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HOUSE BILL 215

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Dennis J. Roch

AN ACT

RELATING TO EDUCATION; REMOVING ADEQUATE YEARLY PROGRESS REQUIREMENTS AND ASSOCIATED INCENTIVE FUNDING FOR PUBLIC SCHOOLS; REQUIRING THE PUBLIC EDUCATION DEPARTMENT TO REPORT RECOMMENDED CHANGES TO LAWS TO COMPORT WITH FEDERAL REQUIREMENTS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2007.

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

SECTION 1. Section 22-2C-3 NMSA 1978 (being Laws 2003, Chapter 153, Section 12) is amended to read:

"22-2C-3. ACADEMIC CONTENT AND PERFORMANCE STANDARDS--
[STATE BOARD] DEPARTMENT POWERS AND DUTIES.--

A. The [state board] department shall adopt academic content and performance standards for grades one through twelve in the following areas:

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- 1 (1) mathematics;
- 2 (2) reading and language arts;
- 3 (3) science; and
- 4 (4) social studies.

5 B. The ~~[state board]~~ department may adopt content
6 and performance standards in other subject areas.

7 C. Academic content and performance standards shall
8 be sufficiently academically challenging to meet or exceed any
9 applicable federal requirements.

10 D. The department shall measure the performance of
11 every public school in New Mexico. ~~[Public schools achieving~~
12 ~~the greatest improvement in adequate yearly progress shall be~~
13 ~~eligible for supplemental incentive funding. The state board~~
14 ~~shall establish the corrective actions and interventions~~
15 ~~necessary for public schools that do not achieve adequate~~
16 ~~yearly progress.]"~~

17 SECTION 2. Section 22-2C-4 NMSA 1978 (being Laws 2003,
18 Chapter 153, Section 13, as amended by Laws 2007, Chapter 306,
19 Section 1 and by Laws 2007, Chapter 307, Section 3 and also by
20 Laws 2007, Chapter 308, Section 3) is amended to read:

21 "22-2C-4. STATEWIDE ASSESSMENT AND ACCOUNTABILITY
22 SYSTEM--INDICATORS--REQUIRED ASSESSMENTS--ALTERNATIVE
23 ASSESSMENTS--LIMITS ON ALTERNATIVES TO ENGLISH LANGUAGE READING
24 ASSESSMENTS.--

25 A. The department shall establish a statewide

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1 assessment and accountability system that is aligned with the
2 state academic content and performance standards [~~and that~~
3 ~~measures adequate yearly progress for each public school and~~
4 ~~school district. Adequate yearly progress shall be determined~~
5 ~~primarily by student academic achievement, as demonstrated by~~
6 ~~statewide standards-based assessments; however, the department~~
7 ~~may include other indicators of adequate yearly progress,~~
8 ~~including graduation rates for high schools and attendance for~~
9 ~~elementary and middle schools].~~

10 B. The academic assessment program [~~for adequate~~
11 ~~yearly progress]~~ shall test student achievement as follows:

12 (1) for grades three through eight and for
13 grade eleven, standards-based assessments in mathematics,
14 reading and language arts and social studies;

15 (2) for grades three through eight, a
16 standards-based writing assessment with the writing assessment
17 scoring criteria applied to the extended response writing
18 portions of the language arts standards-based assessments; and

19 (3) for one of grades three through five and
20 six through eight and for grade eleven, standards-based
21 assessments in science by the 2007-2008 school year.

22 C. The department shall involve appropriate
23 licensed school employees in the development of the standards-
24 based assessments.

25 D. Before August 5 of each year, the department

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1 shall provide student scores on all standards-based assessments
2 taken during the prior school year and required in Subsection B
3 of this section to students' respective school districts in
4 order to make test score data available to assist school
5 district staff with appropriate grade-level and other placement
6 for the current school year.

7 E. All students shall participate in the academic
8 assessment program. The department shall adopt standards for
9 reasonable accommodations in standards-based assessments for
10 students with disabilities and limited English proficiency,
11 including when and how accommodations may be applied. The
12 legislative education study committee shall review the
13 standards prior to adoption by the department.

14 F. Students who have been determined to be limited
15 English proficient may be allowed to take the standards-based
16 assessment in their primary language. A student who has
17 attended school for three consecutive years in the United
18 States shall participate in the English language reading
19 assessment unless granted a waiver by the department based on
20 criteria established by the department. An English language
21 reading assessment waiver may be granted only for a maximum of
22 two additional years and only on a case-by-case basis."

23 SECTION 3. Section 22-2C-5 NMSA 1978 (being Laws 2003,
24 Chapter 153, Section 14, as amended) is amended to read:

25 "22-2C-5. [~~STUDENT ACHIEVEMENT RATINGS--CALCULATION OF~~
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1 ~~ADEQUATE YEARLY PROGRESS]~~ MEASURING AND CATEGORIZING STUDENTS'
2 ACADEMIC PERFORMANCE.--The department shall adopt the process
3 and methodology for ~~[calculating adequate yearly progress. The~~
4 ~~statewide standards-based assessments used to assess adequate~~
5 ~~yearly progress shall be valid and reliable and shall conform~~
6 ~~with nationally recognized professional and technical~~
7 ~~standards]~~ measuring students' academic performance. Academic
8 performance shall be ~~[measured]~~ categorized by school and by
9 the following subgroups:

- 10 A. ethnicity;
- 11 B. race;
- 12 C. limited English proficiency;
- 13 D. students with disabilities; and
- 14 E. poverty."

15 SECTION 4. Section 22-2C-9 NMSA 1978 (being Laws 2003,
16 Chapter 153, Section 18) is amended to read:

17 "22-2C-9. INCENTIVES FOR SCHOOL IMPROVEMENT FUND--
18 CREATED--DISTRIBUTIONS.--

19 A. The "incentives for school improvement fund" is
20 created in the state treasury. The fund includes
21 appropriations, federal allocations for the purposes of the
22 fund, income from investment of the fund, gifts, grants and
23 donations. Balances in the fund shall not revert to any other
24 fund at the end of any fiscal year. The fund shall be
25 administered by the department, and money in the fund is

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1 appropriated to the department to provide supplemental
2 incentive funding for [~~the adequate yearly progress program~~
3 ~~and~~] the state improving schools program. No more than three
4 percent of the fund may be retained by the department for
5 administrative purposes. Money in the fund shall be expended
6 on warrants of the secretary of finance and administration
7 pursuant to vouchers signed by the [~~state superintendent~~]
8 secretary of public education or [~~his~~] the secretary's
9 authorized representative.

10 B. The [~~state board~~] department shall adopt a
11 formula for distributing incentive funding from the fund.
12 [~~Distributions for the adequate yearly progress program shall~~
13 ~~account for at least sixty percent of the fund, including~~
14 ~~federal funds if those funds are restricted to adequate yearly~~
15 ~~progress improvements. Up to forty percent of the fund, not~~
16 ~~including restricted federal funds, may be used for the state~~
17 ~~improving schools program.] The total number of public schools
18 that receive supplemental funding shall not constitute more
19 than fifteen percent of the student membership in the state.
20 Distributions shall be made proportionately to public schools
21 that qualify.~~

22 C. Each public school's school council shall
23 determine how the supplemental funding shall be used. The
24 money received by a public school shall not be used for
25 salaries, salary increases or bonuses, but may be used to pay

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1 substitute teachers when teachers attend professional
2 development activities."

3 SECTION 5. Section 22-2C-11 NMSA 1978 (being Laws 2003,
4 Chapter 153, Section 20, as amended) is amended to read:

5 "22-2C-11. ASSESSMENT AND ACCOUNTABILITY SYSTEM
6 REPORTING--PARENT SURVEY--DATA SYSTEM--FISCAL INFORMATION.--

7 A. The department shall:

8 (1) issue a state identification number for
9 each public school student for use in the accountability data
10 system;

11 (2) adopt the format for reporting individual
12 student assessments to parents. The student assessments shall
13 report each student's progress and academic needs as measured
14 against state standards;

15 (3) adopt the format for reporting annual
16 ~~[yearly]~~ progress of public schools, school districts, state-
17 chartered charter schools and the department. A school
18 district's report shall include reports of all locally
19 chartered charter schools in the school district. If the
20 department has adopted a state improving schools program, the
21 annual accountability report shall include the results of that
22 program for each public school. The annual accountability
23 report format shall be clear, concise and understandable to
24 parents and the general public. All annual accountability
25 reports shall ensure that the privacy of individual students is

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1 protected;

2 (4) require that when public schools, school
3 districts, state-chartered charter schools and the state
4 disaggregate and report school data for demographic subgroups,
5 they include data disaggregated by gender;

6 (5) report cohort graduation data annually for
7 the state, for each school district and for each state-
8 chartered charter school and each public high school, based on
9 information provided by all school districts and state-
10 chartered charter schools according to procedures established
11 by the department; provided that the report shall include the
12 number and percentage of students in a cohort who:

13 (a) have graduated by August 1 of the
14 fourth year after entering the ninth grade;

15 (b) have graduated in more than four
16 years, but by August 1 of the fifth year after entering ninth
17 grade;

18 (c) have received a state certificate by
19 exiting the school system at the end of grade twelve without
20 having satisfied the requirements for a high school diploma as
21 provided in Section 22-13-1.1 NMSA 1978 or completed all course
22 requirements but have not passed the graduation assessment or
23 portfolio of standards-based indicators pursuant to Section
24 22-13-1.1 NMSA 1978;

25 (d) have dropped out or whose status is

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1 unknown;

2 (e) have exited public school and
3 indicated an intent to pursue a general educational development
4 certificate; or

5 (f) are still enrolled in public school;

6 (6) report annually, based on data provided by
7 school districts and state-chartered charter schools, the
8 number and percentage of public school students in each cohort
9 in the state in grades nine through twelve who have advanced to
10 the next grade or graduated on schedule, who remain enrolled
11 but have not advanced to the next grade on schedule, who have
12 dropped out or whose other educational outcomes are known to
13 the department; and

14 (7) establish technical criteria and
15 procedures to define which students are included or excluded
16 from a cohort.

17 B. Local school boards and governing boards of
18 charter schools may establish additional indicators through
19 which to measure the school district's or charter school's
20 performance [~~in areas other than adequate yearly progress~~].

21 C. The school district's or state-chartered charter
22 school's annual accountability report shall include a report of
23 four- and five-year graduation rates for each public high
24 school in the school district or state-chartered charter
25 school. All annual accountability reports shall ensure that

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1 the privacy of individual students is protected. As part of
2 the graduation rate data, the school district or state-
3 chartered charter school shall include data showing the number
4 and percentage of students in the cohort:

5 (1) who have received a state certificate by
6 exiting the school system at the end of grade twelve without
7 having satisfied the requirements for a high school diploma as
8 provided in Section 22-13-1.1 NMSA 1978 or completed all course
9 requirements but have not passed the graduation assessment or
10 portfolio of standards-based indicators pursuant to Section
11 22-13-1.1 NMSA 1978;

12 (2) who have dropped out or whose status is
13 unknown;

14 (3) who have exited public school and
15 indicated an intent to pursue a general educational development
16 certificate;

17 (4) who are still enrolled; and

18 (5) whose other educational outcomes are known
19 to the school district.

20 D. The school district's or state-chartered charter
21 school's annual accountability report shall include the results
22 of a survey of parents' views of the quality of their
23 children's school. The survey shall be conducted each year in
24 time to include the results in the annual accountability
25 report. The survey shall compile the results of a written

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1 questionnaire that shall be sent home with the students to be
2 given to their parents. The survey may be completed
3 anonymously. The survey shall be no more than one page, shall
4 be clearly and concisely written and shall include not more
5 than twenty questions that shall be answered with options of a
6 simple sliding scale ranging from "strongly agree" to "strongly
7 disagree" and shall include the optional response "don't know".
8 The survey shall also include a request for optional written
9 comments, which may be written on the back of the questionnaire
10 form. The questionnaire shall include questions in the
11 following areas:

- 12 (1) parent-teacher-school relationship and
13 communication;
- 14 (2) quality of educational and extracurricular
15 programs;
- 16 (3) instructional practices and techniques;
- 17 (4) resources;
- 18 (5) school employees, including the school
19 principal; and
- 20 (6) parents' views of teaching staff
21 expectations for the students.

22 E. The department shall develop no more than ten of
23 the survey questions, which shall be reviewed by the
24 legislative education study committee prior to implementation.
25 No more than five survey questions shall be developed by the

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1 local school board or governing body of a state-chartered
2 charter school, and no more than five survey questions shall be
3 developed by the staff of each public school; provided that at
4 least one-half of those questions shall be developed by
5 teachers rather than school administrators, in order to gather
6 information that is specific to the particular community
7 surveyed. The questionnaires shall indicate the public school
8 site and shall be tabulated by the department within thirty
9 days of receipt and shall be returned to the respective schools
10 to be disseminated to all parents.

11 F. The school district's or state-chartered charter
12 school's annual accountability report shall be adopted by the
13 local school board or governing body of the state-chartered
14 charter school, shall be published no later than November 15 of
15 each year and shall be published at least once each school year
16 in a newspaper of general circulation in the county where the
17 school district or state-chartered charter school is located.
18 In publication, the report shall be titled "The School District
19 Report Card" or "The Charter School Report Card" and
20 disseminated in accordance with guidelines established by the
21 department to ensure effective communication with parents,
22 students, educators, local policymakers and business and
23 community organizations.

24 G. The annual accountability report shall include
25 the names of those members of the local school board or the

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1 governing body of the charter school who failed to attend
2 annual mandatory training.

3 H. The annual accountability report shall include
4 data on expenditures for central office administration and
5 expenditures for the public schools of the school district or
6 charter school.

7 I. The department shall create an accountability
8 data system through which data from each public school and each
9 school district or state-chartered charter school may be
10 compiled and reviewed. The department shall provide the
11 resources to train school district and charter school personnel
12 in the use of the accountability data system.

13 J. The department shall verify data submitted by
14 the school districts and state-chartered charter schools.

15 K. At the end of fiscal year 2005, after the budget
16 approval cycle, the department shall produce a report to the
17 legislature that shows for all school districts using
18 performance-based program budgeting the relationship between
19 that portion of a school district's program cost generated by
20 each public school in the school district and the budgeted
21 expenditures for each public school in the school district as
22 reported in the district's performance-based program budget.
23 At the end of fiscal year 2006 and subsequent fiscal years,
24 after the budget approval cycle, the department shall report on
25 this relationship in all public schools in all school districts

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1 in the state.

2 L. When all public schools are participating in
3 performance-based budgeting, the department shall recommend
4 annually to the legislature for inclusion in the general
5 appropriation act the maximum percentage of appropriations that
6 may be expended in each school district for central office
7 administration.

8 M. The department shall disseminate its statewide
9 accountability report to school districts and charter schools;
10 the governor, legislators and other policymakers; and business
11 and economic development organizations.

12 N. As used in this section, "cohort" means a group
13 of students who enter grade nine for the first time at the same
14 time, plus those students who transfer into the group in later
15 years and minus those students who leave the cohort for
16 documented excusable reasons."

17 SECTION 6. A new section of the Assessment and
18 Accountability Act is enacted to read:

19 "[NEW MATERIAL] REPORTING RECOMMENDED CHANGES TO LAWS.--By
20 the end of the 2014 calendar year and each calendar year
21 thereafter, the department shall report to the legislative
22 education study committee the department's recommendations for
23 proposed changes to laws to comport with any applicable federal
24 requirements."

25 SECTION 7. REPEAL.--Sections 22-2C-7 through 22-2C-8 NMSA

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1 1978 (being Laws 2003, Chapter 153, Section 16, Laws 2007,
2 Chapter 309, Section 6 and Laws 2003, Chapter 153, Section 17,
3 as amended) are repealed.

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