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SENATE BILL 96

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO PUBLIC SCHOOLS; LIMITING GRADE PROMOTIONS BY PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT IN READING AT THE END OF KINDERGARTEN OR FIRST OR SECOND GRADE MAY BE RETAINED AND SHALL BE PROVIDED WITH INTENSIVE REMEDIATION; PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT IN READING AT THE END OF THIRD GRADE 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 A SECTION OF THE NMSA 1978.

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

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1 SECTION 1. Section 22-2C-6 NMSA 1978 (being Laws 1986,
2 Chapter 33, Section 7, as amended) is repealed and a new
3 Section 22-2C-6 NMSA 1978 is enacted to read:

4 "22-2C-6. [NEW MATERIAL] GRADE PROMOTIONS--INTERVENTION--
5 REMEDIATION PROGRAMS--RETENTION POLICIES--RESTRICTIONS.--

6 A. As used in this section:

7 (1) "educational plan for student success"
8 means a student-centered tool developed to define the role of
9 the reading improvement plan within the public school and the
10 school district that addresses methods to improve student
11 learning and success in school and that identifies specific
12 measures of a student's progress in reading;

13 (2) "intensive targeted instruction" means
14 extra instruction in either small groups or as individuals that
15 shall be no less than twenty minutes per day and five days per
16 week or the equivalent;

17 (3) "intervention" means targeted
18 instructional practice for individual students or small groups
19 of students aligned with the results of a valid and reliable
20 assessment and, if applicable, response to intervention as
21 defined in Section 22-13-6 NMSA 1978 and department rule;

22 (4) "reading improvement plan" means a written
23 document developed by the student assistance team that
24 describes the specific reading standards required for a certain
25 grade level that a student has not achieved and that prescribes

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1 specific remediation programs that have demonstrated
2 effectiveness and can be implemented during the intensive
3 targeted instruction within the school day or during summer
4 school or extended day or week programs and with tutoring;

5 (5) "reading proficiency" means a score on the
6 statewide standards-based assessment that is higher than the
7 lowest level established by the department;

8 (6) "remediation programs" includes summer
9 school, extended day or week programs, tutoring, progress-based
10 monitoring and other research-based models for student
11 improvement;

12 (7) "school district" includes both a public
13 school district and a locally chartered or state-chartered
14 charter school;

15 (8) "screening assessment" means the
16 assessment that measures the acquisition of reading skills,
17 including but not limited to phonological awareness, phonics,
18 spelling, reading fluency, vocabulary and comprehension
19 approved and provided by the department;

20 (9) "student assistance team" means a group
21 consisting of a student's:

- 22 (a) teacher;
- 23 (b) school counselor;
- 24 (c) school administrator;
- 25 (d) parent; and

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1 (e) if the student or parent wishes, a
2 student advocate chosen by the student or parent; and

3 (10) "valid and reliable assessments" means
4 assessments that:

5 (a) are appropriate to targeted
6 populations;

7 (b) provide predictive values; and

8 (c) are thoroughly tested, peer-reviewed
9 and accepted by authorities and practitioners in the field.

10 B. Using data from the 2012-2013 school year, each
11 public school shall establish baseline assessment data on
12 reading proficiency for students in kindergarten and grades one
13 through three. The baseline assessment data shall include
14 levels of performance in reading based on the screening
15 assessment below which a student must be provided with an
16 intervention and remediation program.

17 C. Effective with the beginning of the 2013-2014
18 school year, local school districts shall approve and bear the
19 cost of intervention and remediation programs and reading
20 improvement programs that have demonstrated effectiveness to
21 provide special instructional assistance to students in
22 kindergarten through third grade who do not demonstrate reading
23 proficiency. Beginning in kindergarten and through third
24 grade, intervention and remediation programs, reading
25 improvement programs and promotion policies shall be aligned

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1 with the screening assessment results and be aligned with state
2 standards. The screening assessment shall be given, and, if
3 students do not demonstrate reading proficiency, reading
4 improvement plans shall be implemented for students in
5 kindergarten through third grade as follows:

6 (1) at the beginning of the school year,
7 school districts shall administer the screening assessment to
8 students enrolled in kindergarten. The assessment shall screen
9 students for reading skills, including, but not limited to,
10 phonological awareness, letter recognition and oral language
11 skills;

12 (2) at the beginning of the school year,
13 school districts shall administer the screening assessment to
14 students enrolled in first, second and third grades. The
15 assessment shall measure the students' acquisition of reading
16 skills, including, but not limited to, phonological awareness,
17 phonics, spelling, reading fluency, vocabulary and
18 comprehension; and

19 (3) if the screening assessment results
20 indicate that the student is not proficient in reading, the
21 student assistance team shall immediately develop a reading
22 improvement plan for the student that clearly delineates the
23 student's reading deficiencies and that clearly delineates
24 intervention and remediation programs that shall be included in
25 the plan, including the specific strategies for a parent to use

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1 in helping the child achieve reading proficiency.

2 D. Beginning with the 2012-2013 school year, the
3 parent of a student who is in kindergarten or first, second or
4 third grade and who is not proficient in reading at the end of
5 the first grading period shall be given notice that the student
6 shall be provided with intensive targeted instruction.

7 E. At the end of grade three, grade promotion and
8 retention decisions for each student shall be based upon the
9 determination that the student is:

10 (1) proficient in reading and shall enter the
11 next highest grade;

12 (2) not proficient in reading and shall
13 participate in the required level of remediation. Upon
14 certification by the school district that the student is
15 proficient in reading, the student shall enter the next highest
16 grade; or

17 (3) not proficient in reading after completion
18 of the prescribed intervention and remediation program and upon
19 the recommendation of the teacher and school principal shall be
20 retained in the same grade with a reading improvement plan that
21 is different from the prior year's reading improvement plan
22 developed by the student assistance team so that the student
23 may become proficient in reading. No student shall be retained
24 for a total of more than one school year between kindergarten
25 and grades one through three as a result of not having attained

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1 proficiency in reading.

2 F. In grades four through eight, intervention and
3 remediation programs, reading improvement programs and
4 promotion policies shall be aligned with school-district-
5 approved, valid and reliable assessment results and be aligned
6 with state standards.

7 G. A parent shall be notified in writing no later
8 than the end of the second grading period of each school year
9 in grades four through eight that the parent's student is not
10 academically proficient, and a conference with the student
11 assessment team shall be held to discuss strategies, including
12 intervention and remediation programs available to assist the
13 student in becoming academically proficient. The student's
14 specific academic deficiencies and the available strategies and
15 intervention and remediation programs shall be explained to the
16 student's parent and a written intervention plan shall be
17 developed that contains time lines, academic expectations and
18 the measurements to be used to verify that a student has
19 overcome academic deficiencies. The parent shall be provided
20 with specific strategies to use in helping the student achieve
21 reading proficiency. The intervention and remediation programs
22 and reading improvement plan shall be implemented immediately.

23 H. At the end of grades four through eight, grade
24 promotion decisions for each student shall be based upon the
25 determination that the student is:

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

3 (2) not academically proficient and shall
4 participate in the required level of remediation. An academic
5 proficiency plan shall be developed by the student assistance
6 team outlining time lines and monitoring activities to ensure
7 progress toward overcoming the student's academic deficiencies.
8 Students who have been evaluated to determine the nature of
9 their academic deficiencies and who have received an
10 intervention and remediation program that is different from the
11 previous year's program but fail to become academically
12 proficient at the end of that year as measured by grades,
13 performance on the screening assessment and other measures
14 identified by the school district shall be provided with an
15 alternate program that shall be implemented immediately. The
16 school district shall include percentages of academically
17 proficient students listed by school and charter school in its
18 annual accountability report required in Section 22-2C-11 NMSA
19 1978.

20 I. To assess each student's growth in reading and
21 other academic subjects, in kindergarten through second grade,
22 school districts shall use the screening assessment, and in
23 grades three through eight, school districts shall use the
24 statewide standards-based assessment.

25 J. The cost of summer school and extended day

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1 intervention and remediation programs offered in grades nine
2 through twelve shall be borne by the parent; however, in cases
3 in which parents are determined to be indigent according to
4 guidelines established by the department, the school district
5 shall bear those costs.

6 K. A student who does not demonstrate reading
7 proficiency for two successive school years shall be referred
8 to the student assistance team for placement in an alternative
9 program designed by the school district. Alternative program
10 plans shall be filed with the department.

11 L. Promotion and retention decisions affecting a
12 student enrolled in special education shall be made in
13 accordance with the provisions of the individual educational
14 plan established for that student.

15 M. A student shall be exempt from the provisions of
16 Subsection G of this section if the student:

17 (1) scores at least at the fiftieth percentile
18 on a department-approved, norm-referenced assessment or at the
19 proficient level on an alternative school-district-approved,
20 criterion-referenced assessment;

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

24 (3) shows sufficient academic growth by
25 meeting acceptable levels of academic performance specified by

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1 the department;

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

6 (5) is a student with a disability who shall
7 be assessed, promoted or retained in accordance with the
8 provisions of the student's individualized education program;
9 or

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