

HOUSE BILL 67

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Monica Youngblood

This document incorporates committee amendments adopted during standing committee(s) consideration of this measure. It is a tool to show the amendments in context and is not to be used for introduction, amendment or substitution.

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING THE PROVISION OF READING IMPROVEMENT PLANS THAT INCLUDE STEPPED INTERVENTIONS AND REMEDIATION FOR STUDENTS WHO ARE NOT PROFICIENT IN READING AT THE END OF KINDERGARTEN OR GRADE ONE OR GRADE TWO AND ALLOWING THOSE STUDENTS TO BE RETAINED; PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT IN READING AT THE END OF GRADE THREE SHALL BE RETAINED AND PROVIDED WITH A READING IMPROVEMENT PLAN THAT INCLUDES INTERVENTIONS AND REMEDIATION THAT ARE DIFFERENT FROM EARLIER PLANS; 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 AN ACADEMIC **IMPROVEMENT PROFICIENCY** PLAN; PROVIDING FOR SCREENING AND STANDARDS-BASED ASSESSMENTS, INTERVENTIONS AND REMEDIATION TO ADDRESS READING AND ACADEMIC DEFICIENCIES IDENTIFIED BETWEEN KINDERGARTEN AND

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GRADE EIGHT; PROVIDING EXCEPTIONS; REPEALING AND ENACTING A SECTION OF THE NMSA 1978.

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**SECTION 1.** Section 22-2C-6 NMSA 1978 (being Laws 1986, Chapter 33, Section 7, as amended) is repealed and a new Section 22-2C-6 NMSA 1978 is enacted to read: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--IMPROVEMENT PLANS TO INCLUDE INTERVENTIONS AND REMEDIATION--RETENTION POLICIES--EXCEPTIONS.--

A. As used in this section:

(1) "academic proficiency plan" means a written document developed by the student assistance team that describes the specific academic standards required for a certain grade level that a student has not achieved and that prescribes specific intensive targeted instruction, intervention and remediation methods that have demonstrated effectiveness;

(2) "intensive targeted instruction" means extra instruction that is provided for small groups of students or individual students and that shall be no less than twenty minutes per day and five days per week or the equivalent;

(3) "intervention" means targeted instructional practices for small groups of students or individual students that are aligned with the results of a

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valid and reliable assessment and, if applicable, with response to intervention, which is a multitiered intervention model that uses a set of increasingly intensive academic or behavioral supports, matched to student need, as a framework for making educational programming and eligibility decisions;

(4) "reading improvement plan" means a written document developed by the student assistance team that describes the specific reading standards required for a certain grade level that a student has not achieved and that prescribes specific intensive targeted instruction, intervention and remediation methods that have demonstrated effectiveness;

(5) "reading proficiency" or "proficient in reading" means a student has attained a score on the statewide standards-based assessment or the screening assessment that is higher than the lowest proficiency level established by the department;

(6) "remediation" includes summer school, extended-day or -week programs, tutoring, progress-based monitoring and other research-based models for student improvement;

(7) "school district" includes a charter school;

(8) "screening assessment" means the assessment that measures the acquisition of reading skills, including phonological awareness, phonics, spelling, reading

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fluency, vocabulary and comprehension approved and provided by the department;

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

- (a) teacher;
- (b) school counselor;
- (c) school administrator;
- (d) parent; and
- (e) student advocate chosen by the student or parent, if the student or parent wishes; and

(10) "valid and reliable assessments" means assessments that:

- (a) are appropriate to targeted populations;
- (b) provide predictive values; and
- (c) are thoroughly tested, peer-reviewed and accepted by authorities and practitioners in the field.

B. Using data from the 2015-2016 school year, each public school shall establish baseline assessment data on reading proficiency for students in kindergarten and grades one through three. The baseline assessment data shall include levels of performance in reading based on the screening assessment below which a student must be provided with a reading improvement plan.

C. Effective with the beginning of the 2016-2017

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school year, school districts shall provide reading improvement plans that have demonstrated effectiveness to provide special instructional assistance to students in kindergarten through grade three who are not proficient in reading. Reading improvement plans and promotion policies shall be aligned with the screening assessment results and be aligned with state standards. The screening assessment, including, if appropriate, assessments in the student's first and second languages for English language learners, shall be given. If students do not demonstrate reading proficiency in English or another language, reading improvement plans shall be implemented for those students in kindergarten through grade three as follows:

(1) at the end of the first nine weeks of the school year, school districts shall administer the screening assessment to students enrolled in kindergarten. The assessment shall screen students for reading proficiency;

(2) at the beginning of the school year, school districts shall administer the screening assessment to students enrolled in grades one through three. The assessment shall screen students for reading proficiency; and

(3) if the screening assessment results for a student in kindergarten through grade three indicates that the student is not proficient in reading, the student assistance team shall develop a reading improvement plan for the student

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that clearly delineates the student's reading deficiencies and that clearly delineates intensive targeted instruction, interventions and remediation that shall be included in the plan, including the specific strategies for a parent to use in helping the student achieve reading proficiency. If a parent refuses to allow the student to participate in any prescribed intervention, the school district shall provide an appropriate form that must be signed by the parent that clearly indicates the parent's refusal to allow the student to participate in the prescribed intervention.

D. Beginning with the 2016-2017 school year, the parent of a student who is in kindergarten or grade one, two or three and who is not proficient in reading at the end of the first grading period shall be given notice that the student must be provided with a reading improvement plan and a conference of the student assistance team shall develop the reading improvement plan.

E. Beginning with the 2017-2018 school year, except as provided in Subsection M of this section, at the end of grade three, grade promotion and retention decisions for each student shall be based upon the determination that the student is:

- (1) proficient in reading and shall enter the next highest grade;
- (2) not proficient in reading and shall

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participate in the required level of remediation. Upon certification by the school district that the student is proficient in reading, the student shall enter the next highest grade; or

(3) not proficient in reading after remediation and shall be retained in the same grade with a reading improvement plan that is different from the prior year's reading improvement plan so that the student may become proficient in reading. A student shall not be retained for a total of more than one school year between kindergarten and grade three as a result of not being proficient in reading.

F. In grades four through eight, academic proficiency plans and promotion policies shall be aligned with school-district-approved, valid and reliable assessment results and be aligned with state standards.

G. A parent shall be notified in writing no later than the end of the second grading period of each school year in grades four through eight that the parent's student is not academically proficient, and a conference with the student assistance team shall be held to discuss strategies, including intensive targeted instruction, interventions and remediation available to assist the student in becoming academically proficient. The student's specific academic deficiencies and the available strategies and interventions and remediation shall be explained to the student's parent and a written

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academic proficiency plan shall be developed that contains time lines, academic expectations and the measurements to be used to verify that a student has overcome academic deficiencies. The parent shall be provided with specific strategies to use in helping the student achieve academic proficiency. The interventions and remediation included in the academic proficiency plan shall be implemented immediately.

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

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

(2) not academically proficient and shall participate in required remediation.

I. For students in grades four through eight who are not promoted to the next grade because of academic deficiencies, academic proficiency plans shall be developed by student assistance teams outlining time lines and monitoring activities to ensure progress toward overcoming the student's academic deficiencies. Students who have been evaluated to determine the nature of their academic deficiencies and who have received an academic proficiency plan that is different from the previous year's academic proficiency plan but fail to become academically proficient at the end of that year as measured by grades, performance on the screening assessment and

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other measures identified by the school district shall be provided with an alternative program that shall be implemented immediately. A student who is not proficient in reading for two successive school years shall be referred to the student assistance team for placement in an alternative program designed by the school district. Alternative program plans shall be filed with the department.

J. To assess each student's growth in reading and other academic subjects in kindergarten through grade two, school districts shall use the screening assessment, and in grades three through eight, school districts shall use the statewide standards-based assessment.

K. The cost of remediation programs offered in grades nine through twelve shall be borne by the parent; however, in cases in which parents are determined to be indigent according to guidelines established by the department, the school district shall bear those costs.

L. Promotion and retention decisions affecting a student enrolled in special education shall be made in accordance with the provisions of the individualized education program established for that student.

M. A student shall be exempt from the provisions of Subsection E of this section if the student:

(1) scores at least at the fiftieth percentile on a department-approved norm-referenced assessment;

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

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

(4) is a student who has already been retained once in kindergarten or grade one or grade two.

N. The school district shall include percentages of academically proficient students listed by school in its annual accountability report required in Section 22-2C-11 NMSA 1978."