

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 640

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

INTRODUCED BY

John M. Sapien and Rick Miera

AN ACT

RELATING TO PUBLIC SCHOOLS; ENACTING THE READING PROFICIENCY ACT; REQUIRING BASELINE ASSESSMENT DATA ON READING PROFICIENCY FOR STUDENTS IN KINDERGARTEN THROUGH GRADE THREE; PROVIDING INTERVENTION AND REMEDIATION MEASURES FOR STUDENTS IN KINDERGARTEN THROUGH GRADE EIGHT WHO DO NOT DEMONSTRATE READING PROFICIENCY; REQUIRING REPORTING TO THE LEGISLATURE; REQUIRING SCHOOL DISTRICTS TO MAINTAIN STUDENT INTERVENTION FILES; AMENDING REMEDIATION AND PROMOTION POLICIES OF THE PUBLIC SCHOOL CODE TO CONFORM WITH THE READING PROFICIENCY ACT; MAKING AN APPROPRIATION.

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

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

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 6 of this

.192024.1

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 act may be cited as the "Reading Proficiency Act".

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

4 "[NEW MATERIAL] PURPOSE OF ACT.--The purpose of the  
5 Reading Proficiency Act is to ensure that students who  
6 experience difficulties with reading proficiency are provided  
7 multiple opportunities for early intervention and remediation  
8 in kindergarten through grade eight."

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

11 "[NEW MATERIAL] DEFINITIONS.--As used in the Reading  
12 Proficiency Act:

13 A. "academic 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 intervention and remediation programs that have demonstrated  
18 effectiveness and can be implemented during the intensive  
19 targeted instruction within the school day or during summer  
20 school or extended day or week programs and with tutoring;

21 B. "intensive targeted instruction" means extra  
22 instruction in either small groups or as individuals that shall  
23 be no less than twenty minutes per day and five days per week  
24 or the equivalent;

25 C. "intervention" means targeted instructional

.192024.1

1 practice for individual students or small groups of students  
2 aligned with the results of a valid and reliable assessment or  
3 response to intervention;

4 D. "reading proficiency" means a score on a valid  
5 and reliable assessment that is higher than the lowest level  
6 established by the department;

7 E. "remediation programs" includes summer school,  
8 extended day or week programs, tutoring, progress-based  
9 monitoring and other research-based models for student  
10 improvement;

11 F. "school district" includes both a public school  
12 district and a locally chartered or state-chartered charter  
13 school;

14 G. "screening" means a district-determined  
15 assessment that is the same for all school districts, is  
16 approved by the department and that measures the acquisition of  
17 reading skills, including but not limited to phonological  
18 awareness, phonics, reading fluency, vocabulary and  
19 comprehension;

20 H. "student assistance team" means a group  
21 consisting of a student's:

- 22 (1) teachers;
- 23 (2) school counselor;
- 24 (3) school administrator;
- 25 (4) parent; and

underscored material = new  
[bracketed material] = delete

1 (5) if the student or parent wishes, a student  
2 advocate chosen by the student or parent; and

3 I. "valid and reliable assessments" means  
4 assessments that are:

- 5 (1) school district-approved;
- 6 (2) appropriate to targeted populations; and
- 7 (3) thoroughly tested, peer-reviewed and  
8 accepted by authorities and practitioners in the field."

9 SECTION 4. A new section of the Public School Code is  
10 enacted to read:

11 "[NEW MATERIAL] KINDERGARTEN THROUGH GRADE THREE--BASELINE  
12 ASSESSMENT DATA--INTERVENTION--REMEDICATION.--

13 A. The screening shall be given at the beginning of  
14 the school year to students enrolled in kindergarten through  
15 grade three.

16 B. Each public school shall use the screening  
17 results to establish baseline assessment data on reading  
18 proficiency for students in kindergarten through grade three.

19 C. For students in kindergarten through grade  
20 three, prescribed intervention and remediation programs and  
21 academic improvement programs shall be adopted and aligned with  
22 the screening results and be aligned with the state standards  
23 for each grade level and subject area pursuant to Section  
24 22-13-1.6 NMSA 1978.

25 D. Beginning with the 2013-2014 school year, school  
.192024.1

underscored material = new  
~~[bracketed material] = delete~~

1 districts shall approve prescribed intervention and remediation  
2 programs and academic improvement programs that have  
3 demonstrated effectiveness in providing special instructional  
4 assistance to students in kindergarten through grade three who  
5 do not demonstrate reading proficiency.

6 E. If the screening results for students in grades  
7 kindergarten through grade three indicate that a student has  
8 not achieved reading proficiency, the student assistance team  
9 shall develop an reading improvement plan for the student by  
10 the eightieth day of the school year that delineates the areas  
11 in which the student needs prescribed intervention and  
12 remediation programs that shall be included in the plan,  
13 including the specific strategies for a parent to use in  
14 helping the child achieve reading proficiency.

15 F. The parent of a student who is in kindergarten  
16 or first, second or third grade and who has not achieved  
17 reading proficiency shall be given notice by the eightieth day  
18 of the school year that the student shall be provided with  
19 intensive targeted instruction. If a parent refuses to allow  
20 the student to participate in any prescribed intervention or  
21 remediation, the school district shall provide an appropriate  
22 form that must be signed by the parent that indicates the  
23 parent's refusal to allow the student to participate in the  
24 prescribed intervention or remediation."

25 SECTION 5. A new section of the Public School Code is

.192024.1

underscoring material = new  
~~[bracketed material] = delete~~

1 enacted to read:

2 "[NEW MATERIAL] GRADES FOUR THROUGH EIGHT--  
3 INTERVENTION--REMEDICATION--STUDENT INTERVENTION FILE.--

4 A. To assess the reading proficiency of students in  
5 grades four through eight, school districts shall use a valid  
6 and reliable assessment.

7 B. In grades four through eight, prescribed  
8 intervention and remediation programs, academic improvement  
9 programs and promotion policies shall be aligned with valid and  
10 reliable assessment results and be aligned with the state  
11 standards for each grade level and subject area pursuant to  
12 Section 22-13-1.6 NMSA 1978.

13 C. If a student in grade four through eight does  
14 not demonstrate reading proficiency, a parent shall be notified  
15 in writing no later than the end of the first grading period of  
16 the school year and a conference with the student assistance  
17 team shall be held to discuss strategies, including prescribed  
18 intervention and remediation programs available to assist the  
19 student in achieving reading proficiency. At the meeting, the  
20 areas in which the student needs improvement and the available  
21 strategies, prescribed intervention and remediation programs  
22 shall be presented orally and in writing to the parent, and an  
23 academic improvement plan shall be developed that contains time  
24 lines, academic expectations and measurements to be used to  
25 verify that a student is achieving reading proficiency. The

.192024.1

underscored material = new  
[bracketed material] = delete

1 parent shall be provided with specific strategies to use in  
2 helping the student achieve reading proficiency. The school  
3 shall immediately implement prescribed intervention and  
4 remediation programs and the academic improvement plan for the  
5 remainder of the school year.

6 D. For each student who does not demonstrate  
7 reading proficiency in grades four through eight, the school  
8 shall maintain a student intervention file that contains a copy  
9 of the written notice to the parent and a description of the  
10 implemented intervention, remediation programs and academic  
11 improvement plan and any promotion or retention  
12 recommendations. The student intervention file shall be  
13 maintained as part of the student's permanent record to help  
14 successive teachers and schools meet the student's academic  
15 needs through further intervention, remediation and, if  
16 necessary, retention."

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

19 "[NEW MATERIAL] REPORTING.--

20 A. By September 30 of each year, each school  
21 district shall provide to the department a professional  
22 development plan that includes proposals for teachers to  
23 receive professional development to adopt effective  
24 instructional strategies in the areas of reading. By May 15 of  
25 each year, each school district shall include in its annual

.192024.1

underscored material = new  
[bracketed material] = delete

1 accountability report:

2 (1) the number and percentage of students  
3 identified as requiring intervention;

4 (2) the number and percentage of students who  
5 received intervention and remediation and:

6 (a) achieved reading proficiency within  
7 the school year; or

8 (b) did not achieve reading proficiency  
9 within the school year, were recommended for retention and: 1)  
10 were retained in the same grade; or 2) were not retained in the  
11 same grade due to a parental waiver;

12 (3) reading proficiency data for students who  
13 did not achieve reading proficiency and were promoted to the  
14 next higher grade due to a parental waiver; and

15 (4) student assistance team promotion and  
16 retention decisions for students who previously were promoted  
17 to the next higher grade due to a parental waiver.

18 B. The department shall report to the legislative  
19 education study committee on alternate months during the  
20 interim about the accountability reports received, programs  
21 adopted and implemented, data maintained and goals established  
22 pursuant to the Reading Proficiency Act."

23 SECTION 7. Section 22-2C-6 NMSA 1978 (being Laws 1986,  
24 Chapter 33, Section 7, as amended) is amended to read:

25 "22-2C-6. [~~REMEDATION PROGRAMS~~] PROMOTION AND RETENTION

.192024.1



underscored material = new  
[bracketed material] = delete

1 POLICIES--RESTRICTIONS.--

2 A. ~~[Remediation programs, academic improvement~~  
3 ~~programs and] Promotion and retention~~ policies shall be aligned  
4 with ~~[school-district-determined]~~ valid and reliable assessment  
5 results. ~~[and requirements of the state assessment and~~  
6 ~~accountability program.~~

7 B. ~~Local school boards shall approve school-~~  
8 ~~district-developed remediation programs and academic~~  
9 ~~improvement programs to provide special instructional~~  
10 ~~assistance to students in grades one through eight who do not~~  
11 ~~demonstrate academic proficiency. The cost of remediation~~  
12 ~~programs and academic improvement programs shall be borne by~~  
13 ~~the school district. Remediation programs and academic~~  
14 ~~improvement programs shall be incorporated into the school~~  
15 ~~district's educational plan for student success and filed with~~  
16 ~~the department.~~

17 C. ~~The cost of summer and extended-day remediation~~  
18 ~~programs and academic improvement programs offered in grades~~  
19 ~~nine through twelve shall be borne by the parent; however,~~  
20 ~~where parents are determined to be indigent according to~~  
21 ~~guidelines established by the department, the school district~~  
22 ~~shall bear those costs.~~

23 D. ~~Diagnosis of weaknesses identified by a~~  
24 ~~student's academic achievement may serve as criteria in~~  
25 ~~assessing the need for remedial programs or retention.~~

.192024.1

underscored material = new  
[bracketed material] = delete

1           E. ~~A parent shall be notified no later than the end~~  
2 ~~of the second grading period that the parent's child is not~~  
3 ~~academically proficient, and a conference consisting of the~~  
4 ~~parent and the teacher shall be held to discuss possible~~  
5 ~~remediation programs available to assist the student in~~  
6 ~~becoming academically proficient. Specific academic~~  
7 ~~deficiencies and remediation strategies shall be explained to~~  
8 ~~the student's parent and a written intervention plan developed~~  
9 ~~containing time lines, academic expectations and the~~  
10 ~~measurements to be used to verify that a student has overcome~~  
11 ~~academic deficiencies. Remediation programs and academic~~  
12 ~~improvement programs include tutoring, extended-day or -week~~  
13 ~~programs, summer programs and other research-based~~  
14 ~~interventions and models for student improvement.~~

15           F.] B. At the end of grades one through seven,  
16 three options are available, [~~dependent~~] depending on a  
17 student's [~~academic~~] reading proficiency:

18                   (1) the student [~~is academically proficient~~]  
19 has achieved reading proficiency and shall enter the next  
20 higher grade;

21                   (2) the student [~~is not academically~~  
22 ~~proficient~~] has not achieved reading proficiency and shall  
23 participate in [~~the required level of~~] remediation pursuant to  
24 the Reading Proficiency Act. Upon certification by the school  
25 district that the student [~~is academically proficient~~] has

underscored material = new  
[bracketed material] = delete

1 achieved reading proficiency, the student shall enter the next  
2 higher grade; or

3 (3) the student [~~is not academically~~  
4 ~~proficient~~] has not achieved reading proficiency after  
5 completion of the [~~prescribed~~] remediation [~~program~~] and upon  
6 the recommendation of the teacher and school principal shall  
7 either be:

8 (a) retained in the same grade for no  
9 more than one school year with an academic improvement plan  
10 developed by the student assistance team in order to [~~become~~  
11 ~~academically proficient~~] achieve reading proficiency, at which  
12 time the student shall enter the next higher grade; or

13 (b) promoted to the next grade if the  
14 parent refuses to allow the child to be retained pursuant to  
15 Subparagraph (a) of this paragraph. In this case, the parent  
16 shall sign a waiver indicating the parent's [~~desire~~] intention  
17 that the student be promoted to the next higher grade with an  
18 academic improvement plan designed to address specific  
19 [~~academic deficiencies~~] needs. The academic improvement plan  
20 shall be developed by the student assistance team outlining  
21 time lines and monitoring activities to ensure academic  
22 progress [~~toward overcoming those academic deficiencies~~].  
23 Students failing to [~~become academically proficient~~] achieve  
24 reading proficiency at the end of that year as measured by  
25 grades, performance on school district assessments and other

underscored material = new  
[bracketed material] = delete

1 measures identified by the school district shall be retained in  
2 the same grade for no more than one year in order to have  
3 additional time to achieve [~~academic~~] reading proficiency.

4           [G.] C. At the end of the eighth grade, a student  
5 who [~~is not academically proficient~~] has not achieved reading  
6 proficiency shall be retained in the eighth grade for no more  
7 than one school year to [~~become academically proficient~~]  
8 achieve reading proficiency, or if the student assistance team  
9 determines that retention of the student in the eighth grade  
10 will not assist the student to [~~become academically proficient~~]  
11 achieve reading proficiency, the team shall design a high  
12 school graduation plan to meet the student's needs for entry  
13 into the work force or a post-secondary educational  
14 institution. If a student is retained in the eighth grade, the  
15 student assistance team shall develop a specific academic  
16 improvement plan that clearly delineates the student's  
17 [~~academic deficiencies~~] needs and prescribes a [~~specific~~]  
18 targeted remediation plan. [~~to address those academic~~  
19 ~~deficiencies.~~

20           H.] D. A student who does not [~~demonstrate~~  
21 ~~academic~~] achieve reading proficiency for two successive school  
22 years shall be referred to the student assistance team for  
23 placement in an alternative program designed by the school  
24 district. Alternative program plans shall be filed with the  
25 department.

.192024.1

underscored material = new  
[bracketed material] = delete

1           ~~[F.]~~ E. Promotion and retention decisions affecting  
2 a student enrolled in special education shall be made in  
3 accordance with the provisions of the individual educational  
4 plan established for that student.

5           ~~[G.]~~ F. For the purposes of this section:

6                   (1) "academic improvement plan" means a  
7 written document developed by the student assistance team that  
8 describes the specific content standards required for a certain  
9 grade level that a student has not achieved and that prescribes  
10 specific remediation programs such as summer school, extended-  
11 day or -week school and tutoring;

12                   (2) "school-district-determined assessment  
13 results" means the results obtained from student assessments  
14 developed or adopted by a local school board and conducted at  
15 an elementary grade level or middle school level;

16                   (3) "educational plan for student success"  
17 means a student-centered tool developed to define the role of  
18 the academic improvement plan within the public school and the  
19 school district that addresses methods to improve student  
20 learning and success in school and that identifies specific  
21 measures of a student's progress; and

22                   (4) "student assistance team" means a group  
23 consisting of a student's:

- 24                           (a) teachers;
- 25                           (b) school counselor;

underscoring material = new  
~~[bracketed material] = delete~~

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

- (c) school administrator; ~~and~~
- (d) parent; and
- (e) if the student or parent wishes, a student advocate chosen by the student or parent."

SECTION 8. APPROPRIATION.--Three million six hundred thousand dollars (\$3,600,000) is appropriated from the general fund to the public education department for expenditure in fiscal year 2014 to fund professional development for teachers' adoption of effective reading instruction strategies. Any unexpended or unencumbered balance remaining at the end of fiscal year 2014 shall revert to the general fund.