

LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS

Bill No: HB 401

48th Legislature, 2nd Session, 2008

Short Title: Elementary School Intervention Response

Sponsor(s): Representative Mary Helen García

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Bill Summary:

HB 401 makes an appropriation to the Public Education Department (PED) for school districts to hire reading and mathematics specialists and other school personnel in elementary schools for interventions required under the federal *Individuals with Disabilities Education Act* (IDEA).

Fiscal Impact:

\$27.13 million is appropriated from the General Fund to PED for expenditure in FY 09. The bill contains a reversion clause.

As the PED analysis notes, HB 401 appropriates funds for these interventions in the elementary schools only; however, the intervention process, described under "Issues," below, is for all students in grades K-12.

HB 401 appropriates nonrecurring operational dollars for this initiative. Separate appropriations to specific schools or school districts for operational expenditures circumvent the Public School Funding Formula, which provides operational funds for all school districts, and they may compromise the equity of the formula.

Issues:

- According to the PED bill analysis, IDEA allows a school district to use up to 15 percent of its IDEA funds for:
 - the implementation of scientific, research-based interventions (e.g. Response to Intervention, or RtI); and
 - the Early Intervening Services for kindergarten through grade 12 students who are at risk of being referred to special education and need additional academic and behavioral support to succeed in a general education environment.

- In testimony to the Legislative Education Study Committee (LESC) during the 2006 interim, PED indicated that RtI is:
 - a recommendation of the federal IDEA and the federal regulations to implement the act;
 - "a systematic commitment to meet all individual student needs in school settings, with efficient use of resources," in a manner consistent with what scientific research shows to be effective; and
 - primarily an approach within general education to addressing the specific needs of all students as soon as they arise.

- The committee also heard testimony from two school districts that had been implementing RtI: Moriarty Municipal Schools and Santa Fe Public Schools. Among other points, this testimony cited a reduction in the number of students identified for special education and an increase in the confidence of teachers in the classroom, and it suggested that the value of the system will depend upon the professional development that teachers receive in terms of teaching scientifically.

The LESC’s interest in the issue has continued into the 2008 session with the endorsement of SJM 9, *Monitor Response to Intervention Program*, which asks PED to monitor school districts’ implementation of RtI and to report findings and recommendations, if any, to the LESC before the next regular legislative session.

State Provisions

Since the testimony to the LESC in 2006, PED has published an RtI guidance document for New Mexico schools. That document defines RtI as “the practice of providing high-quality instruction and interventions to meet students’ needs and monitor progress in order to ensure effectiveness of instruction and/or interventions.” The document further explains that RtI is “an integrated service delivery approach” that should be applied to general education, remedial education, and special education and that it is the process that all student assistance teams in New Mexico must follow. As such, RtI has the capacity to improve outcomes and provide support for all students.

The RtI model in New Mexico is based on a three-tiered sequence of interventions, which is perhaps the most common model.

- In the first tier, all students receive research-based instruction. If 80 percent or more are not meeting expectations, core practices must be evaluated.
- In the second tier, approximately 15 percent of students receive research-based interventions of moderate intensity.
- In the third tier, approximately 5.0 percent of students receive research-based intensive interventions.

Federal Provisions

While the concept of RtI has been known and practiced for a number of years, it has attracted more attention recently as a result of the reauthorization of IDEA in 2004 and the regulations published by the US Department of Education (USDE), both of which strongly encourage the use of RtI though without using the term itself.

In particular, the federal documents promote RtI as a more effective and efficient means of ultimately determining the need for special education services than the discrepancy model that the previous version of IDEA had specified. (Previously, a child could be determined to have a specific learning disability if the child’s achievement were not commensurate with his or her age and ability levels and if there were a severe discrepancy between achievement and intellectual ability.)

Related Bill:

SJM 9 *Monitor Response to Intervention Program*