

1 SENATE BILL 66

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Gay G. Kernan

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9  
10 AN ACT

11 RELATING TO PUBLIC SCHOOLS; LIMITING GRADE PROMOTIONS BY  
12 PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT IN READING AT  
13 THE END OF KINDERGARTEN OR FIRST OR SECOND GRADE MAY BE  
14 RETAINED AND SHALL BE PROVIDED WITH INTENSIVE REMEDIATION;  
15 PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT IN READING AT  
16 THE END OF THIRD GRADE SHALL BE RETAINED AND PROVIDED WITH  
17 INTENSIVE REMEDIATION; PROVIDING THAT A STUDENT WHO IS NOT  
18 ACADEMICALLY PROFICIENT AT THE END OF GRADES FOUR THROUGH EIGHT  
19 SHALL NOT BE RETAINED BUT SHALL BE PROVIDED WITH INTENSIVE  
20 REMEDIATION; PROVIDING FOR ASSESSMENT, INTERVENTION AND  
21 REMEDIATION PROGRAMS TO ADDRESS DEFICIENCIES IDENTIFIED BETWEEN  
22 KINDERGARTEN AND THE EIGHTH GRADE; PROVIDING EXCEPTIONS;  
23 REPEALING AND ENACTING A SECTION OF THE NMSA 1978.

24  
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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2 Chapter 33, Section 7, as amended) is repealed and a new  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

4           "22-2C-6. [NEW MATERIAL] GRADE PROMOTIONS--INTERVENTION--  
5 REMEDIATION PROGRAMS--RETENTION POLICIES--RESTRICTIONS.--

6           A. As used in this section:

7                   (1) "district reading plan" means a student-  
8 centered tool developed to define the role of the reading  
9 improvement plan within the public school that addresses  
10 methods to improve student learning and success in school and  
11 that identifies specific measures of a student's progress in  
12 reading as outlined in the school district's educational plan  
13 for student success;

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

18                   (3) "intervention" means targeted  
19 instructional practice for small groups of students or  
20 individual students that is aligned with the results of a valid  
21 and reliable assessment and, if applicable, with response to  
22 intervention as defined in Section 22-13-6 NMSA 1978 and  
23 department rule;

24                   (4) "reading improvement plan" means a written  
25 document developed by the student assistance team that

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1 describes the specific reading standards required for a certain  
2 grade level that a student has not achieved and that prescribes  
3 specific remediation programs that have demonstrated  
4 effectiveness and can be implemented during the intensive  
5 targeted instruction within the school day or extended day or  
6 week programs and with tutoring as determined by the student  
7 assistance team;

8 (5) "reading proficiency" means a score on the  
9 statewide standards-based assessment that is higher than the  
10 lowest level established by the department;

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

15 (7) "school district" includes both a public  
16 school district and a locally chartered or state-chartered  
17 charter school;

18 (8) "screening assessment" means the  
19 assessment that measures the acquisition of reading skills,  
20 including but not limited to phonological awareness, phonics,  
21 spelling, reading fluency, vocabulary and comprehension  
22 approved and provided by the department;

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

25 (a) teacher;

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

6 (10) "valid and reliable assessments" means

7 assessments that:

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

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

14 public school shall establish baseline assessment data on

15 reading proficiency for students in kindergarten and grades one

16 through three. The baseline assessment data shall include

17 levels of performance in reading based on the screening

18 assessment below which a student must be provided with an

19 intervention and remediation program.

20 C. Effective with the beginning of the 2015-2016

21 school year, school districts shall provide intervention and

22 remediation programs and reading improvement programs that have

23 demonstrated effectiveness to provide special instructional

24 assistance to students in kindergarten through third grade who

25 do not demonstrate reading proficiency. Beginning in

1 kindergarten and through third grade, intervention and  
2 remediation programs, reading improvement programs and  
3 promotion policies shall be aligned with the screening  
4 assessment results and be aligned with state standards. The  
5 screening assessment, including, if appropriate, assessments in  
6 the student's first and second languages for English language  
7 learners, shall be given and, if students do not demonstrate  
8 reading proficiency, reading improvement plans shall be  
9 implemented for students in kindergarten through third grade as  
10 follows:

11 (1) at the end of the first nine weeks of the  
12 school year, school districts shall administer the screening  
13 assessment to students enrolled in kindergarten. The  
14 assessment shall screen students for reading skills as defined  
15 in this section;

16 (2) at the beginning of the school year,  
17 school districts shall administer the screening assessment to  
18 students enrolled in first through third grade. The assessment  
19 shall screen students for reading skills as defined in this  
20 section; and

21 (3) if the screening assessment results for  
22 students in grades kindergarten through grade three indicate  
23 that a student is deficient in reading, the student assistance  
24 team shall develop a reading improvement plan for the student  
25 that clearly delineates the student's reading deficiencies and

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1 that clearly delineates intervention and remediation programs  
2 that shall be included in the plan, including the specific  
3 strategies for a parent to use in helping the student achieve  
4 reading proficiency. If a parent refuses to allow the student  
5 to participate in any prescribed intervention, the school  
6 district shall provide an appropriate form that must be signed  
7 by the parent that clearly indicates the parent's refusal to  
8 allow the student to participate in the prescribed  
9 intervention.

10 D. Beginning with the 2015-2016 school year, the  
11 parent of a student who is in kindergarten or first, second or  
12 third grade and who is not proficient in reading at the end of  
13 the first grading period shall be given notice that the student  
14 shall be provided with intensive targeted instruction.

15 E. Beginning with the 2016-2017 school year, at the  
16 end of grade three, grade promotion and retention decisions for  
17 each student shall be based upon the determination that the  
18 student is:

19 (1) proficient in reading and shall enter the  
20 next highest grade;

21 (2) not proficient in reading and shall  
22 participate in the required level of remediation. Upon  
23 certification by the school district that the student is  
24 proficient in reading, the student shall enter the next highest  
25 grade; or

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1 (3) not proficient in reading after completion  
2 of the prescribed intervention and remediation program and  
3 shall be retained in the same grade with a reading improvement  
4 plan that is different from the prior year's reading  
5 improvement plan developed by the student assistance team so  
6 that the student may become proficient in reading. No student  
7 shall be retained for a total of more than one school year  
8 between kindergarten and grades one through three as a result  
9 of not having attained proficiency in reading.

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

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

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1 the measurements to be used to verify that a student has  
2 overcome academic deficiencies. The parent shall be provided  
3 with specific strategies to use in helping the student achieve  
4 reading proficiency. The intervention and remediation programs  
5 and reading improvement plan shall be implemented immediately.

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

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

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

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1 annual accountability report required in Section 22-2C-11 NMSA  
2 1978.

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

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

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

19 L. 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 M. A student shall be exempt from the provisions of  
24 Subsection G 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;

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

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

10 (4) is a student who has already been retained  
11 once in kindergarten or first or second grade."