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SENATE BILL 326

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

John M. Sapien

AN ACT

RELATING TO PUBLIC SCHOOLS; ENACTING THE READING SUCCESS ACT;
REQUIRING BASELINE ASSESSMENT DATA ON READING PROFICIENCY FOR
STUDENTS; PROVIDING INTERVENTIONS AND DIFFERENTIATED
REMEDATION MEASURES FOR STUDENTS WHO DO NOT DEMONSTRATE
READING PROFICIENCY; REQUIRING REPORTING TO THE LEGISLATURE;
REQUIRING SCHOOL DISTRICTS TO MAINTAIN INTERVENTION FILES;
REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; 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.--This act may be cited as the
"Reading Success Act"."

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

2 "[NEW MATERIAL] DEFINITIONS.--As used in the Reading
3 Success Act:

4 A. "differentiated remediation program" includes
5 summer school, extended-day or -week programs, tutoring,
6 progress-based monitoring and other research-based models for
7 student improvement;

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

14 C. "English language learner" means a student whose
15 first or heritage language is not English and who is unable to
16 read, write, speak or understand English at a level comparable
17 to grade level English-proficient peers and native English
18 speakers;

19 D. "intensive targeted instruction" means extra
20 instruction either for individual students or small groups of
21 students that shall be no less than twenty minutes per day and
22 five days per week or the equivalent;

23 E. "intervention" means targeted instructional
24 practice for individual students or small groups of students
25 aligned with the results of a valid and reliable assessment or

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1 response to intervention;

2 F. "reading improvement plan" means a written
3 document developed by the student assistance team that
4 describes the specific reading standards required for a certain
5 grade level that a student has not achieved and that prescribes
6 intervention and differentiated remediation programs that have
7 demonstrated effectiveness and can be implemented during the
8 intensive targeted instruction within the school day or during
9 summer school or extended-day or -week programs and with
10 tutoring;

11 G. "reading proficiency" means a score on a valid
12 and reliable assessment that is school-district-determined and
13 developmentally appropriate;

14 H. "school district" includes both a public school
15 district and a locally chartered or state-chartered charter
16 school;

17 I. "screening" means a school-district-determined
18 and developmentally appropriate assessment that measures the
19 acquisition of reading skills, including but not limited to
20 phonological awareness, phonics, reading fluency, vocabulary
21 and comprehension. For English language learners, the
22 screening shall be a school-district-determined and
23 developmentally appropriate English language assessment that is
24 the same for all school districts and approved by the
25 department;

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1 J. "student assistance team" means a collaborative
2 group consisting of a student's:
3 (1) teachers;
4 (2) school counselor;
5 (3) school administrator;
6 (4) parent; and
7 (5) if the student or parent wishes, a student
8 advocate chosen by the student or parent; and

9 K. "valid and reliable assessments" means
10 assessments that are:
11 (1) school-district-determined and
12 developmentally appropriate;
13 (2) appropriate to targeted populations; and
14 (3) thoroughly tested, peer-reviewed and
15 accepted by authorities and practitioners in the field."

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

18 "[NEW MATERIAL] KINDERGARTEN THROUGH GRADE THREE--
19 INTERVENTION--REMEDICATION.--

20 A. Each public school shall establish the baseline
21 assessment data on reading proficiency for students in
22 kindergarten through grade three.

23 B. Prescribed intervention and differentiated
24 remediation programs shall be adopted and aligned with the
25 screening results and shall be aligned with the state standards

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1 for each grade level and subject area pursuant to Section
2 22-13-1.6 NMSA 1978.

3 C. School districts shall approve prescribed
4 intervention and remediation programs and reading improvement
5 plans to students in kindergarten through grade three who do
6 not demonstrate reading proficiency.

7 D. A screening shall be given at the beginning of
8 each school year to students enrolled in kindergarten through
9 grade three. For English language learners, the screening
10 shall be given in the student's first and second languages.

11 E. If screening results indicate that the student
12 is not demonstrating reading proficiency, the student's parent
13 shall be given notice that the student shall be provided with
14 intensive targeted instruction.

15 F. If screening results indicate that a student is
16 not demonstrating reading proficiency, the student assistance
17 team shall develop, by the eightieth day of the school year, a
18 reading improvement plan that contains an initial
19 identification of areas of need and recommendations for
20 differentiated remediation. The reading improvement plan shall
21 delineate the areas in which the student needs prescribed
22 intervention and differentiated remediation programs, contain
23 specific strategies for a parent to use in helping the student
24 achieve reading proficiency and be provided to the parent."

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

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

4 A. Each school district shall establish baseline
5 assessment data from screening results from the prior school
6 year to determine reading proficiency for students in grades
7 four through eight. The baseline assessment data shall include
8 levels of performance in reading based on the screening to
9 determine when a student must be provided with intervention and
10 differentiated remediation programs.

11 B. Prescribed intervention shall be adopted by each
12 school district and aligned with the screening results and with
13 the state standards for each grade level and subject area
14 pursuant to Section 22-13-1.6 NMSA 1978.

15 C. Each school district shall approve prescribed
16 intervention and differentiated remediation programs and
17 reading improvement plans that have demonstrated effectiveness
18 in providing special instructional assistance to students in
19 grades four through eight who do not demonstrate reading
20 proficiency.

21 D. If a student is not demonstrating reading
22 proficiency, the student assistance team shall develop, by the
23 eightieth day of the school year, a written reading improvement
24 plan for the student that shall be provided to the student's
25 parent that clearly delineates the areas in which the student

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1 needs prescribed intervention and differentiated remediation
2 programs and contains specific strategies for the parent to use
3 in helping the student achieve reading proficiency.

4 E. For each student who does not demonstrate
5 reading proficiency in grades four through eight, the school
6 shall maintain a student intervention file that contains a copy
7 of the written notice to the student's parent and a description
8 of the implemented intervention and differentiated remediation
9 programs and a reading improvement plan. The student
10 intervention file shall be maintained as part of the student's
11 permanent record."

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

14 "[NEW MATERIAL] REPORTING.--

15 A. By September 30 of each year, each school
16 district shall provide to the department a professional
17 development plan that includes proposals for teachers to
18 receive professional development to adopt effective
19 instructional methodologies and strategies in the areas of
20 reading, English language development or English as a second
21 language. By May 15 of each year, each school district shall
22 include in its annual accountability report:

23 (1) the number and percentage of students
24 identified as requiring intervention;

25 (2) the number and percentage of students who

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1 received intervention and differentiated remediation programs
2 and:

3 (a) achieved reading proficiency within
4 the school year; or

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

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

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

15 B. The department shall develop a report to be
16 presented to the legislative education study committee during
17 the legislative interim to include the data derived from the
18 accountability reports received from each school district."

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

21 "[NEW MATERIAL] PROMOTION AND RETENTION POLICIES--
22 RESTRICTIONS.--

23 A. Promotion and retention policies shall be
24 aligned with valid and reliable assessment results.

25 B. At the end of grades kindergarten through eight,

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1 three options are available depending on a student's reading
2 proficiency:

3 (1) the student has achieved reading
4 proficiency as determined by the school district and shall
5 enter the next higher grade;

6 (2) the student has not achieved reading
7 proficiency and shall participate in a differentiated
8 remediation program pursuant to the Reading Success Act. Upon
9 certification by the school district that the student has
10 achieved reading proficiency, the student shall enter the next
11 higher grade; or

12 (3) the student by grades one through eight
13 has not achieved reading proficiency after completion of the
14 differentiated remediation program and upon the recommendation
15 of the teacher and school principal shall either be:

16 (a) subject to retention, with written
17 parent approval for only one school year while the student is
18 enrolled in grades one through eight with a reading improvement
19 plan developed by the student assistance team in order to
20 achieve reading proficiency, at which time the student shall
21 enter the next higher grade; or

22 (b) promoted to the next grade if the
23 parent refuses to allow the student to be retained and the
24 parent signs a written waiver indicating the parent's intention
25 that the student be promoted to the next higher grade with a

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1 differentiated remediation program and reading improvement
2 plan. Students failing to achieve reading proficiency at the
3 end of that year may be retained in any grade for only one
4 school year while the student is enrolled in grades one through
5 eight.

6 C. For a student who has not achieved reading
7 proficiency at the end of grade eight, the student assistance
8 team shall design a high school graduation plan to meet the
9 student's needs for entry into the work force or a post-
10 secondary educational institution.

11 D. A student who does not achieve reading
12 proficiency for two successive school years shall be referred
13 to the student assistance team for placement in an alternative
14 program designed by the school district. Alternative program
15 plans shall be filed with the department.

16 E. Promotion and retention decisions affecting a
17 student enrolled in special education shall be made in
18 accordance with the provisions of the individual educational
19 plan established for that student.

20 F. A student shall be exempt from the provisions of
21 Subsections B through D of this section if the student:

22 (1) scores at least at the fiftieth percentile
23 on a department-approved, norm-referenced assessment or at the
24 proficient level on an alternative school-district approved,
25 criterion-referenced assessment;

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1 (2) is an English language learner who
2 demonstrates annual growth on a school-district-approved
3 English language assessment; provided that, after four
4 successive school years of taking, or upon mastering, the
5 English language assessment, the student no longer shall be
6 considered an English language learner, the student's reading
7 proficiency shall be determined using the assessment
8 administered to students who are not English language learners;

9 (3) is a student with a disability who shall
10 be assessed, promoted or retained in accordance with the
11 provisions of the student's individualized educational plan; or

12 (4) is a student who has already been retained
13 for one school year."

14 SECTION 7. APPROPRIATION.--Twenty-five million dollars
15 (\$25,000,000) is appropriated from the general fund to the
16 state equalization guarantee for distribution in fiscal year
17 2015 to implement the Reading Success Act. Any unexpended or
18 unencumbered balance remaining at the end of fiscal year 2015
19 shall revert to the general fund.

20 SECTION 8. REPEAL.--Section 22-2C-6 NMSA 1978 (being Laws
21 1986, Chapter 33, Section 7, as amended) is repealed.

22 SECTION 9. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2014.