

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 724

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

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
ENACTING THE READING SUCCESS ACT; ALLOWING RETENTION OF  
STUDENTS IN KINDERGARTEN THROUGH SECOND GRADE WHO DO NOT  
DEMONSTRATE READING PROFICIENCY; REQUIRING INTERVENTION,  
REMEDICATION AND READING IMPROVEMENT PLANS FOR STUDENTS IN  
KINDERGARTEN THROUGH THIRD GRADE WHO DO NOT DEMONSTRATE READING  
PROFICIENCY; REQUIRING RETENTION OF CERTAIN STUDENTS IN THIRD  
GRADE WHO DO NOT DEMONSTRATE READING PROFICIENCY, WITH  
EXCEPTIONS; REQUIRING INTERVENTION AND REMEDIATION FOR STUDENTS  
IN FOURTH THROUGH EIGHTH GRADE WHO DO NOT DEMONSTRATE  
PROFICIENCY IN READING; PROVIDING FOR ASSESSMENT OF READING AND  
ACADEMIC GROWTH OF STUDENTS IN KINDERGARTEN THROUGH EIGHTH  
GRADE; REQUIRING MAINTENANCE OF STUDENT INTERVENTION FILES IN  
ACCOUNTABILITY REPORTS; REQUIRING REPORTING TO THE LEGISLATURE;  
REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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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 enacted to read:

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

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

B. "intensive targeted instruction" means extra instruction for individual students or small groups of students that shall be no less than twenty minutes per day and five days per week or the weekly equivalent;

C. "intervention" means intensive targeted instruction for individual students or small groups of students aligned with the results of a valid and reliable assessment and, if applicable, response to intervention;

D. "reading improvement plan" means a written document developed by the student assistance team that

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1 describes the specific reading standards required for a certain  
2 grade level that a student has not achieved and that prescribes  
3 specific intervention and remediation that have demonstrated  
4 effectiveness and may include, if appropriate, retention in  
5 kindergarten and first and second grades;

6 E. "reading proficiency" or "proficient in reading"  
7 means a state score on the statewide standards-based assessment  
8 or reading assessment or reading screening assessment that is  
9 higher than the lowest level established by the department;

10 F. "reading screening assessment" means a school-  
11 district-determined and developmentally appropriate assessment  
12 that measures the acquisition of reading skills, including  
13 phonological awareness, phonics, reading fluency, vocabulary  
14 and comprehension. For English language learners, the  
15 screening shall be a school-district-determined and  
16 developmentally appropriate English language assessment that is  
17 the same for all school districts and approved by the  
18 department;

19 G. "remediation" includes summer school, extended-  
20 day or -week programs, tutoring, progress-based monitoring and  
21 other research-based models for student improvement;

22 H. "school district" includes both a school  
23 district and a locally chartered or state-chartered charter  
24 school;

25 I. "student assistance team" means a collaborative

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1 group consisting of a student's:

- 2 (1) teacher;
- 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 parent; and

8 J. "valid and reliable assessment" means an  
9 assessment that:

- 10 (1) is appropriate to targeted populations;

11 and

12 (2) is thoroughly tested, peer-reviewed and  
13 accepted by authorities and practitioners in the field."

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

16 "NEW MATERIAL] KINDERGARTEN THROUGH THIRD GRADE  
17 PROMOTIONS--INTERVENTION--REMEDICATION--RETENTION POLICIES.--

18 A. Effective with the beginning of the 2015-2016  
19 school year, school districts shall provide reading improvement  
20 plans that include intervention and remediation for students in  
21 kindergarten through third grade who have not demonstrated  
22 reading proficiency. Beginning in kindergarten and through  
23 third grade, intervention and reading improvement plans and  
24 promotion policies shall be adopted and aligned with the  
25 reading screening assessment results and state standards.

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1           B. The reading screening assessment shall be given  
2 in kindergarten through third grade and, if appropriate, may be  
3 given in the student's first or second language. If a student  
4 does not demonstrate reading proficiency, a reading improvement  
5 plan shall be implemented for that student. The process for  
6 assessing students in kindergarten through third grade is as  
7 follows:

8                   (1) at the end of the first nine weeks of the  
9 school year, school districts shall administer the reading  
10 screening assessment to students enrolled in kindergarten;

11                   (2) at the beginning of the school year,  
12 school districts shall administer the reading screening  
13 assessment to students enrolled in first through third grade;  
14 and

15                   (3) if the reading screening assessment  
16 results for a student in kindergarten through third grade  
17 indicate that a student is not proficient in reading, the  
18 parent shall be given notice that the student shall be provided  
19 with intensive targeted instruction. The student assistance  
20 team shall develop a reading improvement plan for the student  
21 that clearly delineates the student's reading deficiencies and  
22 the intervention and remediation that shall be included in the  
23 plan, including the specific strategies for a parent to use in  
24 helping the student achieve reading proficiency. If a parent  
25 refuses to allow the student to participate in any prescribed

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1 intervention or remediation, the school district shall provide  
2 an appropriate form that must be signed by the parent that  
3 clearly indicates the parent's refusal to allow the student to  
4 participate in the prescribed intervention or remediation.

5 C. Beginning with the 2015-2016 school year, a  
6 student who is not proficient in reading at the end of  
7 kindergarten, first or second grade may be retained pursuant to  
8 the student assistance team recommendation. If a parent does  
9 not allow the student to be retained in accordance with the  
10 student assistance team recommendation, the school district  
11 shall provide an appropriate form that must be signed by the  
12 parent that clearly indicates the parent's refusal to allow the  
13 student to be retained.

14 D. Except as provided in Section 5 of the Reading  
15 Success Act, beginning with the 2016-2017 school year, at the  
16 end of third grade, grade promotion and retention decisions for  
17 each student shall be based upon the determination that the  
18 student is:

19 (1) proficient in reading and shall enter the  
20 fourth grade;

21 (2) not proficient in reading and may  
22 participate in remediation opportunities that may be available  
23 to the student before the beginning of the next school year.

24 Upon certification by the school district that the student is  
25 proficient in reading, the student shall enter the fourth

1 grade; or

2 (3) not proficient in reading after completion  
3 of the prescribed intervention and remediation and shall be  
4 retained in the same grade with an appropriate reading  
5 improvement plan that is different from the prior year's  
6 reading improvement plan developed by the student assistance  
7 team or the same plan for the following year if the student is  
8 showing growth, and the student shall be referred to the  
9 principal, who, in consultation with the teacher and the  
10 student assistance team, may recommend promotion to the fourth  
11 grade; provided that the student:

12 (a) is not habitually truant; and

13 (b) has completed at least two reading  
14 improvement plans that are different from each other or a  
15 single reading improvement plan that has demonstrated growth in  
16 two successive years of implementation.

17 E. No student shall be retained more than once in  
18 kindergarten through third grade as a result of not having  
19 attained reading proficiency."

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

22 "[NEW MATERIAL] FOURTH THROUGH EIGHTH GRADE PROMOTIONS--  
23 INTERVENTION--REMEDIATION.--

24 A. In fourth through eighth grades, the cost of  
25 reading improvement plans shall be borne by the school

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1 district. Reading proficiency plans and promotion policies  
2 shall be aligned with the school-district-approved valid and  
3 reliable assessment and state standards of excellence.

4 B. A parent shall be notified in writing no later  
5 than the end of the second grading period of each school year  
6 in fourth through eighth grades that the parent's student is  
7 not proficient in reading, and a conference with the student  
8 assistance team shall be held to discuss strategies, including  
9 intervention and remediation available to assist the student in  
10 becoming proficient in reading. The student's specific reading  
11 deficiencies and the available strategies, intervention and  
12 remediation shall be presented orally or in writing to the  
13 student's parent and an improvement plan shall be developed  
14 that contains time lines, expectations and the measurements to  
15 be used to verify that a student has overcome reading  
16 deficiencies. The parent shall be provided with specific  
17 strategies to use in helping the student achieve reading  
18 proficiency. The reading improvement plan shall be implemented  
19 immediately.

20 C. At the end of fourth through eighth grades,  
21 promotion decisions for each student shall be based on the  
22 determination that the student is:

23 (1) proficient in reading and shall enter the  
24 next highest grade; or

25 (2) not proficient in reading and shall



1 participate in the required level of remediation. A reading  
2 proficiency plan shall be developed by the student assistance  
3 team outlining time lines and monitoring activities to ensure  
4 progress toward overcoming the student's deficiencies in  
5 reading. Students who have been evaluated to determine the  
6 nature of their deficiencies in reading and who have received  
7 intervention and remediation that are different from the  
8 previous year's intervention and remediation but fail to become  
9 proficient in reading at the end of that year, as measured by  
10 grades, performance on screening assessments and other measures  
11 identified by the school district, shall be provided with an  
12 alternate program that shall be implemented immediately.

13 D. The cost of summer school and extended day  
14 intervention and remediation programs offered in ninth through  
15 twelfth grades shall be borne by the parent; provided, however,  
16 that in cases in which parents are determined to be indigent  
17 according to guidelines established by the department, the  
18 school district shall bear those costs.

19 E. A student in fourth through eighth grades who  
20 does not demonstrate reading proficiency for two successive  
21 school years shall be referred to the student assistance team  
22 for placement in an alternate program designed by the school  
23 district. Alternate program plans shall be filed with the  
24 department."

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

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1 enacted to read:

2 "[NEW MATERIAL] EXCEPTIONS.--The provisions of Sections 3  
3 and 4 of the Reading Success Act do not apply to a student who:

4 A. scores at least at the fiftieth percentile on a  
5 department-approved, norm-referenced assessment or at the  
6 proficient level on an alternative school-district-approved  
7 criterion-referenced assessment;

8 B. demonstrates reading proficiency on a teacher-  
9 developed portfolio that is equal to at least a proficient  
10 performance on the statewide standards-based assessments;

11 C. shows sufficient academic growth by meeting  
12 acceptable levels of academic performance specified by the  
13 department;

14 D. is an English language learner who is proficient  
15 in a language other than English on a valid and reliable  
16 reading assessment or, for a speaker of another language, who  
17 has had less than two years of instruction in English; or

18 E. is a student with a disability who shall be  
19 assessed, promoted or retained in accordance with the  
20 provisions of the student's individualized education program."

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

23 "[NEW MATERIAL] STUDENT INTERVENTION FILE--REPORTING.--

24 A. For each student who does not demonstrate  
25 reading proficiency in kindergarten through eighth grade, the

1 school shall maintain a student intervention file that contains  
2 a copy of the written notice to the student's parent and a  
3 description of the implemented reading improvement plan that  
4 includes intervention and remediation. The student  
5 intervention file shall be maintained as part of the student's  
6 permanent record.

7 B. By May 15 of each year, each school district  
8 shall include in its annual accountability report:

9 (1) the number and percentage of students in  
10 each grade identified as requiring intervention;

11 (2) the number and percentage of students in  
12 each grade who received intervention and remediation and:

13 (a) achieved reading proficiency within  
14 the school year; or

15 (b) did not achieve reading proficiency  
16 within the school year, were recommended for retention and: 1)  
17 were retained in the same grade; or 2) were not retained having  
18 met at least one of the conditions in Section 5 of the Reading  
19 Success Act;

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

23 (4) reading proficiency data for student  
24 assistance team promotion and retention decisions regarding  
25 students who previously were promoted to the next higher grade

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1 because of a parental waiver; and

2 (5) reading proficiency data for students for  
3 whom the student assistance team recommended retention in the  
4 prior year, who were retained and who are currently being  
5 promoted to the next higher grade for the subsequent year.

6 C. The department shall develop a report to be  
7 presented to the legislative education study committee at its  
8 October meeting to include the data derived from the  
9 accountability reports received from each school district."

10 SECTION 7. REPEAL.--Section 22-2C-6 NMSA 1978 (being Laws  
11 1986, Chapter 33, Section 7, as amended) is repealed.

12 SECTION 8. EFFECTIVE DATE.--The effective date of the  
13 provisions of this act is July 1, 2015.