

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** SB 468

**52nd Legislature, 1st Session, 2015**

**Tracking Number:** .199210.1

**Short Title:** Reading Success Act

**Sponsor(s):** Senator John M. Sapien

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**Date:** March 18, 2015

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**Bill Summary:**

Focusing on students in grades K-8, SB 468 creates the *Reading Success Act* to ensure that students who experience difficulties with reading proficiency are provided multiple opportunities for early intervention and remediation.

SB 468 defines a number of terms:

- **“differentiated remediation program”** includes summer school, extended-day or -week programs, tutoring, progress-based monitoring, and other research-based models for student improvement;
- **“educational plan for student success”** means a student-centered tool developed to define the role of the reading improvement plan within the public school and the school district that addresses methods to improve student learning and success in school and that identifies specific measures of a student’s progress in reading;
- **“intensive targeted instruction”** means extra instruction either for individual students or small groups of students that shall be no less than 20 minutes per day and five days per week or the equivalent;
- **“intervention”** means targeted instructional practice for individual students or small groups of students aligned with the results of a valid and reliable assessment or response to intervention (RtI);<sup>1</sup>
- **“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 intervention and differentiated remediation programs that have demonstrated effectiveness and can be implemented during the intensive targeted instruction within the school day or during summer school or extended-day or -week programs with tutoring;
- **“reading proficiency”** means a score on a valid and reliable assessment that is determined by the school district and developmentally appropriate;
- “school district” includes both a public school district and a locally chartered or state-chartered charter school;

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<sup>1</sup> According to PED, Response to Intervention is a systematic, data-based assessment and intervention framework that seeks to prevent academic and behavioral difficulty for all students through high-quality, research-based instruction, early intervention, and frequent authentic assessment of students’ progress. There are three tiers: Tier I is the Universal/Core instruction of the classroom, Tier II is targeted/supplemental group interventions, and Tier III is strategic/intensive, individualized intervention.

- **“screening”** means a school-district-determined and developmentally appropriate assessment that measures the acquisition of reading skills, including phonological awareness, phonics, reading fluency, vocabulary, and comprehension. For English language learners, the screening shall be a school-district-determined and developmentally appropriate English language assessment that is the same for all school districts and approved by the department;
- **“student assistance team”** (SAT) means a collaborative group consisting of a student’s:
  - teachers;
  - school counselor;
  - school administrator;
  - parent; and
  - if the student or parent wishes, student advocate chosen by the student or parent; and
- **“valid and reliable assessments”** means assessments that are:
  - school-district-determined and developmentally appropriate;
  - appropriate to targeted populations; and
  - thoroughly tested, peer-reviewed, and accepted by authorities and practitioners in the field.

Among its provisions, SB 468 requires:

- baseline assessment data on reading proficiency for students in grades K-3;
- intervention and remediation measures for students in grades K-8 who do not demonstrate reading proficiency;
- new reporting requirements; and
- school districts to maintain student intervention files.

### ***K-3 Baseline Assessment Data, Intervention, and Remediation***

In addition to requiring the screening to be given at the beginning of the school year to students enrolled in grades K-3, provisions in Section 3 of SB 468 requires that, for students in grades K-3:

- each public school must use the screening results to establish baseline assessment data on reading proficiency;
- prescribed intervention and remediation programs and academic improvement programs must be adopted and aligned with the screening results and be aligned with the state standards for each grade level and subject area pursuant to the uniform grade and subject curricula provisions in the *Public School Code*;
- districts must approve prescribed intervention and remediation programs and reading improvement programs that have demonstrated effectiveness in providing special instructional assistance to students in kindergarten through grade 3 who do not demonstrate reading proficiency;
- English language learners shall be screened in student’s first language; and
- if the screening results indicate that a student has not achieved reading proficiency, the SAT must develop a reading improvement plan for the student by the 80<sup>th</sup> day of the school year that delineates the areas in which the student needs prescribed intervention

and remediation programs that must be included in the plan, including the specific strategies for a parent to use in helping the child achieve reading proficiency.

### ***Intervention and Remediation for Students in Grades 4-8***

As provided in Section 4 of SB 468:

- school districts must establish baseline assessment data in reading from screening results from the prior school year to determine reading proficiency;
- prescribed intervention policies must be adopted and approved by school districts and aligned with screening results and be aligned with the state standards for each grade level and subject area pursuant to the uniform grade and subject curricula provisions in the *Public School Code*; and
- if a student does not demonstrate reading proficiency:
  - by the 80<sup>th</sup> school day, the SAT must develop a written reading improvement plan for the student that clearly delineates the areas of the student's prescribed intervention and differentiated remediation. This documentation must be provided to the parents and must contain specific strategies to use in helping the student achieve reading proficiency; and
  - the school must maintain a student intervention file that contains a copy of the written notice to the student's parent and a description of the reading improvement plan, which shall become part of the student's permanent record.

### ***Reporting Requirements***

As provided in Section 5 of SB 468:

- by September 30 of each year, each school district must provide to the Public Education Department (PED) a professional development plan that includes proposals for teachers to receive professional development to adopt effective instructional strategies in the areas of reading, English language development, or English as a second language;
- by May 15 of each year, each school district must include in its annual accountability report:
  - the number and percentage of students identified as requiring intervention;
  - the number and percentage of students who received intervention and remediation, including the number and percentage of students who:
    - achieved reading proficiency within the school year;
    - did not achieve reading proficiency within the school year and were recommended for retention;
    - were retained in the same grade; or
    - were not retained in the same grade due to a parental waiver;
  - reading proficiency data for students who did not achieve reading proficiency and were promoted to the next higher grade due to a parental waiver; and
  - student assistance team promotion and retention decisions for students who previously were promoted to the next higher grade due to a parental waiver; and

- PED must report to the Legislative Education Study Committee (LESC) during the legislative interim to include data from the accountability reports.

Section 6 of the bill addresses policies for promotion and retention of students and exemptions from these policies.

### ***Promotion and Retention for Students Grades 1-8***

Regarding promotion and retention decisions, if at the end of grades K-8, a student:

- has achieved reading proficiency, the student shall enter the next highest grade;
- has not achieved reading proficiency, the student shall participate in remediation pursuant to the *Reading Success Act*. Upon certification by the school district that the student has achieved reading proficiency, the student shall enter the next highest grade; or
- has not achieved reading proficiency in grades 1-8 after completion of the remediation and upon recommendation of the teacher and school principal, the student shall either be:
  - subject to retention for one school year with written parent approval and must be provided with a reading improvement plan developed by the SAT to help student reach reading proficiency and will enter the next highest grade level; or
  - promoted to the next grade if the parent refuses to allow the child to be retained. In this case, the parent shall sign a waiver indicating his or her intention that the student be promoted to the next higher grade with an academic improvement plan designed to address specific needs. A student who does not attain reading proficiency at the end of that recommended year of retention and remediation, that student may be retained for no more than one school year.

At the end of grade 8:

- if a student who has not achieved reading proficiency, the SAT must design a high school graduation plan to meet the student's needs for entry into the workforce or a postsecondary educational institution; and
- a student who does not achieve reading proficiency for two successive school years must be referred to the SAT for placement in an alternative program designed by the school district; alternative program plans must be filed with PED.

### ***Promotion and Retention Exemptions***

Promotion and retention decisions affecting students enrolled in special education must be made in accordance with the provisions of the individual educational plan established for that student. SB 468 also allows exemptions from the retention provisions described above if the student:

- scores at least at the 50<sup>th</sup> percentile on a department-approved, norm-referenced assessment or at the proficient level on an alternative school-district approved, criterion-referenced assessment;
- is an English language learner who demonstrates annual growth on a school-district-approved English language assessment, provided that;
  - after four successive school years of taking, or upon mastering, the English language assessment, the student is no longer considered an English language learner; and

- the student’s reading proficiency will be determined by using the assessment administered to students who are not English language learners;
- is a student with a disability who will be assessed, promoted, or retained in accordance with the provisions of the student’s individualized educational plan; or
- who has already been retained for one school year.

Finally, SB 468 repeals the section of the *Assessment and Accountability Act* governing promotion, remediation, and retention policies currently in effect.

**Fiscal Impact:**

A total of \$25 million is appropriated from the General Fund in FY 16. Any unexpended or unencumbered balance remaining at the end of FY 16 reverts to the General Fund.

**Fiscal Issues:**

***Executive Budget***

In two related bills (HB 41aa, *School Grade Promotion & Retention* and SB 66, *School Grade Promotion & Retention*) the PED analysis indicates that as part of the Executive budget request, funding was requested to support the New Mexico Reads to Lead!<sup>2</sup> program that is aligned with SB 468. Further, the Fiscal Impact Report (FIR) by the Legislative Finance Committee indicates that SB 468 includes sufficient funding to offset any other costs such as a screening assessment for grades 4-8.

PED’s funding request includes:

- \$3.6 million for FY 16 to support;
- DIBELS Next<sup>3</sup> and IDEL<sup>4</sup> K-3 formative screening assessments;
- professional development for school administrators, teachers, reading coaches, and parents with professional development on the following:
  - evidence-based reading instruction and intervention aligned with Common Core State Standards;
  - using formative assessment data to drive instruction; and
  - strategies for parents to support students’ reading acquisition at home; and
- \$11.9 million for districts to intervene with those students not proficient, which the department anticipates will be 24,000 students (6,000 in grades K-3) will need additional reading support. The district funding includes:

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<sup>2</sup> The New Mexico Reads to Lead! Initiative funds a reading K-3 Formative Assessment System provided to districts at no cost. It also provides regional and district reading coaches, supports for intervention, and professional development for parents, teachers, reading coaches, and administrators.

<sup>3</sup> DIBELS Next is an assessment used to measure the acquisition of early literacy skills from kindergarten through grade 6.

<sup>4</sup> IDEL is a research-based formative assessment series designed to measure the basic early literacy skills of children learning to read in Spanish.

- \$1.4 million for reading coaches to support smaller, rural districts;
- \$10.1 million to provide funding to support reading coaches and interventions for the district level that will support schools with implementation of the formative assessment; and
- \$400,000 will be used to ensure existing programs remain funded and expand the program by allowing more districts and charter schools to participate.

**Technical Issues:**

The bill’s definition of the term “educational plan for student success” is virtually identical to the current definition in that section of the *Assessment and Accountability Act* that SB 468 repeals. The only difference is that, where current law cites “the role of the *academic* improvement plan” (emphasis added), SB 468 cites “the role of the *reading* improvement plan” (emphasis added). And that same section in current law also defines the term “academic improvement plan,” just as SB 468 defines the term “reading improvement plan.” However, the phrase “educational plan for student success” is also used in a section of the *School Personnel Act* regarding the highly objective uniform statewide standard of evaluation. Because the definition in SB 468 is narrower than the one in current law, the use of the same phrase outside the context of SB 468 may affect that different section of law.

In addition, as the FIR notes, while SB 468 does define the term “educational plan for student success,” it never uses the term to any purpose.

**Substantive Issues:**

PED’s analysis notes that completing academic improvement plans for students not proficient in reading in grades K-8, by the 80<sup>th</sup> school day may be too late for struggling readers, thus diminishing their academic success.

The PED analysis also contends that allowing each district to determine its own assessment to demonstrate proficiency will result in inconsistent expectations and promotion and retention policies throughout the state.

**Background:**

***Early Literacy and Interventions Testimony to the Legislative Education Study Committee***

In August 2014, the LESC heard testimony on national trends in early literacy interventions by a professor of education in the Harvard Graduate School of Education and by a policy analyst with the Education Commission of the States (ECS).

In response to a committee member’s comment relating to the Legislature’s discussions on mandatory retention and early interventions, the professor explained that the state needs to focus on improving schools’ overall quality of classroom instruction, not just interventions, including professional development that is focused on improving the quality of daily instruction and academic language development. She also emphasized the need to track data for students as a group and not just the individual.

Describing her focus on children from minority, multi-lingual, and socio-economically disadvantaged backgrounds, the professor compared New Mexico’s demographics with those of the rest of the country:

- 33 percent of children ages birth through five in New Mexico live in poverty, compared to 26 percent of US children among the same age group; and
- 22 percent of children and youth in New Mexico are children of immigrants, compared to 24 percent in the US.

A majority of these children, this testimony emphasized, are generally not fluent in English, creating an obstacle to their proficiency in literacy.

Among other points, this testimony:

- noted that it is equally important to create partnerships with adults to increase their capacity to assess and support children’s language and literacy development; and
- emphasized the need to support good teaching with high-quality and comprehensive curricula that promote language development.

Beginning with the value of assessments of reading skills in the early grades, the ECS testimony reported that policies nationwide indicate that:

- 33 states (New Mexico among them) and the District of Columbia assess reading proficiency in at least one grade, between pre-K and grade 3;
- 19 of those states assess in grades K-3;
- three states begin assessing in pre-K;
- nine states do not assess until grade 3, which is considered too late for remediation;
- 30 states and the District of Columbia offer some type of intervention; and
- 16 states and the District of Columbia require third-grade retention.

In New Mexico, this testimony continued:

- all K-3 students are assessed;
- continuous assessments for monitoring student progress are in place;
- an individualized reading plan is created for those students who are not reading on grade level and do not meet reading proficiency standards;
- extra time in the student’s day or year is in place for the implementation of reading programs; and
- professional development is provided to teachers.

The ECS testimony also identified the components of a strong reading policy:

- early identification/assessment of pre-K/kindergarten;
- early intervention outside of normal school hours;
- highly qualified reading teachers with pre-service teaching programs to offer certification;
- assignment of highly effective teachers to those students with the greatest need;
- parental involvement;
- ongoing assessment; and
- program evaluation.

## ***Current Statewide K-3 Reading Screening Assessment***

PED plans to continue to provide DIBELS Next and IDEL as tools selected for the state's K-3 screening assessment. In school year 2013-2014:

- 100,303 students participated in the DIBELS Next assessment, an increase of 26,032 from school year 2012-2013; and
- IDEL was administered to 8,567 students in school year 2014-2015, an increase of 2,422 from school year 2012-2013.

## ***K-Plus Program***

In 2007, legislation endorsed by the LESC was enacted to create K-3 Plus, a six-year pilot project that extends the school year in kindergarten through third grade by at least 25 instructional days, starting up to two months earlier than other classes.

Patterned after Kindergarten Plus, the K-3 Plus pilot project was designed to demonstrate that increased time in kindergarten and the early grades narrows the achievement gap between disadvantaged students and other students, increases cognitive skills, and leads to higher test scores for all participants. K-3 Plus, which is administered by PED, provides additional time on literacy, numeracy, and social skills development of the participants. By focusing on these subjects, K-3 Plus provides remediation services like those prescribed in SB 468.

In 2012, LESC-endorsed legislation was enacted to convert K-3 Plus from a pilot project to an established program in PED.

## **Committee Referrals:**

SPAC/SEC/SFC

## **Related Bills:**

*SB 66 School Grade Promotion & Retention*

*SB 149 Early Literacy Act*

*CS/SB 724 Reading Success Act & Grade Retention*

*HB 41aa School Grade Promotion & Retention*