

Senate Joint Memorial 9 – Page 2

- The response to intervention approach may reduce referrals to special education by providing a means to distinguish between students who perform poorly in school due to learning disabilities and those who perform poorly in school due to other factors, such as reading problems.
- The National Center for Education statistics indicates that New Mexico identifies children as having learning disabilities at a rate of fifteen and eight-tenths percent, which is two percent above the national average.
- The Public Education Department has required districts to implement the response to intervention approach as part of a dual discrepancy model for identifying children with learning disabilities in kindergarten through grade three.
- The department has extended the implementation deadline from July 1, 2007 to July 1, 2009.
- Therefore, be it resolved by the Legislature of the State of New Mexico that the Public Education Department be requested to monitor the implementation of the response to intervention approach by school districts and to evaluate the impact that the approach has on the academic progress of students and on the identification of students as needing special education and related services.
- The Public Education Department monitor the assessment instruments used by school districts to help identify student needs and to measure response to interventions to ensure that the assessments are both valid and appropriate for the purpose.
- The Public Education Department provide periodic updates, including the number of school districts that have fully implemented the response to intervention approach, and report its findings and recommendations, if any, to the Legislative Education Study Committee prior to the first session of the forty-ninth legislature.
- A copy of this memorial be transmitted to the Secretary of Public Education.

FISCAL IMPLICATIONS

It is anticipated the PED can implement the provisions of this memorial with existing resources.

SIGNIFICANT ISSUES

- The joint memorial requests that the PED monitor the implementation of the response to intervention model (RtI) in the school districts and charter schools, and to evaluate the impact of the process on student academic progress and the identification of students needing special education and related services.
 - Current information about the implementation of RtI in New Mexico schools is limited. In 2006, a panel of New Mexico educators, diagnosticians, school administrators, and PED staff members developed and published an extensive guidance document on a three-tiered conceptual model for implementing RtI in New Mexico's school districts. In 2006-2007, eight New Mexico schools were selected to participate in an RtI implementation pilot project, but the pilot was not implemented. It is not known if New Mexico schools have implemented the RtI model, or are using elements of the model.
 - The PED will need to develop a plan for monitoring the implementation of RtI in school districts. The plan will need to identify material and human resources for implementing and evaluating RtI, strategies and goals for implementing and

evaluating RtI, preparation of administrative code regarding RtI implementation and monitoring requirements, specify procedures for collecting and evaluating information about model implementation and impact, and establish a protocol for reporting findings and recommendations.

- The diversity of New Mexico’s student population, rural and urban school districts, charter and state-supported schools, and the breadth of curricula, represent a wide range of possibilities for implementing RtI. In order to address these possibilities, the development and implementation of the monitoring process will require the expertise of a multidisciplinary team comprised of representatives from the PED’s Quality Assurance Bureau, Priority Schools Bureau, Assessment and Evaluation Bureau, Special Education Bureau, Indian Education Division, Bilingual Education Bureau, School Health Bureau, Title I Bureau, Charter Schools Division, Rural Education Bureau and Career-Technical and Workforce Education Bureau, and content area specialists in reading, mathematics, science, social studies, and writing.
- The joint memorial requests that the PED monitor the assessments that are used by school districts and charter schools to identify student needs and measure the impact of instructional interventions to ensure that assessments are valid and appropriate for those purposes. The PED will identify a sample of districts and charter schools to begin this process.
 - The Educational Plan for Student Success, a major part of the PED’s School Improvement Framework, requires schools in improvement to use short-cycle assessments to monitor student progress.
 - A diversity of short-cycle assessments is in use across the state. The state nor this memorial does not mandate or recommend the use of certain short-cycle assessments. The school districts and charter schools may purchase short-cycle assessments from a testing company of their choice, or they may develop their own. In 2006, a committee of PED staff members reviewed short-cycle assessments available from testing companies and published a consumer guide, summarizing the features of the assessments. That consumer guide has not been updated.
 - The PED will need to evaluate the validity of short-cycle assessments proposed for use by the school districts and charter schools for monitoring student progress under the RtI model. The PED will also need to evaluate their reliability as measures of student progress under the RtI model.

PERFORMANCE IMPLICATIONS

The Joint Memorial impacts the following Public School Support performance measures:

- Percent of elementary school students who achieve the No Child Left Behind Act annual measurable objective for proficiency or above on standards-based assessments in reading and language arts.
- Percent of elementary school students who achieve the No Child Left Behind Act annual measurable objective for proficiency or above on standards-based assessments in mathematics.
- Percent of middle school students who achieve the No Child Left Behind Act annual measurable objective for proficiency or above on standards-based assessments in reading

and language arts.

- Percent of middle school students who achieve the No Child Left Behind Act annual measurable objective for proficiency or above on standards-based assessments in mathematics.

ADMINISTRATIVE IMPLICATIONS

The joint memorial request places additional responsibilities upon the PED to monitor RtI that will necessitate the commitment of staff time to the activities of the multidisciplinary team. The PED would sample school districts and charter schools during the study period and report on the sample.

OTHER SUBSTANTIVE ISSUES

- The joint memorial emphasizes statewide monitoring of RtI. Though this is an important need, it is only one part of a greater need for the state to lead the statewide implementation of RtI. A successful and comprehensive implementation of the RtI model in New Mexico will require the development and delivery of professional development resources and provision of technical assistance to the school districts on-site and by telephone. A larger scope of responsibility than is specified by the joint memorial and additional resources will be needed for the PED to lead the state implementation of RtI.
- The language on page two, lines two through five, describes use of up to 15 percent of IDEA Part B funds for early intervention services for students not identified as needing special education or related services. This language does not specify the types of early intervention services that are funded for students not needing special education and related services. The language in the joint memorial is not aligned with specific requirements of 34 CFR § 300.226, in which IDEA Part B funds shall be expended on services to students “who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment.”
- The language on page 3, lines two through eight of the Joint Memorial, appears to emphasize the “identification of students as needing special education and related services,” as one impact of RtI to be monitored by the PED. This affirmative emphasis on identifying students needing special education services differs from the conceptual RtI model, which provides school districts with a systematic process for identifying the instructional needs of all students who are at risk of failure in core subject areas or are not making significant gains to achieve proficiency in the New Mexico content standards and benchmarks. The RtI model specifies that a number of factors, particularly a lack of appropriate instruction, contribute to a lack of growth in academic skills. RtI provides a process for selecting and implementing high-quality research-based instructional interventions, including special education services, to meet student needs. An objective of the RtI model is the reduction of referrals to special education services, which is implied in the language on page 2, lines 17 through 20 of the joint memorial.
- Seventy-one school districts in New Mexico are using vendor developed short-cycle assessments in reading/language arts, mathematics, and science for kindergarten through

eighth grade students. When implemented in fall of 2008, the Grade 9 Ready for High School Assessments (RHSA) will provide formative information on student proficiency. The PED is requesting FY09 funding from the Legislature to implement the RHSA at no cost to school districts during the implementation year. The PED will need to determine the appropriateness of using these assessments for evaluating RtI. The PED will need to identify short-cycle assessments for students in grades 10 through 12.

- It is anticipated that 10 districts that do not currently purchase vendor developed short-cycle assessments will need funding for that purpose. Short-cycle assessments cost an estimated \$15 for four administrations per student per year. Only those students that do not achieve proficiency on short-cycle assessments or the New Mexico Standards Based Assessment will need to be tested.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

- If the PED does not monitor the implementation of the response to intervention model (RtI) in the school districts, the state will lack information about the extent to which RtI has been implemented and the quality of the implementation. This information is essential for evaluating needs and planning strategies and resources needed to comprehensively implement RtI.
- If the PED does not monitor the impact of the RtI process on student academic progress and the identification of students needing special education and related services, the school districts will lack guidance on implementing a systematic approach to evaluating student progress in response to instructional interventions, and the state will lack information about the effectiveness of RtI.
- If the PED does not monitor the assessments that are used by school districts to identify student needs and measure the impact of instructional interventions to ensure that assessments are valid and appropriate for those purposes, the integrity of information about the effectiveness of RtI will be questionable.

PME/bb