

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 474

51st Legislature, 1st Session, 2013

Tracking Number: .191293.1

Short Title: School Intervention & Remediation Practices

Sponsor(s): Senator Linda M. Lopez, Representative Mimi Stewart, and Others

Analyst: LaNysha Adams

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Bill Summary:

SB 474 repeals one section of the *Assessment and Accountability Act* and replaces it with another to provide for improved intervention and remediation practices for children in grades K-8 and makes an appropriation.

SB 474 defines a number of terms, among them:

- **“academic improvement plan”** means a written document developed by the student assistance team that describes the specific content standards required for a certain grade level that a student has not achieved, prescribes specific intervention or remediation that have demonstrated effectiveness and, for students whose home language is not English, incorporates appropriate instructional practices;
- **“educational plan for student success”** means a student-centered tool developed to define the role of the academic improvement plan within the public school and the school district that addresses methods to improve student learning and success in school and that identifies specific measures of a student’s progress in reading;
- **“formative assessments”** means assessments that provide information to be used as feedback to adapt teaching to the student’s learning needs;
- **“grade-level proficiency”** means a score on a school-district-approved standards-based assessment that is comparable among school districts statewide;
- **“intensive targeted instruction”** means extra instruction in either small groups or as individuals that shall be no less than 30 minutes per day and three days per week and taught by a teacher or tutor who is not the student’s classroom teacher;
- **“intervention”** means targeted instructional practice with an intervention teacher for individual students or a small group of students, including students whose home language is not English, aligned with the results of a valid and reliable assessment and, if applicable, response to intervention as defined in Section 22-13-6 NMSA 1978 and department rule;
- **“intervention teacher”** means a licensed or certified teacher who:
 - has the expertise to determine a student’s instructional level in reading or mathematics;
 - has the expertise to help a student work toward a higher level of proficiency in reading or mathematics; and
 - is not the student’s classroom teacher;

- **“mathematics screening assessment”** means a school-district-adopted, department-approved formative assessment that measures content, operations, applications, problem-solving and consumer skills, as appropriate for the grade level;
- **“parent involvement”** means a parent helping to implement an academic improvement plan by:
 - attending and participating in student assistance team meetings;
 - using specific strategies explained by the student assistance team to help the parent’s student reach grade-level proficiency;
 - attending a school presentation that delivers details about or training on the specific strategies or observing an intensive targeted instruction of the parent’s student; or
 - contributing to the student’s progress toward grade-level proficiency in a manner in which the parent is capable and as determined by the school or school district;
- **“reading screening assessment”** means a school-district-adopted, department-approved formative assessment that measures the acquisition of reading skills, including phonological awareness, phonics, reading fluency, vocabulary, comprehension and oral language, as appropriate for the grade level;
- **“remediation”** includes summer school, extended day or week programs, tutoring, progress-based monitoring or other research-based methods for improvement of student proficiency, as provided by trained personnel;
- **“student assistance team”** means a group consisting of a student’s:
 - teacher;
 - school counselor;
 - school administrator;
 - parent; and
 - if the student or parent wishes, a student advocate chosen by the student or parent; and
- **“valid and reliable assessments”** means assessments that:
 - are appropriate to targeted populations;
 - provide predictive values; and
 - are thoroughly tested, peer-reviewed, and accepted by authorities and practitioners in the field.

Other provisions of SB 474 require that public school districts, beginning with school year 2013-2014:

- align K-8 intervention and remediation, as defined in the educational plan for student success, and retention and promotion policies with valid and reliable assessment results as well as with state standards;
- assess each student in grades K-8 with a reading and math screening assessment within the first three weeks of the school year;
- immediately implement intervention or remediation to help students who are not proficient in reading or math progress toward grade-level proficiency;
- exempt a student from retention if the student:

- demonstrates grade-level proficiency with a portfolio of the student’s work compiled by the student’s teacher or student assistance team;
 - shows sufficient progress toward grade-level proficiency as determined by the student assistance team;
 - scores at least at the 50th percentile on a school-district approved norm-referenced assessment or at a proficient level on an alternative school district-approved criterion-referenced assessment; or
 - is an English language learner who:
 - demonstrates proficiency in a language other than English on a valid and reliable reading assessment; and
 - has had less than two years of instruction in English for speakers of other languages; and
- by June 15 of each school year, report to PED:
 - the number of students who participated in intervention or remediation following a reading screening assessment;
 - the number of students who participated in intervention or remediation following a math screening assessment;
 - the number of students who received an academic improvement plan for reading only;
 - the number of students who received an academic improvement plan for math only;
 - the number of students who received an academic improvement plan for reading and math;
 - the number of students recommended for retention in each grade;
 - the number of students retained in each grade; and
 - any other information requested by the LESC.

SB 474 provides several conditions regarding promotion and retention decisions. If at the end of kindergarten and each grade through eighth grade a student has:

- achieved grade-level proficiency in reading or math, the student will be promoted to the next higher grade;
- not achieved grade-level proficiency in reading or math, the student must participate in intervention or remediation as recommended by a student assistance team;
- not achieved grade-level proficiency in reading or math, and after participation in intervention or remediation, the student will enter the next higher grade if the school district certifies that the student has achieved grade-level proficiency;
- not achieved grade-level proficiency in reading or math after intervention or remediation, the student shall either be:
 - retained in the same grade for no more than one school year with the agreement of a parent and an academic improvement plan developed by the student assistance team to achieve grade-level proficiency; or
 - promoted to the next grade if a parent refuses retention and begin the next higher grade with an academic improvement plan developed by the student assistance team to achieve grade-level proficiency; or
 - in the case of a student with a disability and a corresponding individual education plan (IEP), in which case retention and promotion decisions must be made by a

student assistance team in accordance with the provisions of an individual educational plan; or

- not achieved grade-level proficiency in reading or math for two successive school years, the student must be:
 - promoted to and begin the next higher grade with an academic improvement plan developed by the student assistance team to achieve grade-level proficiency if the student has been retained for one school year; or
 - retained for no more than one school year, if the student has not already been retained, with an academic improvement plan developed by the student assistance team to achieve grade-level proficiency.

Additional provisions in SB 474 require that:

- school districts approve and PED bear the cost of intervention and remediation that have demonstrated effectiveness to provide assistance to students in grades K-8 who do not demonstrate grade-level proficiency in reading or math;
- by July 31 of each year, PED report the information provided by school districts to the Legislative Education Study Committee (LESC);
- schools notify parents in writing by the end of the first grading period of the school year, if the student does not progress toward grade-level proficiency after intervention or remediation, as measured by the continuous formative assessments;
- a student assessment team meet to discuss and adopt an academic improvement plan if the student does not progress toward grade-level proficiency after intervention or remediation;
- if a student assistance team is formed, then the parent must be presented with and receive an explanation of:
 - the student's specific reading or math deficiencies;
 - academic expectations for the student;
 - academic measurements to be taken;
 - an academic improvement plan;
 - timelines for implementing the academic improvement plan;
 - whether intensive targeted instruction or any other intervention may be used; and
 - parent involvement expectations and opportunities.

Fiscal Impact:

\$67.8 million is appropriated from the General Fund to the State Equalization Guarantee (SEG) distribution for expenditure in FY 14.

For FY 14, House Bill 3, as amended by the House Education Committee, includes \$8.5 million in the State Equalization Guarantee (SEG) distribution for an Early Reading Initiative.

Fiscal Issues:

As noted in the Legislative Finance Committee Fiscal Impact Report (FIR), in FY 12, PED indicated the school districts and charter schools received large amounts of federal funds that can be reprioritized to address some of the funding needs of SB 474, if enacted.

According to the PED bill analysis, SB 474, if enacted, would require approximately 186,406 students in grades K-8 to have interventions in reading or math.

Background:

Current Law

In 2000, the LESC endorsed legislation that was enacted to address the problem of students not achieving at grade level but promoted to the next grade despite being unprepared – a practice known as “social promotion.” Under this law, which is still current:

- “academic proficiency” means mastery of the subject-matter knowledge and skills specified in state academic content and performance standards for a student’s grade level;
- a student in grades 1-7 who is not academically proficient after completing a prescribed remediation program may be:
 - retained in the same grade for no more than one school year with an academic improvement plan developed by the student assistance team; and once the student becomes academically proficient, the student enters the next higher grade; or
 - promoted to the next grade if the parent refuses retention and signs a waiver indicating the parent’s desire that the student be promoted to the next higher grade with an academic improvement plan designed to address specific academic deficiencies. If the student promoted through parental waiver still fails to achieve grade-level proficiency at the end of that year, the student must be retained in the same grade for no more than one year in order to have additional time to achieve academic proficiency; and
- a student who is not academically proficient at the end of grade 8:
 - must be retained in that grade for no more than one school year to become academically proficient through an academic improvement plan that is clear, specific, and developed by the student assistance team; or
 - if the student assistance team decides that retention will not help that student, the team must design a high school graduation plan to meet the student’s needs for entry into the workforce or a postsecondary educational institution.

Reading and Math Proficiency in New Mexico

Of the 75,792 students tested in grades 3-5 on the 2012 standards-based assessments, approximately:

- 52.4 percent of all third graders statewide are at or above proficiency in reading;
- 49.9 percent of all fourth graders statewide are at or above proficiency in reading; and
- 55 percent of all fifth graders statewide are at or above proficiency in reading.

Additionally, 2012 statewide standards-based assessments data reveal that:

- 44.8 percent of economically disadvantaged third grade students, 42.1 percent of economically disadvantaged fourth graders, and 47.2 percent of economically disadvantaged fifth graders are at or above proficiency in reading;
- 20.5 percent of third graders with disabilities, 17 percent of fourth graders with disabilities, and 18.3 percent of fifth graders with disabilities are at or above proficiency in reading;
- 28.1 percent of third graders who are currently classified as English language learners (ELLs), 18.7 percent of fourth graders who are currently classified as ELLs, and 19.8 percent of fifth graders who are currently classified as ELLs are at or above proficiency in reading; and
- 65.5 percent of third graders who have exited ELL classification, 57.3 percent of fourth graders who have exited ELL classification, and 61.1 percent of fifth graders who have exited ELL classification are at or above proficiency in reading.

Of the 75,781 students in grades 3-5 tested on the 2012 standards-based assessments, approximately:

- 52.7 percent of all third graders statewide are at or above proficiency in math;
- 44 percent of all fourth graders statewide are at or above proficiency in math; and
- 43.5 percent of all fifth graders statewide are at or above proficiency in math.

Additionally, 2012 statewide standards-based assessments data reveal that:

- 45.3 percent of economically disadvantaged third graders, 36 percent of economically disadvantaged fourth graders, and 35.6 percent of economically disadvantaged fifth graders are at or above proficiency in math;
- 23.9 percent of third graders with disabilities, 16.3 percent of fourth graders with disabilities, and 14.5 percent of fifth graders with disabilities are at or above proficiency in math;
- 31.1 percent of third graders who are currently classified as English language learners (ELLs), 18.9 percent of fourth graders who are currently classified as ELLs, and 15.6 percent of fifth graders who are currently classified as ELLs are at or above proficiency in math; and
- 65.2 percent of third graders who have exited ELL classification, 50.6 percent of fourth graders who have exited ELL classification, and 48.6 percent of fifth graders who have exited ELL classification are at or above proficiency in math.

Current Statewide K-3 Reading Screening Assessment

According to information given by PED staff to the LESC during the 2012 interim, the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) Next:

- is the tool selected for the state's K-3 reading screening assessment;
- replaces the current version of DIBELS and includes a series of research-based enhancements that increase the ease of use as well as the reliability and validity of the assessment;
- was used by 40 districts and 10 charter schools reported during school 2012-2013;
- results can be linked to targeted interventions from core reading programs such as *Treasures*, *Trophies*, and *Reading Street*; and

- offers an electronic version called mCLASS® that is administered on a mobile device and provides:
 - frequent progress monitoring;
 - instructional tools for teachers; and
 - reporting capabilities for teachers and administrators.

According to the *DIBELS Next Assessment Manual*, DIBELS Next is comprised of six measures used to assess early literacy and reading skills for students from kindergarten through sixth grade and can be used to:

- identify students who may be at risk for reading difficulties;
- help teachers identify areas to target instructional support;
- monitor at-risk students while they receive additional, targeted instruction; and
- examine the effectiveness of a school's system of instructional supports.

Committee Referrals:

SPAC/SEC/SFC

Related Bills:

HB 257 *Academic Success Through Remediation Act* (Identical to SB 260)

SB 260 *Academic Success Through Remediation Act* (Identical to HB 257)

SB 380 *Compulsory Education for Children Age 4 & Up*

SJM 14 *Study New Approaches to Education Reform*