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SENATE BILL 297

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

INTRODUCED BY

Linda M. Lopez

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING FOR IMPROVED INTERVENTION AND REMEDIATION PRACTICES FOR KINDERGARTEN THROUGH GRADE EIGHT AND TOP TO BOTTOM ACCOUNTABILITY; MAKING AN APPROPRIATION.

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

**SECTION 1.** Section 22-2C-6 NMSA 1978 (being Laws 1986, Chapter 33, Section 7, as amended) is repealed and a new Section 22-2C-6 NMSA 1978 is enacted to read:

"22-2C-6. [NEW MATERIAL] GRADE PROMOTIONS--INTERVENTION AND REMEDIATION--RETENTION POLICIES--ACCOUNTABILITY.--

A. As used in this section:

(1) "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

1 specific intervention and remediation that have demonstrated  
2 effectiveness; and, for students whose home language is not  
3 English, incorporates appropriate instructional practices;

4 (2) "educational plan for student success"  
5 means a student-centered tool that is developed to define the  
6 role of the academic improvement plan within the public school  
7 and the school district, that addresses methods to improve  
8 student learning and success in school and that identifies  
9 specific measures of a student's progress;

10 (3) "formative assessments" means assessments  
11 that provide information to be used as feedback to adapt  
12 teaching to the student's learning needs;

13 (4) "grade-level proficiency" means a score on  
14 a school-district-approved standards-based assessment that is  
15 comparable among school districts statewide;

16 (5) "intensive targeted instruction" means  
17 extra instruction provided either to small groups or to  
18 individuals that shall be no less than thirty minutes per day  
19 and three days per week and that is taught by a teacher or  
20 tutor who is not the student's classroom teacher;

21 (6) "intervention" means targeted  
22 instructional practice with an intervention teacher for  
23 individual students or a small group of students, including  
24 students whose home language is not English, aligned with the  
25 results of a valid and reliable assessment and, if applicable,

1 response to intervention as defined in Section 22-13-6 NMSA  
2 1978 and department rule;

3 (7) "intervention teacher" means a licensed or  
4 certified teacher who:

5 (a) has the expertise to determine a  
6 student's instructional level in reading or mathematics;

7 (b) has the expertise to help a student  
8 work toward a higher level of proficiency in reading or  
9 mathematics; and

10 (c) is not the student's classroom  
11 teacher;

12 (8) "mathematics screening assessment" means a  
13 school-district-adopted, department-approved formative  
14 assessment that measures content, operations, applications,  
15 problem-solving and consumer skills, as appropriate for the  
16 grade level;

17 (9) "parent" includes a guardian or other  
18 person having custody or control of a school-age person;

19 (10) "parent involvement" means a parent  
20 helping to implement an academic improvement plan by:

21 (a) attending and participating in  
22 student assistance team meetings;

23 (b) using specific strategies explained  
24 by the student assistance team to help the parent's student  
25 reach grade-level proficiency;

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1 (c) attending a school presentation that  
2 delivers details about or training on the specific strategies  
3 or observing an intensive targeted instruction of the parent's  
4 student; or

5 (d) contributing to the student's  
6 progress toward grade-level proficiency in a manner in which  
7 the parent is capable and as determined by the school or school  
8 district;

9 (11) "reading screening assessment" means a  
10 school-district-adopted, department-approved formative  
11 assessment that measures the acquisition of reading skills,  
12 including phonological awareness, phonics, reading fluency,  
13 vocabulary, comprehension and oral language, as appropriate for  
14 the grade level;

15 (12) "remediation" includes summer school,  
16 extended-day or -week programs, tutoring, progress-based  
17 monitoring or other research-based methods for improvement of  
18 student proficiency, as provided by trained personnel;

19 (13) "school" includes a charter school;

20 (14) "school district" includes a school  
21 district and a charter school;

22 (15) "small group" consists of no more than  
23 eight students;

24 (16) "student assistance team" means a group  
25 consisting of a student's:

- 1 (a) teacher;
- 2 (b) school counselor;
- 3 (c) school administrator;
- 4 (d) parent; and
- 5 (e) if the student or parent wishes, a
- 6 representative of the student chosen by the student or parent;
- 7 and

8 (17) "valid and reliable assessments" means

9 assessments that:

- 10 (a) are appropriate to targeted
- 11 populations, including students whose home language is not
- 12 English;
- 13 (b) provide predictive values; and
- 14 (c) are thoroughly tested, peer-reviewed
- 15 and accepted by authorities and practitioners in the field.

16 B. School districts shall approve, and, in the

17 absence of legislative appropriations, the department shall

18 bear the cost, of intervention and remediation that have

19 demonstrated effectiveness to provide assistance to students in

20 kindergarten through eighth grade who do not demonstrate grade-

21 level proficiency in reading or mathematics as provided in this

22 section.

23 C. Beginning in the 2014-2015 school year:

- 24 (1) kindergarten through eighth grade
- 25 intervention and remediation, as defined in the educational

1 plan for student success, and retention and promotion policies  
2 shall be aligned with valid and reliable assessment results and  
3 shall be aligned with state standards;

4 (2) within the first three weeks of the school  
5 year, each student in kindergarten through eighth grade shall  
6 be evaluated with a reading screening assessment and a  
7 mathematics screening assessment;

8 (3) if the reading screening assessment or  
9 mathematics screening assessment results indicate that a  
10 student is not proficient in reading or mathematics, the school  
11 shall immediately implement intervention or remediation to help  
12 the student progress toward grade-level proficiency; and

13 (4) if the student does not progress toward  
14 grade-level proficiency after intervention or remediation, as  
15 measured by continuous formative assessments, by the end of the  
16 first grading period of the school year, a parent shall be  
17 notified in writing that the parent's student has not achieved  
18 grade-level proficiency in reading or mathematics and a student  
19 assistance team shall meet to discuss and adopt an academic  
20 improvement plan, which shall be implemented immediately  
21 following the student assistance team meeting. At the student  
22 assistance team meeting, the parent shall be presented with and  
23 receive an explanation of:

24 (a) the student's specific reading or  
25 mathematics deficiencies;

- 1 (b) academic expectations for the  
2 student;
- 3 (c) academic measurements to be taken;  
4 (d) an academic improvement plan;  
5 (e) time lines for implementing the  
6 academic improvement plan;
- 7 (f) whether intensive targeted  
8 instruction or any other intervention may be used; and
- 9 (g) parent involvement expectations and  
10 opportunities.

11 D. At the end of kindergarten and each grade  
12 through eighth grade, promotion and retention decisions for  
13 each student shall be based upon a determination that the  
14 student:

15 (1) has achieved grade-level proficiency in  
16 reading or mathematics and shall be promoted to the next higher  
17 grade;

18 (2) has not achieved grade-level proficiency  
19 in reading or mathematics and shall participate in intervention  
20 or remediation, as recommended by a student assistance team;  
21 upon certification by the school district that the student has  
22 achieved grade-level proficiency, the student shall enter the  
23 next higher grade;

24 (3) has not achieved grade-level proficiency  
25 in reading or mathematics after intervention or remediation and

1 shall be:

2 (a) retained in the same grade for no  
3 more than one school year with the agreement of a parent and an  
4 academic improvement plan that is developed by the student  
5 assistance team to achieve grade-level proficiency; or

6 (b) promoted to the next grade if a  
7 parent signs a refusal of retention notice; a student promoted  
8 pursuant to this subparagraph shall begin the next higher grade  
9 with an academic improvement plan developed by the student  
10 assistance team to achieve grade-level proficiency; or

11 (4) has a disability and a corresponding  
12 individual educational plan, in which case retention and  
13 promotion decisions shall be made by a student assistance team  
14 in accordance with the provisions of an individual educational  
15 plan and not pursuant to this subsection or Subsection E of  
16 this section.

17 E. For students who do not demonstrate grade-level  
18 proficiency in reading or mathematics for two successive school  
19 years:

20 (1) a student who has been retained for one  
21 school year shall be promoted to and begin the next higher  
22 grade with an academic improvement plan developed by the  
23 student assistance team to achieve grade-level proficiency; and

24 (2) a student who has not been retained for  
25 one school year shall be retained for no more than one school



1 year with an academic improvement plan developed by the student  
2 assistance team to achieve grade-level proficiency.

3 F. A student shall not be retained in the same  
4 grade pursuant to this section if the student:

5 (1) demonstrates grade-level proficiency with  
6 a portfolio of the student's work compiled by the student's  
7 teacher or student assistance team;

8 (2) shows sufficient progress toward grade-  
9 level proficiency as determined by the student assistance team;

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

14 (4) is an English language learner who is  
15 proficient in a language other than English on a valid and  
16 reliable reading assessment in that language or who has had  
17 less than two years of instruction in English.

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

24 H. By the end of each school year, each school  
25 shall report to the school district, by June 15 of each year,

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1 each school district or state-chartered charter school shall  
2 report to the department and by July 31 of each year, the  
3 department shall report to the legislative education study  
4 committee:

5 (1) the number of students who participated in  
6 intervention or remediation following a reading screening  
7 assessment;

8 (2) the number of students who participated in  
9 intervention or remediation following a mathematics screening  
10 assessment;

11 (3) the number of students who received an  
12 academic improvement plan for reading only;

13 (4) the number of students who received an  
14 academic improvement plan for mathematics only;

15 (5) the number of students who received an  
16 academic improvement plan for reading and mathematics;

17 (6) the number of students recommended for  
18 retention in each grade;

19 (7) the number of students retained in each  
20 grade; and

21 (8) any other information requested by the  
22 legislative education study committee."

23 SECTION 2. APPROPRIATION.--Seventy-five million two  
24 hundred thirty-one thousand dollars (\$75,231,000) is  
25 appropriated from the general fund to the state equalization

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1 guarantee distribution of the public school fund for  
2 expenditure in fiscal year 2015 to fund reading and mathematics  
3 intervention teachers for students in kindergarten through  
4 grade eight who are in need of intervention. Any unexpended or  
5 unencumbered balance remaining at the end of fiscal year 2015  
6 shall revert to the general fund.