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SENATE BILL 02-109

BY SENATOR(S) Pascoe, Arnold, Cairns, Hernandez, Evans, Fitz-Gerald, Gordon, Hagedorn, Hanna, Isgar, Linkhart, Phillips, Reeves, Tate, Tupa, and Windels;

also REPRESENTATIVE(S) King, Romanoff, Sanchez, Snook, Vigil, Boyd, Coleman, Crane, Daniel, Groff, Harvey, Hefley, Hodge, Jahn, Lawrence, Mace, Madden, Marshall, Miller, Plant, Ragsdale, Rhodes, Rippy, Schultheis, Sinclair, Spence, Williams S., and Young.

CONCERNING THE ASSESSMENT OF STUDENTS WHOSE DOMINANT LANGUAGE IS NOT ENGLISH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-24-106 (1) (a), Colorado Revised Statutes, is amended, and the said 22-24-106 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

22-24-106. Department - powers and duties. (1) It is the duty of the department to:

(a) Develop and approve ~~instruments and techniques~~ A SINGLE INSTRUMENT OR TECHNIQUE to be used by districts in identifying eligible students;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(a.3) ESTABLISH STATEWIDE LEVELS OF PROFICIENCY ON THE ENTIRE INSTRUMENT OR TECHNIQUE APPROVED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1);

(a.7) ESTABLISH, BY RULE, ANY ACCOMMODATIONS THAT SHALL BE ALLOWED AND IN WHAT SITUATIONS ACCOMMODATIONS SHALL BE ALLOWED FOR AN ELIGIBLE STUDENT WHEN SUCH STUDENT IS TAKING AN ASSESSMENT PURSUANT TO SECTION 22-7-409;

(f) DISAGGREGATE TESTING DATA TO TRACK THE ACADEMIC PROGRESS OF STUDENTS WHO HAVE BEEN IDENTIFIED AS HAVING A DOMINANT LANGUAGE OTHER THAN ENGLISH BUT WHO HAVE BEEN ENROLLED IN A PUBLIC SCHOOL OF THE STATE FOR THREE YEARS OR LONGER OR HAVE SUBSEQUENTLY BEEN ASSESSED AS PROFICIENT IN ENGLISH.

SECTION 2. 22-24-106, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-24-106. Department - powers and duties - advisory commission - repeal. (3) (a) THERE IS HEREBY CREATED IN THE DEPARTMENT AN ADVISORY COMMISSION, REFERRED TO IN THIS SUBSECTION (3) AS THE "COMMISSION", TO ASSIST THE DEPARTMENT IN PERFORMING ITS DUTIES UNDER PARAGRAPHS (a), (a.3), AND (a.7) OF SUBSECTION (1) OF THIS SECTION. MEMBERS OF THE COMMISSION SHALL BE APPOINTED BY THE STATE BOARD AND SHALL CONSIST OF:

(I) ONE MEMBER WHO IS EMPLOYED BY AN INSTITUTION OF HIGHER EDUCATION AND WHO IS A PSYCHOMETRICIAN;

(II) ONE MEMBER WHO IS AN ASSESSMENT DIRECTOR FROM A SCHOOL DISTRICT THAT HAS A SIGNIFICANT PERCENTAGE OF STUDENTS FOR WHOM ENGLISH IS NOT THE DOMINANT LANGUAGE;

(III) ONE MEMBER WHO IS A CLASSROOM TEACHER WHO WORKS WITH STUDENTS FOR WHOM ENGLISH IS NOT THE DOMINANT LANGUAGE AND WHO HAS EXPERIENCE IN ADMINISTERING ASSESSMENTS TO DETERMINE IF A STUDENT'S DOMINANT LANGUAGE IS NOT ENGLISH;

(IV) AN EMPLOYEE OF AN INSTITUTION OF HIGHER EDUCATION WHO

HAS EXPERTISE IN EDUCATIONAL POLICIES FOR STUDENTS FOR WHOM ENGLISH IS NOT THE DOMINANT LANGUAGE;

(V) A PARENT WHO IS EXPERIENCED WITH ENGLISH LANGUAGE LEARNERS; AND

(VI) AN EMPLOYEE OF THE DEPARTMENT WITH EXPERIENCE WITH ENGLISH LANGUAGE LEARNERS.

(b) MEMBERS OF THE COMMISSION SHALL NOT RECEIVE A PER DIEM AND SHALL NOT BE REIMBURSED FOR THEIR TRAVEL EXPENSES.

(c) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 2004.

SECTION 3. 22-24-105 (1) (b), (1) (c), and (2), Colorado Revised Statutes, are amended to read:

22-24-105. District - powers and duties - repeal. (1) It is the duty of each district to:

(b) (I) Assess such students, using ~~instruments and techniques~~ THE ENTIRE INSTRUMENT OR TECHNIQUE approved by the department, to determine if their dominant language is not English.

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), FOR THE SCHOOL YEARS 2002-03, 2003-04, AND 2004-05, A DISTRICT MAY ASSESS STUDENTS WHOSE DOMINANT LANGUAGE MAY NOT BE ENGLISH USING ANY OF THE INSTRUMENTS OR TECHNIQUES APPROVED BY THE DEPARTMENT PRIOR TO JANUARY 1, 2002. THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2005.

(c) Certify EACH YEAR to the department those students in the district whose dominant language is not English, INCLUDING SPECIFICATION OF THE NUMBER OF NON-ENGLISH LANGUAGES IDENTIFIED AS DOMINANT LANGUAGES AND OF THE NUMBER OF STUDENTS WHO SPEAK EACH NON-ENGLISH LANGUAGE AS THEIR DOMINANT LANGUAGE;

(2) The ~~assessments~~ ASSESSMENT described in paragraph (b) of subsection (1) of this section and the certification described in paragraph (c) of subsection (1) of this section shall be conducted on at least an annual basis and each district shall present the results therefrom to the department

for inclusion in the relevant annual report of achievement of accreditation indicators required by section 22-11-105.

SECTION 4. 22-11-104 (2) (h) and (2) (i), Colorado Revised Statutes, are amended, and the said 22-11-104 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-11-104. Accreditation indicators. (2) Contents. The accreditation indicators shall include but shall not be limited to the following:

(h) Results of the ~~school district tests~~ ASSESSMENTS administered pursuant to section 22-7-407; ~~and~~

(i) The percentage of students whose dominant language is not English; AND

(j) RESULTS OF THE ASSESSMENTS ADMINISTERED PURSUANT TO SECTION 22-7-409 FOR STUDENTS WHO HAVE BEEN IDENTIFIED AS HAVING A DOMINANT LANGUAGE OTHER THAN ENGLISH BUT WHO HAVE BEEN ENROLLED IN A PUBLIC SCHOOL OF THE STATE FOR THREE YEARS OR LONGER OR HAVE BEEN ASSESSED AS PROFICIENT IN ENGLISH, AND AS A RESULT ARE REQUIRED TO TAKE THE ASSESSMENT IN ENGLISH PURSUANT TO SECTIONS 22-7-409 (1) AND 22-7-409 (1.2) (d) (I) (C).

SECTION 5. 22-7-605 (3) (a) and (10), Colorado Revised Statutes, are amended to read:

22-7-605. School accountability reports - format. (3) (a) The accountability report produced for each public school pursuant to this section shall not contain any information other than the information specified in this section. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (10) OF THIS SECTION, the information specified in this section shall be arranged on the accountability report in the order it appears in this section. THE STATE BOARD SHALL BE AUTHORIZED TO RECOMMEND TO THE GENERAL ASSEMBLY ANY CHANGES IN THE FORMAT OR THE CONTENTS OF THE ACCOUNTABILITY REPORTS PREPARED PURSUANT TO THIS SECTION.

(10) The department shall make ~~only the~~ necessary modifications to the accountability report to ensure that a public school's accountability report is formatted with the appropriate information for elementary schools,

middle schools, junior high schools, and senior high schools. The department shall employ such layout, design, color, and graphical elements necessary for the accountability report to be parent-friendly and easy to read and to enhance rather than detract from the data to be reported. THE DEPARTMENT SHALL BE AUTHORIZED TO RECONFIGURE AND REARRANGE THE DATA PRESENTED IN THE ACCOUNTABILITY REPORT DUE TO THE SPACE LIMITATIONS OF THE REPORT. If a school fails to report data, the department shall clearly note on the school accountability report: "Data not reported to state";

SECTION 6. 22-7-605 (8), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-7-605. School accountability reports - format. (8) **School history.** (f) STARTING WITH THE SCHOOL ACCOUNTABILITY REPORTS FOR THE 2005-06 SCHOOL YEAR AND EACH SCHOOL YEAR THEREAFTER, IF THE STATE BOARD DEEMS THAT THERE ARE SUFFICIENT MONEYS RECEIVED FROM THE FEDERAL GOVERNMENT THROUGH THE FEDERAL "NO CHILD LEFT BEHIND ACT OF 2001", PUBLIC LAW 107-110, BELOW THE CHARTS DESCRIBED IN PARAGRAPH (e) OF THIS SUBSECTION (8) SHALL APPEAR A REPORT OF THE PROGRESS OF STUDENTS AT THE SCHOOL ON ASSESSMENTS TO DETERMINE IF THE STUDENTS' DOMINANT LANGUAGE IS NOT ENGLISH. ON OR BEFORE JULY 1, 2002, THE STATE BOARD SHALL BY RULE SPECIFY THE GRAPHIC DEPICTION REQUIRED BY THIS PARAGRAPH (f).

SECTION 7. 22-7-409 (1.2) (a) (I), (1.2) (d) (I) (C), and (1.2) (d) (I.5), Colorado Revised Statutes, are amended, and the said 22-7-409 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-7-409. Assessments - repeal. (1.2) (a) (I) The assessments required by subsection (1) of this section shall be aligned with the model content standards adopted by the state board pursuant to section 22-7-406. The assessments shall be conducted during the period beginning the second Monday in March and ending on the third Monday in April of each year. The department shall provide to each public school results of all assessments administered AND ALIGN THE DISAGGREGATION OF THOSE RESULTS WITH THE EXCLUSION OF SCORES PERMITTED BY SUBPARAGRAPH (I) OF PARAGRAPH (d) OF THIS SUBSECTION (1.2). Beginning in 2003, for purposes of notifying local boards of education pursuant to section 22-7-609 (2), the department shall provide the results of the assessments of

students enrolled in schools that received an academic performance rating of "unsatisfactory" on the school accountability report prepared for the immediately preceding academic year no later than May 1, 2003, and May 1 of each year thereafter. For reporting purposes only, results shall include diagnostic reporting for each student's performance on each assessment, including but not limited to content-based sub-test scores for several components of each of the standards assessed pursuant to this section.

(d) (I) Every student enrolled in a public school shall be required to take the assessments administered pursuant to subsection (1) of this section; except that the students described in sub-subparagraph (A) of this subparagraph (I) shall be required only to take the assessments required by said sub-subparagraph. However, the scores of the following students shall not be used by the state for purposes of calculating school academic performance ratings pursuant to section 22-7-604 (5) or for accreditation pursuant to article 11 of this title:

(C) Any student who at the time that he or she enrolls in any public school of the state is defined as a student whose dominant language is not English pursuant to section 22-24-103 (4) (a) or (4) (b); ~~However, if such student is enrolled in third grade, that student's scores shall be used for calculating academic performance and improvement ratings and for accreditation purposes after the student has been enrolled in any public school in the state for two years. In addition, if such student is enrolled in one of grades four through ten, EXCEPT that SUCH student's scores shall be used for calculating academic performance and improvement ratings and for accreditation purposes after the student EITHER has been enrolled in any public school in the state for three years OR HAS ACHIEVED A SCORE OF PROFICIENT IN ENGLISH ON EACH COMPONENT OF THE ENTIRE ASSESSMENT APPROVED BY THE DEPARTMENT PURSUANT TO SECTION 22-24-106, WHICHEVER OCCURS FIRST. The provisions of this sub-subparagraph (C) shall apply regardless of whether such student takes the assessment in English or in any other language.~~

~~(I.5) Notwithstanding the exceptions specified in subparagraph (I) of this paragraph (d), The academic performance ratings calculated for the 2000-01 school year ANDEACHSCHOOL YEAR THEREAFTER shall include the scores of all students who took the assessment in a language other than English. This subparagraph (I.5) is repealed, effective July 1, 2002.~~

(3.5) (a) THE BOARD SHALL REVISE AS NECESSARY, AND THE

DEPARTMENT SHALL ADMINISTER READING ASSESSMENTS IN SPANISH FOR STUDENTS ENROLLED IN THE THIRD AND FOURTH GRADES AND A WRITING ASSESSMENT IN SPANISH TO STUDENTS ENROLLED IN THE FOURTH GRADE.

(b) IF THE STATE BOARD DEEMS THAT THERE ARE SUFFICIENT MONEYS RECEIVED FROM THE FEDERAL GOVERNMENT THROUGH THE FEDERAL "NO CHILD LEFT BEHIND ACT OF 2001", PUBLIC LAW 107-110, TO PAY FOR THE DEVELOPMENT, REVISION, AND ADMINISTRATION OF THE ASSESSMENTS, THE BOARD SHALL DEVELOP, AND REVISE AS NECESSARY, AND STARTING IN THE SPRING SEMESTER 2003, THE DEPARTMENT SHALL ADMINISTER A WRITING ASSESSMENT IN SPANISH FOR STUDENTS ENROLLED IN THE THIRD GRADE.

SECTION 8. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Stan Matsunaka
PRESIDENT OF
THE SENATE

Doug Dean
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Judith Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO