

SENATE FILE NO. SF0117

Education-retention for reading failure.

Sponsored by: Senator(s) Scott, Biteman, Brennan and
Steinmetz

A BILL

for

1 AN ACT relating to education; modifying the reading
2 assessment and invention program; defining high performing
3 school districts; exempting high performing school
4 districts as specified; providing remedies to address
5 inadequacies in students' reading abilities in primary
6 grades; providing for retention of students due to reading
7 inadequacies as specified; requiring parental notification
8 as specified; providing for participation of parents in
9 determining educational interventions as specified;
10 providing for causes of action; providing for the award of
11 amounts as specified; specifying burdens of proof;
12 providing duties of the legislative service office;
13 requiring reporting; authorizing license revocation as
14 specified; prohibiting the modification of scores
15 associated with performance on the statewide summative

1 assessment as specified; and providing for an effective
2 date.

3

4 *Be It Enacted by the Legislature of the State of Wyoming:*

5

6 **Section 1.** W.S. 21-3-401(a), (b), by creating new
7 subsections (c) and (d), by amending and renumbering (c)
8 through (e) as (e) through (g) and by creating new
9 subsections (h) through (n) is amended to read:

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11 **21-3-401. Reading assessment and intervention**
12 **program; defining and exempting high performing school**
13 **districts; retention in grade three (3) and four (4);**
14 **providing causes of action.**

15

16 (a) Each school district shall select and implement a
17 reading assessment and intervention program that uses an
18 instrument identified by the state superintendent under
19 subsection ~~(d)~~(f) of this section that screens for signs
20 of reading difficulties, except as provided in subsection
21 (h) of this section, including but not limited to dyslexia
22 or other reading deficiencies, not less than three (3)
23 times per year in kindergarten through grade three (3) and

1 that implements with fidelity an evidence based
2 intervention program. The program shall include instruments
3 identified by the state superintendent under subsection ~~(d)~~
4 (f) of this section that monitor and measure reading
5 progress and assess student reading skills and progress to
6 provide data that informs any intervention. The assessment
7 and intervention program shall be administered to all
8 students in kindergarten through grade three (3). The
9 program shall also include implementation of evidence based
10 core curricula aligned to the uniform content and
11 performance standards and evidenced based interventions to
12 meet the needs of all students. The program shall be
13 multi-tiered and shall include evidence based interventions
14 to facilitate remediation of any reading difficulty as
15 early as possible.

16

17 (b) As soon as practicable after the ~~assessment~~
18 screening is conducted under the program established in
19 subsection (a) of this section, each school district shall
20 provide a copy of the screening results, including an
21 explanation of the screening results, to the parent,
22 guardian or other person having control of a student
23 showing signs of reading difficulties, including but not

1 limited to dyslexia or other reading deficiencies, or not
2 showing appropriate reading competence under this section.
3 Failure to complete a screening assessment shall be
4 evidence that the student has reading difficulties.

5
6 (c) Not later than May 15 each year, each school
7 district shall notify the parent, guardian or other person
8 having control of a student in writing of a student's
9 performance on the grade three (3) and grade four (4)
10 English language arts portion of the statewide summative
11 assessment administered pursuant to W.S. 21-2-304(a)(v).
12 Failure to complete the grade three (3) or grade four (4)
13 English language arts portion of the statewide summative
14 assessment shall be evidence that the student tested basic
15 or below basic. The notice shall provide the parent,
16 guardian or other person having control of a student with
17 the opportunity to meet with the student's teacher to
18 prepare the individualized reading plan required by
19 subsection (d) of this section. For students that receive a
20 score of below basic or basic in grade three (3), the
21 notice shall include the following: "Your child has tested
22 basic or below basic on the grade three (3) English
23 language arts portion of the statewide summative assessment

1 which measures reading ability. The State of Wyoming is
2 concerned this indicates a likely problem with reading
3 that, if not corrected, may keep your child from fully
4 participating in the coming high tech economy as an adult.
5 The State of Wyoming recommends that you and your school
6 district, working together, create and use a plan to fix
7 this problem. If you and your school district do not create
8 a plan for your child, the remedial plan will be that the
9 student will repeat grade three (3).".

10
11 (d) Not more than thirty (30) days after notice is
12 provided under subsections (b) or (c) of this section,
13 students not showing appropriate reading competence under
14 this section as evidenced by performance on screening
15 instruments administered pursuant to subsection (a) of this
16 section or as evidenced by a score of below basic or basic
17 on the English language arts portion of the statewide
18 summative assessment administered pursuant to W.S.
19 21-3-304(a)(v) in grade three (3) or grade four (4) shall
20 be placed on an individualized reading plan to remedy the
21 reading related difficulty utilizing an appropriate
22 evidence based intervention program, which may include a
23 group reading plan. The district shall provide the parent,

1 guardian or other person having control of a student with
2 the opportunity to meet with the student's teacher and
3 provide a copy of ~~a~~the student's individualized reading
4 plan to the student's parent, guardian or other person
5 having control of the student. For students under an
6 individualized education program (IEP) which addresses
7 reading difficulties, the IEP shall be deemed sufficient to
8 meet the requirements of this subsection and no additional
9 plan shall be required. In preparing an individualized
10 reading plan required under this subsection, each school
11 district shall:

12
13 (i) Commencing school year 2025-2026, for grade
14 three (3), consider requiring the student to repeat grade
15 three (3);

16
17 (ii) Commencing school year 2026-2027, for grade
18 four (4), require the student to repeat grade four (4)
19 unless the student has an individualized education program
20 (IEP) that addresses reading difficulties. If the student
21 received a score of proficient or advanced in grade three
22 (3) on the English language arts portion of the statewide
23 summative assessment administered pursuant to W.S.

1 21-3-304(a)(v), a school district may advance the student
2 to grade five (5). No student shall be retained for more
3 than two (2) years, for a total of three (3) years in grade
4 four (4), as a result of this paragraph. If a student
5 continues to receive a score of basic or below basic on the
6 grade four (4) English language arts portion of the
7 statewide summative assessment, the school district shall
8 prepare an individualized education program (IEP) if the
9 student is eligible for special education services under
10 the federal Individuals with Disabilities Education Act and
11 if the student is not eligible for special education
12 services under the federal Individuals with Disabilities
13 Act, the school district shall ensure the student's
14 individualized reading plan aligns with the federal
15 Individuals with Disabilities Act as nearly as practicable;

16

17 (iii) Commencing school year 2025-2026, for
18 grade three (3), and commencing school year 2026-2027, for
19 grade four (4):

20

21 (A) Consider securing and paying the cost
22 for a private tutor for the student or paying the costs for
23 the student to attend a private school on a full-time or

1 part-time basis at the request of the parent, guardian or
2 other person having control of a student. Each school
3 district shall include these educational interventions in
4 an individualized reading plan if a student is more likely
5 to obtain a score of proficient or advanced on the English
6 language arts portion of the statewide summative assessment
7 with the assistance of a private tutor or upon attendance
8 at a private school and the intervention is more cost
9 effective than other remedies available. The educational
10 interventions afforded under this subparagraph shall not be
11 included in an individualized reading plan without the
12 written permission of the parent, guardian or other person
13 having control of a student;

14

15 (B) Consider requiring the student to
16 participate in tutoring over the summer recess or attend
17 summer school;

18

19 (C) Include additional evidence based
20 interventions in a student's individualized reading plan if
21 a student continues to receive a score of basic or below
22 basic on the grade four (4) English language arts portion
23 of the statewide summative assessment after one (1) year of

1 implementation of an individualized reading plan that
2 identifies a group reading plan as the sole intervention to
3 improve readings.

4
5 (iv) Commencing school year 2024-2025, for all
6 students in kindergarten through grade two (2), include
7 retention of a student in the same grade in the
8 individualized learning plan at the request of a parent,
9 guardian or other person having control over a student.

10

11 ~~(e)~~(e) Except for high performing school districts as
12 defined by subsection (h) of this section, each district
13 shall annually report to the department of education on the
14 progress of each of its schools toward achieving the goal
15 of eighty-five percent (85%) of all students reading at
16 grade level upon completion of the third grade. This report
17 shall include cohort analysis for kindergarten through
18 grade three (3) for those students identified by the
19 screening instruments as having signs of reading
20 difficulties, including but not limited to dyslexia or
21 other reading deficiencies. The report shall include the
22 percentage of students meeting or exceeding proficiency
23 levels for grade three (3) and grade (4) on the English

1 language arts portion of the statewide summative assessment
2 administered pursuant to W.S. 21-2-304(a)(v) for the annual
3 reporting period. The reporting shall also include the
4 aggregate number of students identified by the screening
5 instruments as having signs of reading difficulties,
6 including but not limited to dyslexia or other reading
7 deficiencies, in addition to listing the evidence based
8 interventions implemented in each district by grade. This
9 report shall include kindergarten through grade three (3)
10 progress toward achieving the goal of eighty-five percent
11 (85%) proficiency in the specific skills known to be
12 predictive of grade three (3) reading proficiency and that
13 are listed in subsection ~~(d)~~(f) of this section. Grade
14 three (3) and grade four (4) reading proficiency shall be
15 determined by the grade three (3) and grade four (4)
16 English language arts portion of the statewide summative
17 assessment administered pursuant to W.S. 21-2-304(a)(v).
18 Each school district that is not ~~meeting the eighty five~~
19 ~~percent (85%) goal specified under this~~ a high performing
20 school district as defined by subsection (h) of this
21 section shall submit an improvement plan to ~~the school~~
22 ~~district, and the school district shall submit an overall~~
23 ~~improvement plan to~~ the department. At a minimum, each

1 school ~~and~~ district improvement plan shall outline its
2 general strategy for increasing reading proficiency for the
3 next school year and shall specifically address the
4 evidence based program of instruction, assessment and
5 intervention being implemented, the specific training in
6 those programs that reading teachers have received, the
7 student-teacher ratio, the use of certified tutors and the
8 use of instructional facilitators and paraprofessionals in
9 kindergarten through grade three (3) trained in the
10 delivery of the evidence based instruction and intervention
11 program selected by the district.

12

13 ~~(d)~~(f) The state superintendent, in consultation with
14 Wyoming school districts, professionals in the area of
15 reading difficulties, including but not limited to dyslexia
16 and other reading deficiencies, and other appropriate
17 stakeholders, shall promulgate rules as necessary to assist
18 each school district to administer its reading assessment
19 and intervention program pursuant to this section and to
20 assess the skills in paragraphs (i) through (v) of this
21 subsection using a curriculum-independent assessment. The
22 rules shall contain criteria to identify instruments that
23 screen for signs of reading difficulties, including but not

1 limited to dyslexia and other reading deficiencies,
2 required under subsection (a) of this section. Based on the
3 criteria incorporated by rule, the state superintendent
4 shall identify instruments approved for use by school
5 districts that monitor and measure reading progress and
6 assess student reading skills and progress to provide data
7 that informs any intervention required under subsection (a)
8 of this section. The rules shall provide mechanisms for the
9 state superintendent to directly support schools and school
10 districts in meeting the goals of improvement plans
11 developed pursuant to subsection ~~(e)~~(e) of this section
12 including, but not limited to, professional development in
13 evidence based literacy instruction and intervention and
14 professional development in identifying the signs of
15 reading difficulties, including but not limited to dyslexia
16 and other reading deficiencies. To accomplish the purposes
17 of this subsection, the department of education shall
18 collect kindergarten through grade three (3) statewide
19 longitudinal data from assessments selected and performed
20 by each school district, which measures the following
21 specific skills that evidence based research has concluded
22 are predictive of grade three (3) reading proficiency:

23

1 (i) Phonological awareness;

2

3 (ii) Phonics;

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5 (iii) Decoding words and nonwords;

6

7 (iv) Oral reading fluency; and

8

9 (v) Reading comprehension.

10

11 ~~(e)~~(g) Commencing with school year 2022-2023, each
12 school district shall require each district employee
13 providing instruction in grades kindergarten through three
14 (3) within the district to have received or receive
15 professional development in evidence based literacy
16 instruction and intervention and in identifying the signs
17 of reading difficulties, including but not limited to
18 dyslexia and other reading deficiencies, using suitable
19 materials reviewed and required pursuant to rule by the
20 state superintendent. The rules required under subsection
21 ~~(d)~~(f) of this section shall establish minimum reading
22 assessment and intervention professional development
23 requirements to be completed not less than once every three

1 (3) years as required under this subsection for district
2 employees providing instruction in grades kindergarten
3 through three (3). The rules shall contain criteria to
4 identify appropriate and suitable professional development
5 materials for district employees in evidence based literacy
6 instruction and intervention and in detection of reading
7 difficulties, including but not limited to dyslexia and
8 other reading deficiencies.

9

10 (h) Commencing school year 2024-2025, each high
11 performing school district shall be exempt from the
12 requirement to use screening instruments approved by the
13 state superintendent required under subsections (a) and (f)
14 of this section and the reporting requirements under
15 subsection (e) of this section. This exemption shall be for
16 the period a school district remains a high performing
17 school district. For purposes of this section, "high
18 performing school district" means a school district with
19 not less than sixty (60) percent of all students in grade
20 three (3) having earned a score of proficient or advanced
21 on the grade three (3) English language arts portion of the
22 statewide assessment administered pursuant to W.S.

1 21-2-304(a)(v) for not less than (2) years within any three
2 (3) year period.

3
4 (j) Notwithstanding any other provision of law, if a
5 school district fails to provide the notice required under
6 subsections (b) or (c) of this section or fails to develop
7 or implement an individualized reading plan required under
8 subsection (d) of this section, a parent, guardian or other
9 person having control of a student shall have a cause of
10 action against the school district for monetary damages in
11 an amount equal to the costs for required diagnostic
12 testing and remedial efforts associated with identifying
13 and addressing a student's reading difficulties. Monetary
14 damages may include a reasonable per mile reimbursement for
15 transportation, not more than five thousand dollars
16 (\$5,000.00) for attorney's fees and court costs and not
17 more than four thousand dollars (\$4,000.00) per year for
18 the costs to monitor or develop an individualized reading
19 plan. Attorney fees and court costs shall not be awarded if
20 payment or the amount of attorney fees by the parent,
21 guardian or other person having control of a student is
22 contingent on the outcome of the case. In a cause of action
23 brought under this subsection, the court shall determine

1 the evidence based interventions necessary to address a
2 student's reading deficiencies identified under subsections
3 (a) or (b) of this section, provided the court shall order
4 the student to attend a charter school or a private school
5 if requested by a parent, guardian or other person having
6 control of a student and space is available at the
7 requested charter school or private school. The court may
8 order a school district to pay the cost for a student to
9 attend a private school, less any amount attributed to
10 religious instruction. Any cause of action filed under this
11 subsection shall be filed in the circuit court of the
12 county where the school district is located. In no event
13 shall the amounts awarded under this subsection exceed the
14 annual average per pupil amount generated by the education
15 resource block grant model computed under W.S. 21-13-309(m)
16 for the applicable school district.

17

18 (k) Notwithstanding any other provision of law, if a
19 school district implements an individualized reading plan
20 required under subsection (d) of this section that fails to
21 reasonably and appropriately address a student's reading
22 difficulties, a parent, guardian or other person having
23 control of a student shall have a cause of action against a

1 school district to determine the reasonable and appropriate
2 evidence based interventions necessary to address reading
3 deficiencies identified under subsections (a) or (b) of
4 this section, provided the court shall order the student to
5 attend a charter school or a private school if requested by
6 a parent, guardian or other person having control of a
7 student and space is available at the requested charter
8 school or private school. The court may order a school
9 district to pay the cost for a student to attend a private
10 school, less any amount attributed to religious
11 instruction. Except for high performing school districts as
12 defined by subsection (h) of this section, a school
13 district shall have the burden of proving by a
14 preponderance of the evidence that a student's
15 individualized reading plan is adequate and reasonable to
16 remedy the student's reading difficulties. For high
17 performing school districts as defined by subsection (h) of
18 this section, a parent, guardian or other person having
19 control of the student shall have the burden of proving by
20 a preponderance of the evidence that the student's
21 individualized reading plan is not reasonable and
22 appropriate to remedy the student's reading difficulties.
23 Any cause of action filed under this subsection shall be

1 filed in the circuit court of the county where the school
2 district is located. In no event shall the amounts awarded
3 under this subsection exceed the annual average per pupil
4 amount generated by the education resource block grant
5 model computed under W.S. 21-13-309(m) for the applicable
6 school district.

7
8 (m) Any person certified by the professional teaching
9 standards board that engages in fraud, cheating or unfair
10 practices in assisting students in passing or performing on
11 screening instruments administered pursuant to subsection
12 (a) of this section or the English language arts portion of
13 the statewide summative assessment administered pursuant to
14 subsection (b) of this section may have their professional
15 certification suspended or revoked by the professional
16 teaching standards board.

17
18 (n) Not later than November 1, 2024, and each
19 November 1 thereafter, the legislative service office shall
20 report to the joint education interim committee and publish
21 to the website of the Wyoming legislature, the average
22 statewide student performance on the grade four (4) reading
23 portion of the national assessment of education progress

1 testing program and the average statewide student
2 performance on the grade (4) English language arts portion
3 of the statewide summative assessment administered pursuant
4 to W.S. 21-2-304(a)(v). The report shall, to the greatest
5 extent practical, include an analysis of the relationship
6 between student scores on the grade four (4) reading
7 portion of the national assessment of education progress
8 testing program and the grade (4) English language arts
9 portion of the statewide summative assessment administered
10 pursuant to W.S. 21-2-304(a)(v) to determine whether the
11 scores indicate a change in the difficulty of the grade (4)
12 English language arts portion of the statewide summative
13 assessment which is significant enough it may affect its
14 intended use pursuant to W.S. 21-3-401.

15

16 **Section 2.** Effective school year 2024-2025 and each
17 school year thereafter, the assessment scores to determine
18 the levels of performance of below basic, basic, proficient
19 and advanced on the English language arts portion of the
20 statewide summative assessment administered pursuant to
21 W.S. 21-2-304(a)(v) shall not be modified.

22

1 **Section 3.** This act is effective July 1, 2024.

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3

(END)