

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1 years shall be referred to the student assistance team for
2 placement in an alternative program designed by the school
3 district. Alternative program plans shall be filed with the
4 department.

5 N. Promotion and retention decisions affecting a
6 student enrolled in special education shall be made in
7 accordance with the provisions of the individualized education
8 program established for that student.

9 O. A student shall be exempt from the provisions of
10 Subsection E of this section if the student:

11 (1) scores at least at the fiftieth percentile
12 on a department-approved, norm-referenced assessment or at the
13 proficient level on an alternative school-district-approved,
14 criterion-referenced assessment;

15 (2) demonstrates mastery on a teacher-
16 developed portfolio that is equal to at least a proficient
17 performance on the statewide standards-based assessments;

18 (3) shows sufficient academic growth by
19 meeting acceptable levels of academic performance specified by
20 the department;

21 (4) is an English language learner who is
22 proficient in a language other than English on a valid and
23 reliable reading assessment or who has had less than two years
24 of instruction in English for speakers of other languages;

25 (5) is a student with a disability who shall

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1 be assessed, promoted or retained in accordance with the
2 provisions of the student's individualized education program;
3 or

4 (6) is a student who has already been retained
5 once in kindergarten or first or second grades."

6 SECTION 5. REPEAL.--Section 22-2C-6 NMSA 1978 (being Laws
7 1986, Chapter 33, Section 7, as amended) is repealed.