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SENATE BILL 468

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

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 .199210.1

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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 phonological  
20 awareness, phonics, reading fluency, vocabulary and  
21 comprehension. For English language learners, the screening  
22 shall be a school-district-determined and developmentally  
23 appropriate English language assessment that is the same for  
24 all school districts and approved by the department;

25 J. "student assistance team" means a collaborative

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

8 K. "valid and reliable assessments" means  
9 assessments that are:

10 (1) school-district-determined and  
11 developmentally appropriate;  
12 (2) appropriate to targeted populations; and  
13 (3) thoroughly tested, peer-reviewed and  
14 accepted by authorities and practitioners in the field."

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

17 "[NEW MATERIAL] KINDERGARTEN THROUGH GRADE THREE--  
18 INTERVENTION--REMEDIATION.--

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

22 B. Prescribed intervention and differentiated  
23 remediation programs shall be adopted and aligned with the  
24 screening results and shall be aligned with the state standards  
25 for each grade level and subject area pursuant to Section

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1 22-13-1.6 NMSA 1978.

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

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

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

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

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

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

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

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

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

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

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1 remediation programs and contains specific strategies for the  
2 parent to use in helping the student achieve reading  
3 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 be either:

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

22 (b) promoted to the next higher grade if  
23 the 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 for one school year while the  
4 student is enrolled in grades one through eight.

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

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

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

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

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

25 (2) is an English language learner who

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

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

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

13 SECTION 7. APPROPRIATION.--Twenty-five million dollars  
14 (\$25,000,000) is appropriated from the general fund to the  
15 state equalization guarantee for distribution in fiscal year  
16 2016 to implement the Reading Success Act. Any unexpended or  
17 unencumbered balance remaining at the end of fiscal year 2016  
18 shall revert to the general fund.

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

21 SECTION 9. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2015.