

1 HOUSE BILL 285

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Elizabeth "Liz" Thomson and Gail Chasey and G. Andrés Romero
5 and Linda M. Lopez
6
7
8
9

10 AN ACT

11 RELATING TO SPECIAL EDUCATION; CREATING THE OFFICE OF SPECIAL
12 EDUCATION IN THE PUBLIC EDUCATION DEPARTMENT; PROVIDING POWERS
13 AND DUTIES; PROVIDING FOR INTERDEPARTMENTAL TRANSFER.
14

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

16 SECTION 1. Section 9-24-4 NMSA 1978 (being Laws 2004,
17 Chapter 27, Section 4, as amended) is amended to read:

18 "9-24-4. DEPARTMENT CREATED.--

19 A. The "public education department" is created in
20 the executive branch. The department is a cabinet department
21 and includes the following office and divisions:

22 (1) the administrative services division;

23 (2) the assessment and accountability

24 division;

25 (3) the charter schools division;

.223788.5GLG

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

- 1 (4) the educator quality division;
2 (5) the Indian education division;
3 (6) the information technology division;
4 (7) the instructional support and vocational
5 education division;
6 (8) the program support and student
7 transportation division;
8 (9) the quality assurance and systems
9 integration division;
10 (10) the rural education division; [~~and~~]
11 (11) the office of special education; and
12 [~~(11)~~] (12) the vocational rehabilitation
13 division.

14 B. Except for the office of special education, the
15 secretary may organize the department and divisions of the
16 department and may transfer or merge functions between
17 divisions and bureaus in the interest of efficiency and
18 economy."

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

21 "[NEW MATERIAL] SHORT TITLE.--Sections 2 through 7 of this
22 act may be cited as the "Special Education Act"."

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

25 "[NEW MATERIAL] DEFINITIONS.--As used in the Special

.223788.5GLG

underscored material = new
~~[bracketed material] = delete~~

1 Education Act:

2 A. "director" means the director of the office;

3 B. "office" means the office of special education;

4 and

5 C. "school district" includes charter schools."

6 SECTION 4. A new section of the Public School Code is
7 enacted to read:

8 "[NEW MATERIAL] OFFICE OF SPECIAL EDUCATION--CREATED--
9 DIRECTOR.--

10 A. The "office of special education" is created in
11 the department.

12 B. The governor shall appoint the director, who
13 shall be appointed without regard to political party and solely
14 on the basis of education and experience that makes the person
15 qualified for the office. The director is exempt from the
16 Personnel Act.

17 C. Within appropriations, the director may appoint
18 professional and clerical staff to assist the director in
19 carrying out the powers and duties of the office.

20 D. The director shall direct the activities of the
21 office and keep the secretary apprised of federal and state
22 laws and policies regarding special education.

23 E. The department shall provide data to the office
24 regarding fiscal and other matters needed for compliance with
25 federal and state requirements in a timely manner, including

.223788.5GLG

underscored material = new
~~[bracketed material] = delete~~

1 the distribution of federal funds pursuant to Part B of the
2 federal Individuals with Disabilities Education Improvement Act
3 of 2004."

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

6 "[NEW MATERIAL] DUTIES OF OFFICE.--

7 A. The office shall oversee and enforce the federal
8 Individuals with Disabilities Education Improvement Act of
9 2004, Section 504 of the federal Rehabilitation Act of 1973 and
10 state special education law compliance and implementation,
11 including all fiscal and program requirements.

12 B. The office shall develop, review and ensure that
13 state special education rules address the needs of students
14 with disabilities, including highly mobile students.

15 C. The office shall develop policies and technical
16 guidance on special education for public schools, parents and
17 students.

18 D. The office shall consult and coordinate with:

19 (1) other units of the department to:

20 (a) ensure that students with
21 disabilities are considered in all activities and programs; and

22 (b) identify and address those areas
23 that disproportionately impact students with disabilities;

24 (2) other state agencies, including the early
25 childhood education and care department, the higher education

.223788.5GLG

1 department, the Indian affairs department, the children, youth
2 and families department, the vocational rehabilitation division
3 of the department, the developmental disabilities council and
4 other relevant state agencies, as well as public post-secondary
5 educational institutions, to prioritize and expand appropriate
6 special education services to New Mexico residents from birth
7 to career, which may include formal written agreements to
8 advance state educational policy and goals, and to comply with
9 special education requirements under state and federal law; and

10 (3) school districts and other state agencies
11 to ensure that students with disabilities, including children
12 and youth in the custody of the children, youth and families
13 department, receive free and appropriate public education in
14 residential treatment facilities and psychiatric hospitals.

15 E. The office shall:

16 (1) develop and provide professional
17 development programs and materials for licensed school
18 employees, special education assistants and other instructional
19 support providers in educating or providing instructional
20 support to students with disabilities; and

21 (2) coordinate with public post-secondary
22 educational institutions on the education and training of
23 licensed school employees in teaching or providing
24 instructional support to students with disabilities and gifted
25 students.

underscoring material = new
~~[bracketed material] = delete~~

1 F. The office shall provide assistance in the
2 implementation of special education programs in public schools
3 and other settings, as well as other state- and federally
4 funded programs, including identifying state systems and
5 policies that maximize provision of special education services;
6 expedite evaluation of the needs of children from birth to age
7 five and students with disabilities; and facilitate effective
8 and meaningful inclusion and integration of students with
9 disabilities into all educational settings.

10 G. The office shall ensure that the diagnoses,
11 screenings and educational evaluations of students for special
12 education services are completed comprehensively. The office
13 may develop targeted strategies and policies to carry out this
14 duty.

15 H. The office shall monitor the spending of state
16 and federal funds, including medicaid, for special education
17 programs for students with disabilities and gifted students,
18 including state equalization guarantee distributions to school
19 districts, and take actions to ensure appropriate spending as
20 needed.

21 I. The office shall work with other divisions of
22 the department, other state agencies and school districts to
23 develop and implement culturally and linguistically relevant
24 and appropriate services, curricula and pedagogy to support
25 students with disabilities and gifted students.

.223788.5GLG

underscoring material = new
~~[bracketed material] = delete~~

1 J. The office shall prioritize the recruitment and
2 retention of qualified special education teachers,
3 diagnosticians, special education assistants and other
4 instructional support providers.

5 K. The office shall analyze the recommendations of
6 the office of the state special education ombud, gather data
7 relevant to the recommendations and take appropriate action as
8 needed.

9 L. The office shall develop, adopt, promulgate and
10 update an annual state plan for policy, programs and standards
11 for special education.

12 M. The office shall submit an annual report to the
13 secretary, the governor and the legislative education study
14 committee, including the following special education data:

- 15 (1) student demographics;
- 16 (2) student achievement and outcomes;
- 17 (3) state and federal spending;
- 18 (4) types of services and programs;
- 19 (5) evaluations of services and programs,
20 including effectiveness and timeliness;
- 21 (6) transitions; and
- 22 (7) every use of restraint and seclusion in
23 public schools.

24 N. The office shall determine and identify the
25 special education data needed to evaluate the state's

.223788.5GLG

underscoring material = new
~~[bracketed material] = delete~~

1 compliance with the federal Individuals with Disabilities
2 Education Improvement Act of 2004, Section 504 of the federal
3 Rehabilitation Act of 1973 and state law, including the
4 information required in Subsection M of this section. The
5 office shall coordinate with the department to ensure that
6 school districts collect the data in a consistent and uniform
7 format for the office and other units of the department.

8 O. The office shall audit implementation of the
9 federal Individuals with Disabilities Education Improvement Act
10 of 2004, Section 504 of the federal Rehabilitation Act of 1973
11 and state law in school districts and public schools, including
12 conducting performance reviews to ensure the provision of
13 adequate special education services, performing site visits if
14 needed and taking disciplinary measures if a school district or
15 public school is out of compliance.

16 P. The office shall provide technical assistance
17 and recommendations to school districts and public schools to
18 ensure special education students receive special education
19 services that:

- 20 (1) are evidence-based or research-based;
21 (2) are designed in collaboration with
22 students' parents and educational decision makers; and
23 (3) include student-centered goals.

24 Q. The office shall provide targeted annual
25 training to all local school boards, governing bodies of

.223788.5GLG

1 charter schools, superintendents, school administrators,
2 teachers, instructional support providers, other school
3 employees, school resource officers and school security
4 officers that addresses:

5 (1) the provisions and requirements of the
6 federal Individuals with Disabilities Education Improvement Act
7 of 2004, Section 504 of the federal Rehabilitation Act of 1973
8 and state laws that prohibit discrimination against students
9 with disabilities;

10 (2) disabilities-specific policies, practices
11 and interventions;

12 (3) de-escalation practices and techniques;

13 (4) positive behavioral supports;

14 (5) structured literacy;

15 (6) formulation and implementation of
16 effective individualized education plans and transitional
17 individualized education plans that are designed in
18 collaboration with students' parents and educational decision
19 makers and include student-centered goals; and

20 (7) effective engagement and communication
21 with students, parents and educational decision makers.

22 R. The office shall ensure that transition
23 individualized education plans prepare:

24 (1) three- and four-year-old children with
25 disabilities to transition to public school;

underscoring material = new
~~[bracketed material] = delete~~

1 (2) special education students to transition
2 within the public school system; and

3 (3) special education students to transition
4 to higher education or the workforce.

5 S. The office shall ensure that public schools
6 comply with federal and state special education law by:

7 (1) soliciting input from special education
8 students, parents, educational decision makers, regional
9 education cooperatives, disability providers and advocates,
10 teachers, instructional support providers and other school
11 employees on the provision of special education services in the
12 state;

13 (2) reviewing publicly available information
14 and resources regarding individual special education services
15 and programs; and

16 (3) monitoring the academic and nonacademic
17 progress of students with disabilities.

18 T. The office shall ensure services for students
19 with disabilities and gifted students, including gifted
20 students with disabilities. The office shall ensure that
21 gifted students with disabilities receive appropriate services
22 as required by the federal Individuals with Disabilities
23 Education Improvement Act of 2004, Section 504 of the federal
24 Rehabilitation Act of 1973 and state law.

25 U. The office shall assume the duties of the

.223788.5GLG

underscored material = new
[bracketed material] = delete

1 special education division of the department; provided that the
2 division shall continue to function until the governor has
3 appointed a director.

4 V. The director shall report directly to the
5 secretary.

6 W. The office shall monitor special education
7 compensation trends in other states and make compensation
8 recommendations to the department and the legislature."

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

11 "[NEW MATERIAL] SPECIAL EDUCATION SALARY DIFFERENTIAL
12 LEVELS.--No later than July 1, 2024, the department and office
13 shall, in consultation with educators and school districts,
14 identify appropriate salary differential levels, time
15 allocations and other supports for licensed school employees,
16 educational assistants and other instructional support
17 providers who educate or provide instructional support to
18 students with disabilities."

19 SECTION 7. A new section of the Public School Code is
20 enacted to read:

21 "[NEW MATERIAL] TRANSFER OF PRESCHOOL SPECIAL EDUCATION.--
22 No later than July 1, 2024, the department and the office shall
23 consult and coordinate with the early childhood education and
24 care department to transfer the Part B, 619 coordinator to the
25 early childhood education and care department in compliance

.223788.5GLG

underscored material = new
~~[bracketed material] = delete~~

1 with Part B of the federal Individuals with Disabilities
2 Education Improvement Act of 2004 through a formal written
3 agreement that identifies the administrative roles,
4 responsibilities and funding for the office and the early
5 childhood education and care department."

6 SECTION 8. Section 22-8-6 NMSA 1978 (being Laws 1967,
7 Chapter 16, Section 60, as amended) is amended to read:

8 "22-8-6. OPERATING BUDGETS--EDUCATIONAL PLANS--
9 SUBMISSION--CERTAIN REPORTS--FAILURE TO SUBMIT.--

10 A. Prior to April 15 of each year, each local
11 school board shall submit to the department an operating budget
12 for the school district and any locally chartered charter
13 school in the school district for the ensuing fiscal year.

14 B. The date for the submission of the operating
15 budget for each school district and each charter school as
16 required by this section may be extended to a later date fixed
17 by the secretary.

18 C. The operating budget required by this section
19 may include:

20 (1) estimates of the cost of insurance
21 policies for periods up to five years if a lower rate may be
22 obtained by purchasing insurance for the longer term; or

23 (2) estimates of the cost of contracts for the
24 transportation of students for terms extending up to four
25 years.

.223788.5GLG

underscored material = new
[bracketed material] = delete

1 D. The operating budget required by this section
2 shall include a budget for each charter school of the
3 membership projected for each charter school, the total program
4 units generated at that charter school and approximate
5 anticipated disbursements and expenditures at each charter
6 school.

7 E. For fiscal year 2021 and subsequent fiscal
8 years, each school district's and each locally chartered or
9 state-chartered charter school's educational plan shall
10 include:

11 (1) information on the instructional time
12 offered by the school district or charter school, including the
13 number of instructional days by school site and the number of
14 hours in each instructional day and the frequency of early-
15 release days;

16 (2) a narrative explaining the identified
17 services to improve the academic success of at-risk students;

18 (3) a narrative explaining the services
19 provided to students enrolled in the following programs:

20 (a) extended learning time programs,
21 including a report of how the extended learning time is used to
22 improve the academic success of students and professional
23 learning of teachers; and

24 (b) K-5 plus programs;

25 (4) a narrative explaining the school

underscoring material = new
~~[bracketed material] = delete~~

1 district's or charter school's beginning teacher mentorship
2 programs as well as class size and teaching load information;

3 (5) a narrative explaining supplemental
4 programs or services offered by the school district or charter
5 school to ensure that the Bilingual Multicultural Education
6 Act, the Indian Education Act and the Hispanic Education Act
7 are being implemented by the school district or charter school;

8 (6) a narrative describing the amount of
9 program cost generated for services to exceptional students
10 with disabilities by class and grade level and the spending of
11 these revenues on services to those students [~~with~~
12 ~~disabilities~~], which shall include the following:

13 (a) program cost generated for students
14 enrolled in approved special education programs by class and
15 grade level;

16 (b) budgeted expenditures of program
17 cost, for students enrolled in approved special education
18 programs, on students with disabilities;

19 (c) the amount of program cost generated
20 for personnel providing ancillary and related services to
21 students with disabilities;

22 (d) budgeted expenditures of program
23 cost for personnel providing ancillary and related services to
24 students with disabilities, on special education ancillary and
25 related services personnel; and

.223788.5GLG

underscored material = new
~~[bracketed material]~~ = delete

1 (e) a description of the steps taken to
2 ensure that students with disabilities have access to a free
3 and appropriate public education; and

4 (7) a common set of performance targets and
5 performance measures, as determined by the department in
6 consultation with the department of finance and administration,
7 the legislative finance committee and the legislative education
8 study committee.

9 F. In addition to the requirements of Subsection E
10 of this section, a school district or charter school that
11 receives federal or local revenue shall include in its
12 educational plan a narrative explaining how the school district
13 or charter school will use the federal or local revenue to
14 improve outcomes for students or to improve the condition of a
15 school building. No later than October 1 of each year, a
16 school district or charter school that received federal or
17 local revenue in the prior fiscal year shall report to the
18 department on the actual uses of that revenue, including a
19 comprehensive evaluation of how the programs and services
20 provided with that revenue improved outcomes for students or
21 how capital projects undertaken improved the condition of a
22 school building. A school district or charter school that is
23 required under federal law to consult with tribal entities as a
24 condition of receiving impact aid funds shall include in its
25 educational plan a detailed narrative of its consultations with

.223788.5GLG

underscored material = new
~~[bracketed material] = delete~~

1 tribal entities and the results of those consultations. The
2 school district or charter school shall transmit the October 1
3 spending and outcomes report to the appropriate tribal
4 authorities. No later than November 15 of each year, the
5 department shall compile the federal and local revenue outcomes
6 reports into a statewide report to the legislative education
7 study committee and the legislative finance committee that
8 includes an analysis and identification of effective programs
9 and strategies that improve outcomes for students.

10 G. A school district or charter school operating
11 budget and educational plan shall prioritize federal and local
12 revenue for purposes relating to the Indian Education Act; for
13 capital expenditures authorized by the Public School Capital
14 Outlay Act, the Public School Capital Improvements Act or the
15 Public School Buildings Act; or for research-based or evidence-
16 based social, emotional or academic interventions for which at-
17 risk program units may be used.

18 H. If a local school board or governing board of a
19 charter school fails to submit an operating budget pursuant to
20 this section, the department shall prepare the operating budget
21 for the school district or charter school for the ensuing
22 fiscal year. A local school board or governing board of a
23 charter school shall be considered as failing to submit an
24 operating budget pursuant to this section if the budget
25 submitted exceeds the total projected resources of the school

.223788.5GLG

underscored material = new
[bracketed material] = delete

1 district or charter school or if the budget submitted does not
2 comply with the law or with rules and procedures of the
3 department.

4 I. As used in this section:

5 (1) "federal revenue" means seventy-five
6 percent of the revenue derived from:

7 (a) federal forest reserve funds
8 distributed in accordance with Section 22-8-33 NMSA 1978; or

9 (b) federal assistance to those areas
10 affected by federal activity authorized in accordance with
11 Title 20 of the United States Code, commonly known as "PL 874
12 funds" or "impact aid funds"; and

13 (2) "local revenue" means seventy-five percent
14 of the revenue from a school district one-half mill school
15 district property tax and revenue from the Oil and Gas Ad
16 Valorem Production Tax Act and the Oil and Gas Production
17 Equipment Ad Valorem Tax Act."

18 SECTION 9. Section 22-13-5 NMSA 1978 (being Laws 1972,
19 Chapter 95, Section 1, as amended) is amended to read:

20 "22-13-5. SPECIAL EDUCATION.--School districts shall
21 provide special education and related services appropriate to
22 meet the needs of exceptional students [~~requiring special~~
23 ~~education and related services~~]. Rules and standards shall be
24 developed and established by the [~~department~~] office for the
25 provision of special education in the schools and classes of

.223788.5GLG

underscoring material = new
~~[bracketed material] = delete~~

1 the public school system in the state and in all institutions
2 wholly or partly supported by the state. The ~~[department]~~
3 office shall monitor and enforce the rules and standards.
4 School districts shall also provide services for three-year-old
5 and four-year-old preschool children with disabilities, unless
6 the parent or guardian chooses not to enroll the child.
7 Services for students age three through twenty-one may include,
8 but are not limited to, evaluating particular needs, providing
9 learning experiences that develop cognitive, motor and social
10 skills, arranging for or providing related services as defined
11 by the ~~[department]~~ office and providing parent education. The
12 services may be provided by licensed school employees or
13 contracted for with other community agencies and shall be
14 provided in age-appropriate, integrated settings, including
15 home, daycare centers, head start programs, schools or
16 community-based settings."

17 SECTION 10. Section 22-13-6 NMSA 1978 (being Laws 1972,
18 Chapter 95, Section 2, as amended) is amended to read:

19 "22-13-6. SPECIAL EDUCATION--DEFINITIONS.--As used in the
20 Public School Code:

21 A. "special education" means the provision of
22 services additional to, supplementary to or different from
23 those provided in the regular school program by a systematic
24 modification and adaptation of instructional techniques,
25 materials and equipment to meet the needs of exceptional

.223788.5GLG

underscored material = new
~~[bracketed material]~~ = delete

1 ~~[children]~~ students;

2 B. "exceptional ~~[children]~~ students" means ~~[school-~~
3 ~~age persons]~~ gifted students and students with disabilities
4 whose abilities render regular services of the public school to
5 be inconsistent with their educational needs;

6 C. "~~[children]~~ students with disabilities" means
7 ~~[those children who are classified as developmentally disabled~~
8 ~~according to the Developmental Disabilities Act and the federal~~
9 ~~Individuals with Disabilities Education Act]~~ students who are
10 classified as children with disabilities according to Part B of
11 the federal Individuals with Disabilities Education Act of 2004
12 or Section 504 of the federal Rehabilitation Act of 1973 and
13 persons with developmental disabilities according to the
14 Developmental Disabilities Act;

15 D. "gifted ~~[child]~~ student" means a school-age
16 person who is determined to be gifted pursuant to Section
17 22-13-6.1 NMSA 1978 and standards adopted by the ~~[department]~~
18 office pursuant to that section; provided that nothing in this
19 section shall preclude a school district or charter school from
20 offering additional gifted programs for students who fail to
21 meet the eligibility criteria; however, the state shall only
22 provide state funds for ~~[department-approved]~~ office-approved
23 gifted programs for those students who meet the established
24 criteria;

25 E. "dyslexia" means a specific learning disability

.223788.5GLG

underscored material = new
[bracketed material] = delete

1 that is neurobiological in origin and that is characterized by
2 difficulty with accurate or fluent word recognition and by poor
3 spelling and decoding abilities, which characteristics
4 typically result from a deficit in the phonological component
5 of language that is often unexpected in relation to other
6 cognitive abilities and the provision of effective classroom
7 instruction and may result in problems in reading comprehension
8 and reduced reading experience that may impede the growth of
9 vocabulary and background knowledge;

10 F. "response to intervention" means a multitiered
11 intervention model that uses a set of increasingly intensive
12 academic or behavioral supports, matched to student need, as a
13 framework for making educational programming and eligibility
14 decisions; [~~and~~]

15 G. "student assistance team" means a school-based
16 group whose purpose, based on procedures and guidelines
17 established by the department, is to provide additional
18 educational support to students who are experiencing
19 difficulties that are preventing them from [~~benefiting~~]
20 benefitting from general instruction; and

21 H. "office" means the office of special education."

22 SECTION 11. Section 22-13-6.1 NMSA 1978 (being Laws 1994,
23 Chapter 25, Section 2, as amended) is amended to read:

24 "22-13-6.1. GIFTED [~~CHILDREN~~] STUDENTS--DETERMINATION.--

25 A. The [~~department~~] office shall adopt standards

.223788.5GLG

underscored material = new
[bracketed material] = delete

1 pertaining to the determination of who is a gifted [~~child~~]
2 student and shall publish those standards as part of the
3 educational standards for New Mexico public schools.

4 B. In adopting standards to determine who is a
5 gifted [~~child~~] student, the [~~department~~] office shall provide
6 for the evaluation of selected [~~school-age children~~] students
7 by multidisciplinary teams from each [~~child's~~] student's school
8 district. That team shall be vested with the authority to
9 designate a [~~child~~] student as gifted. The team shall consider
10 information regarding a [~~child's~~] student's cultural and
11 linguistic background and socioeconomic background in the
12 identification, referral and evaluation process. The team also
13 shall consider any disabling condition in the identification,
14 referral and evaluation process.

15 C. Each school district offering a gifted education
16 program shall create one or more advisory committees of
17 parents, community members, students and school staff members.
18 The school district may create as many advisory committees as
19 there are high schools in the district or may create a single
20 districtwide advisory committee. The membership of each
21 advisory committee shall reflect the cultural diversity of the
22 enrollment of the school district or the public schools the
23 committee advises. The advisory committee shall regularly
24 review the goals and priorities of the gifted program,
25 including the operational plans for student identification,

.223788.5GLG

underscored material = new
[bracketed material] = delete

1 evaluation, placement and service delivery and shall
2 demonstrate support for the gifted program.

3 D. In determining whether a ~~[child]~~ student is
4 gifted, the multidisciplinary team shall consider diagnostic or
5 other evidence of the ~~[child's]~~ student's:

- 6 (1) creativity or divergent-thinking ability;
- 7 (2) critical-thinking or problem-solving
8 ability;
- 9 (3) intelligence; and
- 10 (4) achievement."

11 SECTION 12. Section 22-13-7 NMSA 1978 (being Laws 1972,
12 Chapter 95, Section 3, as amended) is amended to read:

13 "22-13-7. SPECIAL EDUCATION--RESPONSIBILITY.--

14 A. The ~~[state board]~~ office shall make, adopt and
15 keep current a state plan for special education policy,
16 programs and standards.

17 B. The office shall develop rules, standards and
18 guidelines necessary to implement Section 5 of this 2023 act,
19 to be approved and adopted by the department.

20 ~~[B.] C.~~ The ~~[department of education with the~~
21 ~~approval of the state board]~~ office shall set standards for
22 diagnosis and screening of and educational offerings for
23 exceptional ~~[children]~~ students in public schools and children
24 in private, nonsectarian, nonprofit training centers and in
25 state institutions under the authority of the secretary of

.223788.5GLG

underscored material = new
[bracketed material] = delete

1 health.

2 ~~[G.]~~ D. The ~~[state board]~~ office shall establish
3 and maintain a program of evaluation of the implementation and
4 impact of all programs for exceptional ~~[children]~~ students in
5 the public schools. This program shall be operated with the
6 cooperation of ~~[local]~~ school districts. Portions of the
7 program may be subcontracted, and periodic reports regarding
8 the efficacy of programs for exceptional ~~[children]~~ students
9 shall be made to the department, the governor and the
10 legislative education study committee.

11 ~~[D.]~~ E. The ~~[department of education]~~ office shall
12 coordinate programming related to the transition of ~~[persons]~~
13 students with disabilities ~~[from secondary and post-secondary~~
14 ~~education programs to employment or vocational placement]~~ as
15 provided in Section 5 of this 2023 act."

16 SECTION 13. Section 22-13-32 NMSA 1978 (being Laws 2010,
17 Chapter 59, Section 2, as amended) is amended to read:

18 "22-13-32. INTERVENTION FOR STUDENTS DISPLAYING
19 CHARACTERISTICS OF DYSLEXIA.--

20 A. Within the course of the 2019-2020 and 2020-2021
21 school years and in each subsequent school year, all first
22 grade students shall be screened for dyslexia. Beginning with
23 the 2024-2025 school year, the office shall ensure that the
24 results of the screenings are provided to the parents of first
25 grade students within thirty days of the student's screening.

.223788.5GLG

underscoring material = new
~~[bracketed material] = delete~~

1 B. A student whose dyslexia screening demonstrates
2 characteristics of dyslexia and who is having difficulty
3 learning to read, write, spell, understand spoken language or
4 express thoughts clearly shall receive appropriate classroom
5 interventions or be referred to a student assistance team.

6 C. In accordance with ~~[department]~~ office response
7 to intervention procedures, guidelines and policies, each
8 school district or charter school shall provide timely,
9 appropriate, systematic, scientific, evidence-based
10 interventions prescribed by the student assistance team, with
11 progress monitoring to determine the student's response or lack
12 of response.

13 D. A parent of a student referred to a student
14 assistance team shall be informed of the parent's right to
15 request an initial special education evaluation at any time
16 during the school district's or charter school's implementation
17 of the interventions prescribed by the student assistance team.
18 If the school district or charter school agrees that the
19 student may have a disability, the student assistance team
20 shall refer the child for an evaluation. The student shall be
21 evaluated within sixty days of receiving the parental consent
22 for an initial evaluation. If the school district or charter
23 school refuses the parent's request for an initial evaluation,
24 the school district or charter school shall provide written
25 notice of the refusal to the parent, including notice of the

.223788.5GLG

underscoring material = new
~~[bracketed material] = delete~~

1 parent's right to challenge the school district's or charter
2 school's decision as provided in state and federal law and
3 rules.

4 E. Within the course of the 2019-2020 and 2020-2021
5 school years, every school district and charter school shall
6 develop and implement a literacy professional development plan
7 that includes a detailed framework for structured literacy
8 training by a licensed and accredited or credentialed teacher
9 preparation provider for all elementary school teachers and for
10 training in evidence-based reading intervention for reading
11 interventionists and special education teachers working with
12 students demonstrating characteristics of dyslexia or diagnosed
13 with dyslexia. The plan shall continue to be implemented each
14 school year and may be updated as necessary. The ~~[department]~~
15 office shall provide lists of recommended teacher professional
16 development materials and opportunities for teachers and school
17 administrators regarding evidence-based reading instruction for
18 students at risk for reading failure and displaying the
19 characteristics of dyslexia.

20 F. School districts and charter schools shall train
21 school administrators and teachers who teach reading to
22 implement appropriate evidence-based reading interventions.
23 School districts and charter schools shall train special
24 education teachers to provide structured literacy training for
25 students who are identified with dyslexia as a specific

.223788.5GLG

underscored material = new
~~[bracketed material] = delete~~

1 learning disability and who are eligible for special education
2 services.

3 G. The ~~[department]~~ office shall provide technical
4 assistance for special education diagnosticians and other
5 special education professionals regarding the formal special
6 education evaluation of students suspected of having a specific
7 learning disability, such as dyslexia.

8 H. The ~~[department]~~ office shall ~~[adopt]~~ develop
9 rules, standards and guidelines necessary to implement this
10 section, to be approved and adopted by the department."

11 SECTION 14. TEMPORARY PROVISION--INTERDEPARTMENTAL
12 TRANSITION.--

13 A. On July 1, 2024, the special education division
14 of the public education department shall become the office of
15 special education and shall be responsible for carrying out the
16 provisions of the Special Education Act and other laws that
17 relate to special education of public school students or three-
18 and four-year-old children who are developmentally disabled
19 unless otherwise provided by law.

20 B. On July 1, 2024, all agreements and contractual
21 obligations of the special education division of the public
22 education department or for which the division has been given
23 responsibility by the secretary of public education shall be
24 agreements and contractual obligations of the office of special
25 education.

.223788.5GLG

underscoring material = new
~~[bracketed material] = delete~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C. On July 1, 2024, all rules of the public education department pertaining to special education, except for special education funding, shall be the rules of the office of special education until amended or repealed.

D. On July 1, 2024, the budget and personnel of the special education division of the public education department shall transfer to the office of special education.

SECTION 15. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.