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SENATE BILL 260

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

INTRODUCED BY

Gay G. Kernan

AN ACT

RELATING TO PUBLIC SCHOOLS; ENACTING THE ACADEMIC SUCCESS THROUGH REMEDIATION ACT; PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT IN READING AT THE END OF KINDERGARTEN OR FIRST OR SECOND GRADE SHALL BE PROVIDED WITH INTENSIVE REMEDIATION; PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT IN READING AT THE END OF THIRD GRADE, WITH CERTAIN EXCEPTIONS, SHALL BE RETAINED AND PROVIDED WITH INTENSIVE REMEDIATION; PROVIDING THAT A STUDENT WHO IS NOT ACADEMICALLY PROFICIENT AT THE END OF GRADES FOUR THROUGH EIGHT SHALL NOT BE RETAINED BUT SHALL BE PROVIDED WITH INTENSIVE REMEDIATION; PROVIDING FOR ASSESSMENT, INTERVENTION AND REMEDIATION PROGRAMS TO ADDRESS DEFICIENCIES IDENTIFIED BETWEEN KINDERGARTEN AND THE EIGHTH GRADE; MAKING EXCEPTIONS; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

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1 SECTION 1. A new section of the Public School Code is
2 enacted to read:

3 "[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
4 "Academic Success Through Remediation Act"."

5 SECTION 2. A new section of the Public School Code is
6 enacted to read:

7 "[NEW MATERIAL] PURPOSE OF ACT.--The purpose of the
8 Academic Success Through Remediation Act is to ensure that
9 students who experience difficulties learning to read are
10 provided multiple opportunities for early intervention and
11 remediation from kindergarten through third grade and beyond."

12 SECTION 3. A new section of the Public School Code is
13 enacted to read:

14 "[NEW MATERIAL] GRADE PROMOTIONS--INTERVENTION--
15 REMEDIATION PROGRAMS--RETENTION POLICIES--RESTRICTIONS.--

16 A. As used in this section:

17 (1) "academic proficiency" means a score on
18 the statewide standards-based assessment that is higher than
19 the lowest level established by the department;

20 (2) "educational plan for student success"
21 means a student-centered tool developed to define the role of
22 the reading improvement plan within the public school and the
23 school district that addresses methods to improve student
24 learning and success in school and that identifies specific
25 measures of a student's progress in reading;

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1 (3) "intensive targeted instruction" means
2 extra instruction in either small groups or as individuals that
3 shall be no less than twenty minutes per day and five days per
4 week or the equivalent;

5 (4) "intervention" means targeted
6 instructional practice for individual students or small groups
7 of students aligned with the results of a valid and reliable
8 assessment and, if applicable, response to intervention as
9 defined in Section 22-13-6 NMSA 1978 and department rule;

10 (5) "proficient in reading" means a score on
11 the statewide standards-based assessments that is higher than
12 the lowest level established by the department;

13 (6) "reading improvement plan" means a written
14 document developed by the student assistance team that
15 describes the specific reading standards required for a certain
16 grade level that a student has not achieved and that prescribes
17 specific remediation programs, which may include, if
18 appropriate, retention in grades kindergarten, one and two,
19 that have demonstrated effectiveness and can be implemented
20 during the intensive targeted instruction within the school day
21 or during summer school or extended day or week programs and
22 with tutoring;

23 (7) "remediation programs" includes summer
24 school, extended day or week programs, tutoring, progress-based
25 monitoring and other research-based models for student

1 improvement;

2 (8) "school district" includes both a public
3 school district and a locally chartered or state-chartered
4 charter school;

5 (9) "screening assessment" means the
6 assessment that measures the acquisition of reading skills,
7 including but not limited to phonological awareness, phonics,
8 reading fluency, vocabulary and comprehension approved by the
9 department;

10 (10) "student assistance team" means a group
11 consisting of a student's:

12 (a) teacher;

13 (b) school counselor;

14 (c) school administrator;

15 (d) parent; and

16 (e) if the student or parent wishes, a
17 student advocate chosen by the student or parent; and

18 (11) "valid and reliable assessments" means
19 assessments that:

20 (a) are appropriate to targeted
21 populations;

22 (b) provide predictive values; and

23 (c) are thoroughly tested, peer-reviewed
24 and accepted by authorities and practitioners in the field.

25 B. Using data from the 2013-2014 school year, each

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1 public school shall establish baseline assessment data on
2 reading proficiency for students in kindergarten and grades one
3 through three. The baseline assessment data shall include
4 levels of performance in reading based on the screening
5 assessment to determine when a student must be provided with an
6 intervention and remediation program.

7 C. Effective with the beginning of the 2014-2015
8 school year, local school districts shall approve and bear the
9 cost of intervention and remediation programs and reading
10 improvement programs that have demonstrated effectiveness to
11 provide special instructional assistance to students in
12 kindergarten through third grade who do not demonstrate reading
13 proficiency. Beginning in kindergarten and through third
14 grade, intervention and remediation programs, reading
15 improvement programs and promotion policies shall be adopted
16 and aligned with the screening assessment results and be
17 aligned with common core state standards. The screening
18 assessment shall be given, including, if appropriate,
19 assessments in the student's first and second languages for
20 English language learners and, if students do not demonstrate
21 reading proficiency, reading improvement plans shall be
22 implemented for students in kindergarten through third grade as
23 follows:

24 (1) at the beginning of the school year,
25 school districts shall administer the screening assessment to

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1 students enrolled in kindergarten through third grade. The
2 assessment shall screen students for reading skills as defined
3 in this section; and

4 (2) if the screening assessment results for
5 students in grades kindergarten through grade three indicate
6 that a student is not proficient in reading, the student
7 assistance team shall immediately develop a reading improvement
8 plan for the student that clearly delineates the student's
9 reading deficiencies and that clearly delineates intervention
10 and remediation programs that shall be included in the plan,
11 including the specific strategies for a parent to use in
12 helping the child achieve reading proficiency. If a parent
13 refuses to allow the student to participate in any prescribed
14 intervention, the school district shall provide an appropriate
15 form that must be signed by the parent that clearly indicates
16 the parent's refusal to allow the student to participate in the
17 prescribed intervention.

18 D. Beginning with the 2013-2014 school year, the
19 parent of a student who is in kindergarten or first, second or
20 third grade and who is not proficient in reading at the end of
21 the first grading period shall be given notice that the student
22 shall be provided with intensive targeted instruction.

23 E. Beginning with the 2013-2014 school year, a
24 student who is not proficient in reading at the end of
25 kindergarten or first or second grade may be retained pursuant

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1 to an established reading improvement plan.

2 F. Beginning with the 2014-2015 school year, at the
3 end of grade three, grade promotion and retention decisions for
4 each student shall be based upon the determination that the
5 student is:

6 (1) proficient in reading and shall enter the
7 next highest grade;

8 (2) not proficient in reading and shall
9 participate in the required level of remediation before the
10 beginning of the student's next school year. Upon
11 certification by the school district that the student is
12 proficient in reading, the student shall enter the next highest
13 grade; or

14 (3) not proficient in reading after completion
15 of the prescribed intervention and remediation program and upon
16 the recommendation of the teacher and school principal shall be
17 retained in the same grade with a reading improvement plan that
18 is different from the prior year's reading improvement plan
19 developed by the student assistance team so that the student
20 may become proficient in reading.

21 G. If a student is not proficient in reading after
22 completion of the prescribed intervention and remediation
23 programs in grade three, the parent may petition the school
24 principal to promote the student to the next grade if the
25 student has attended school for at least ninety-five percent of

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1 the instructional time during the school year and has
2 participated in all required levels of remediation prescribed
3 by the school district in the reading improvement plan and the
4 parent signs a contract that outlines a reading intervention
5 plan for the next grade. No student shall be retained for a
6 total of more than one school year in grade three as a result
7 of not having attained proficiency in reading.

8 H. In grades four through eight, intervention and
9 remediation programs, reading improvement programs and
10 promotion policies shall be aligned with school-district-
11 approved, valid and reliable assessment results and be aligned
12 with state standards.

13 I. A parent shall be notified in writing no later
14 than the end of the second grading period of each school year
15 in grades four through eight that the parent's student is not
16 academically proficient, and a conference with the student
17 assessment team shall be held to discuss strategies, including
18 intervention and remediation programs available to assist the
19 student in becoming academically proficient. The student's
20 specific academic deficiencies and the available strategies,
21 intervention and remediation programs shall be presented orally
22 and in writing to the student's parent and a reading
23 improvement plan shall be developed that contains time lines,
24 academic expectations and the measurements to be used to verify
25 that a student has overcome academic deficiencies. The parent

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1 shall be provided with specific strategies to use in helping
2 the student achieve reading proficiency. The intervention and
3 remediation programs and reading improvement plan shall be
4 implemented immediately.

5 J. At the end of grades four through eight, grade
6 promotion decisions for each student shall be based upon the
7 determination that the student is:

8 (1) academically proficient and shall enter
9 the next highest grade; or

10 (2) not academically proficient and shall
11 participate in the required level of remediation. An academic
12 proficiency plan shall be developed by the student assistance
13 team outlining time lines and monitoring activities to ensure
14 progress toward overcoming the student's academic deficiencies.
15 Students who have been evaluated to determine the nature of
16 their academic deficiencies and who have received an
17 intervention and remediation program that is different from the
18 previous year's program but fail to become academically
19 proficient at the end of that year as measured by grades,
20 performance on the screening assessment and other measures
21 identified by the school district shall be provided with an
22 alternate program that shall be implemented immediately. The
23 school district shall include percentages of academically
24 proficient students listed by school and charter school in its
25 annual accountability report required in Section 22-2C-11 NMSA

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1 1978.

2 K. To assess each student's growth in reading and
3 other academic subjects, in kindergarten through second grade,
4 school districts shall use the screening assessment, and in
5 grades three through eight, school districts shall use the
6 statewide standards-based assessment.

7 L. The cost of summer school and extended day
8 intervention and remediation programs offered in grades nine
9 through twelve shall be borne by the parent; however, in cases
10 in which parents are determined to be indigent according to
11 guidelines established by the department, the school district
12 shall bear those costs.

13 M. A student in grades one through eight who does
14 not demonstrate reading proficiency for two successive school
15 years shall be referred to the student assistance team for
16 placement in an alternative program designed by the school
17 district. Alternative program plans shall be filed with the
18 department.

19 N. Promotion and retention decisions affecting a
20 student enrolled in special education shall be made in
21 accordance with the provisions of the individual educational
22 plan established for that student.

23 O. A student shall be exempt from the provisions of
24 Subsections F and I of this section if the student:

25 (1) scores at least at the fiftieth percentile

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1 on a department-approved, norm-referenced assessment or at the
2 proficient level on an alternative school-district-approved,
3 criterion-referenced assessment;

4 (2) demonstrates mastery on a teacher-
5 developed portfolio that is equal to at least a proficient
6 performance on the statewide standards-based assessments;

7 (3) shows sufficient academic growth by
8 meeting acceptable levels of academic performance specified by
9 the department;

10 (4) is an English language learner who is
11 proficient in a language other than English on a valid and
12 reliable reading assessment or who has had less than two years
13 of instruction in English for speakers of other languages;

14 (5) is a student with a disability who shall
15 be assessed, promoted or retained in accordance with the
16 provisions of the student's individualized education program;
17 or

18 (6) is a student who has already been retained
19 once in kindergarten or first or second grades."

20 SECTION 4. REPEAL.--Section 22-2C-6 NMSA 1978 (being Laws
21 1986, Chapter 33, Section 7, as amended) is repealed.