

SECOND REGULAR SESSION

SENATE BILL NO. 949

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Read 1st time January 23, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5339S.011

AN ACT

To repeal sections 167.263, 167.268, and 167.645, RSMo, and to enact in lieu thereof two new sections relating to reading intervention in schools.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 167.263, 167.268, and 167.645, RSMo, are repealed
2 and two new sections enacted in lieu thereof, to be known as sections 167.263 and
3 167.450, to read as follows:

167.263. 1. A program to provide teacher assistants in regular classrooms
2 in grades kindergarten through three is established. For the purposes of this
3 section a "teacher assistant" is defined as a qualified person employed by a school
4 district to assist a certificated teacher in classroom instruction and management.
5 No teacher assistant shall be counted as a teacher for the purposes of
6 establishing ratios of teachers to pupils in a classroom, school or school
7 district. Any public elementary school containing such grades which meets the
8 criteria pursuant to this section shall be eligible for a state financial supplement
9 to employ teacher assistants. Eligibility criteria are that the school shall have
10 a breakfast program, the school shall serve at least forty percent of its lunches
11 to pupils who are eligible for free or reduced price meals according to federal
12 guidelines, and the school shall have a reading intervention [plan pursuant to
13 section 167.268] **program under section 167.450.**

14 2. A school district which contains such eligible schools may apply to the
15 department of elementary and secondary education for a state financial
16 supplement to employ teacher assistants in those schools named in the
17 application and in no other schools of the district. The state full-time equivalent
18 financial supplement shall be three thousand dollars per teacher assistant. No

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 more than one assistant per classroom shall be supplemented by the state
20 pursuant to this section. Teacher assistants thus employed pursuant to this
21 section shall assist teachers in grades kindergarten through three and in no other
22 grades. School districts shall not apply for or assign teacher assistants employed
23 pursuant to this section in classrooms designated as special education or
24 compensatory education classrooms.

25 3. The state board of education shall promulgate rules and regulations for
26 the implementation of this section. Such rules shall include identifying minimum
27 qualifications for teacher assistants which may include teacher education
28 students, determining the minimum number of pupils per classroom to be eligible
29 for a teacher assistant, establishing application procedures for school districts,
30 and determining a method of awarding state financial supplements in the event
31 that the number of applications exceeds the amounts appropriated therefor. No
32 rule or portion of a rule promulgated under the authority of this chapter shall
33 become effective unless it has been promulgated pursuant to the provisions of
34 section 536.024.

**167.450. 1. School districts shall offer a reading intervention
2 program to each K-3 student who exhibits a reading deficiency to
3 ensure students can read at or above grade level by the end of the third
4 grade. The reading intervention program shall be provided in addition
5 to core reading instruction that is provided to all students in the
6 general education classroom. The reading intervention program shall:**

7 **(1) Be provided to all K-3 students identified with a reading
8 deficiency as determined by local or statewide screening assessments
9 administered within the first thirty days of school;**

10 **(2) Provide explicit and systematic instruction in phonological
11 awareness, phonics, fluency, vocabulary, and comprehension, as
12 applicable;**

13 **(3) Monitor the reading progress of each student's reading skills
14 throughout the school year and adjust instruction according to the
15 student's needs; and**

16 **(4) Be implemented during regular school hours.**

17 **2. Any student in kindergarten or any grade not higher than the
18 third grade who exhibits a deficiency in reading at any time, based
19 upon local or statewide screening assessments, shall receive an
20 individual reading improvement plan no later than thirty days after the**

21 identification of the reading deficiency. The reading improvement plan
22 shall be created by the teacher, principal, other pertinent school
23 personnel, and the parents of the student, and shall describe the
24 research-based reading intervention services the student shall receive
25 to remedy the reading deficit. Each student shall receive intensive
26 reading intervention until the student no longer has a deficiency in
27 reading.

28 **3. The parent of any K-3 student who exhibits a deficiency in**
29 **reading at any time during the school year shall be notified in writing**
30 **no later than fifteen days after the identification of the reading**
31 **deficiency. Such written notification shall include the following:**

32 **(1) A statement that the parent's child has been identified as**
33 **having a deficiency in reading and that a reading improvement plan**
34 **shall be developed by the teacher, principal, other pertinent school**
35 **personnel, and the parent;**

36 **(2) A description of the current services that are provided to the**
37 **child;**

38 **(3) A description of the proposed research-based reading**
39 **interventions and supplemental instructional services and supports**
40 **that shall be provided to the child that are designed to remedy the**
41 **identified area or areas of reading deficiency;**

42 **(4) A statement that the parent shall be informed in writing of**
43 **his or her child's progress toward grade-level reading on a quarterly**
44 **basis, at a minimum;**

45 **(5) Strategies a parent may use at home to help his or her child**
46 **succeed in reading;**

47 **(6) A statement that if the child's reading deficiency is not**
48 **corrected by the end of the third grade, the child shall not be promoted**
49 **to the fourth grade unless a good-cause exemption is met; and**

50 **(7) A statement that while the statewide assessment in reading**
51 **skills described under section 160.518 is the initial assessment used to**
52 **determine promotion, it is not the sole determiner at the end of the**
53 **third grade. Students shall receive a test-based student portfolio**
54 **option and an alternative reading assessment option to demonstrate**
55 **sufficient reading skills for promotion to the fourth grade.**

56 **4. Beginning with the 2020-21 school year, third grade students**
57 **shall demonstrate sufficient reading skills for promotion to the fourth**

58 grade. Students shall receive the following options to demonstrate
59 sufficient reading skills for promotion to the fourth grade:

60 (1) Scoring above the lowest achievement level on the third
61 grade statewide English language arts assessment;

62 (2) Earning an acceptable score on an alternative standardized
63 reading assessment as determined and approved by the state board of
64 education; and

65 (3) Demonstrating mastery of all third grade state reading
66 standards as evidenced through a student reading portfolio.

67 5. The department of elementary and secondary education shall
68 promulgate rules to set criteria for the student reading portfolio and
69 define mastery of all third grade state reading standards as described
70 in subdivision (3) of subsection 4 of this section.

71 6. If a student cannot demonstrate sufficient reading skills on
72 one of the three options described in subsection 4 of this section and
73 does not qualify for a good-cause exemption as described in subsection
74 8 of this section, the student shall be retained. No student shall be
75 retained twice in third grade.

76 7. Each school district shall provide summer reading camps to
77 all third grade students scoring at the lowest achievement level on the
78 third grade statewide English language arts assessment. Summer
79 reading camps shall be staffed with highly effective teachers of reading
80 as demonstrated by student reading performance data and teacher
81 performance evaluations. The highly effective teacher of reading shall
82 provide explicit and systematic reading intervention services and
83 supports to correct the identified area or areas of reading
84 deficiency. Summer reading camps shall include, at a minimum,
85 seventy hours of instructional time in reading. If funding allows,
86 districts shall extend summer reading camps to students in the first
87 and second grades identified with a reading deficiency.

88 8. A school district may exempt students from mandatory
89 retention, as provided in subsection 6 of this section, only for good
90 cause. Good-cause exemptions shall be limited to the following:

91 (1) A student with a disability whose individualized education
92 program indicates that participation in the statewide assessment
93 program is not appropriate, consistent with state law;

94 (2) A student identified as an English language learner who has

95 had less than two years of instruction in an English language learner
96 program;

97 (3) A student with a disability who participates in the statewide
98 assessment program and who has an individualized education program
99 or a plan under Section 504 of the Rehabilitation Act of 1973, as
100 amended, that reflects that the student has received intensive reading
101 intervention for more than two years but still demonstrates a
102 deficiency in reading and was previously retained in kindergarten, first
103 grade, second grade, or third grade; and

104 (4) A student who has received intensive reading intervention for
105 two or more years but still demonstrates a deficiency in reading and
106 who was previously retained in kindergarten, first grade, second grade,
107 or third grade for a total of two years.

108 9. A student who is promoted to fourth grade with a good-cause
109 exemption shall continue to receive intensive reading intervention that
110 includes specific reading strategies prescribed in the student's
111 individual reading improvement plan until the deficiency is
112 remedied. The school district shall assist schools and teachers with the
113 implementation of reading strategies that research has shown to be
114 successful in improving reading among students with reading
115 difficulties.

116 10. Requests to exempt students from the mandatory retention
117 requirement using one of the good-cause exemptions as described in
118 subsection 8 of this section shall be made consistent with the following:

119 (1) Documentation shall be submitted from the student's teacher
120 to the school principal that indicates that the promotion of the student
121 is appropriate. Such documentation shall consist only of the good-
122 cause exemption being requested and the existing reading improvement
123 plan or individualized education program, as applicable; and

124 (2) The school principal shall review and discuss the
125 recommendation with the teacher and determine whether the student
126 meets one of the good-cause exemptions. If the school principal
127 determines that the student meets one of the good-cause exemptions
128 based on the documentation provided, the school principal shall make
129 such recommendation in writing to the district's superintendent. The
130 district's superintendent shall accept or reject the school principal's
131 recommendation in writing.

132 11. The school district shall assist schools with providing written
133 notification to the parent of any student who is retained that states
134 that his or her child has not met the reading level required for
135 promotion, that indicates the reasons the child is not eligible for a
136 good-cause exemption, and that states his or her child shall be retained
137 in third grade. The notification shall include a description of the
138 proposed interventions and supports that shall be provided to the child
139 to remedy the identified area or areas of reading deficiency in the
140 retained year.

141 12. Beginning with the 2020-21 school year, students retained
142 under the provisions of subsection 6 of this section shall receive
143 intensive reading intervention to remedy the student's specific reading
144 deficiency. The reading intervention services shall include effective
145 instructional strategies to accelerate student progress. Each school
146 district shall conduct a review of student reading improvement plans
147 for all students retained in third grade. The review shall address
148 additional supports and services, as described in this subsection,
149 needed to remedy the identified area or areas of reading
150 deficiency. The district shall provide the following for retained
151 students:

152 (1) A highly effective teacher of reading as demonstrated by
153 student reading performance data and teacher performance
154 evaluations;

155 (2) Reading intervention services and supports to correct the
156 identified area or areas of reading deficiency including, but not limited
157 to:

158 (a) More dedicated time than in the previous school year in
159 scientifically research-based reading instruction and intervention;

160 (b) Use of reading strategies or programs that are scientifically
161 research-based and have proven results in accelerating student reading
162 achievement within the same school year;

163 (c) Daily, targeted small group reading intervention based on
164 students' needs;

165 (d) Explicit and systematic instruction with more detailed
166 explanations, more extensive opportunities for guided practice, and
167 more opportunities for error correction and feedback; and

168 (e) Frequent monitoring of the progress of each student's reading

169 skills throughout the school year and adjustment of the instruction
170 according to the student's needs;

171 (3) The option of a transitional instructional setting. Such
172 setting shall specifically be designed to produce learning gains
173 sufficient to meet fourth grade performance standards in all other core
174 academic areas while continuing to correct the area or areas of reading
175 deficiency;

176 (4) Before or after school supplemental research-based reading
177 intervention delivered by a teacher or tutor with specialized reading
178 training; and

179 (5) A "read at home" plan outlined in a parental contract,
180 including participation in parent training workshops or regular parent-
181 guided home reading activities.

182 13. Each school district shall establish, where applicable, an
183 intensive acceleration class for any student retained in third grade who
184 was previously retained in kindergarten, first grade, or second
185 grade. The intensive acceleration class shall include criteria
186 established in subsection 12 of this section and:

187 (1) Have a reduced student-teacher ratio; and

188 (2) Provide explicit and systematic reading instruction and
189 intervention for the majority of student contact time each day.

190 14. The board of each school district shall annually report in
191 writing to the department of elementary and secondary education by
192 September first the following information on the prior school year:

193 (1) The school board's policies and procedures on student
194 retention and promotion;

195 (2) By grade, the number and percentage of all students in
196 grades K-3 performing below grade level on local or statewide
197 assessments;

198 (3) By grade, the number and percentage of all students retained
199 in grades K-3;

200 (4) The total number and percentage of students in third grade
201 who demonstrated sufficient reading skills for promotion on the test-
202 based student portfolio;

203 (5) The total number and percentage of students in third grade
204 who demonstrated sufficient reading skills for promotion on the
205 alternative reading assessment;

206 **(6) The total number and percentage of students in third grade**
207 **who were promoted for good cause, by each category of good cause as**
208 **specified in subsection 8 of this section; and**

209 **(7) The performance of students promoted for good cause on the**
210 **statewide assessment in reading skills described in section 160.518 in**
211 **the years following the promotion.**

212 **15. The department of elementary and secondary education shall**
213 **establish a uniform format for school districts to report the information**
214 **required under subsection 14 of this section. The format shall be**
215 **developed with input from school boards and shall be provided to each**
216 **school district no later than ninety days prior to the annual due**
217 **date. The department shall annually compile the information required,**
218 **along with state-level summary information, and report such**
219 **information to the state board of education, the public, the governor,**
220 **the president pro tempore of the senate, and the speaker of the house**
221 **of representatives by October first. The department shall provide**
222 **technical assistance to aid school boards in implementing this section.**

223 **16. The state board of education shall have authority to enforce**
224 **this section.**

225 **17. The department of elementary and secondary education shall**
226 **promulgate rules to implement the provisions of this section. Any rule**
227 **or portion of a rule, as that term is defined in section 536.010, that is**
228 **created under the authority delegated in this section shall become**
229 **effective only if it complies with and is subject to all of the provisions**
230 **of chapter 536 and, if applicable, section 536.028. This section and**
231 **chapter 536 are nonseverable, and if any of the powers vested with the**
232 **general assembly pursuant to chapter 536 to review, to delay the**
233 **effective date, or to disapprove and annul a rule are subsequently held**
234 **unconstitutional, then the grant of rulemaking authority and any rule**
235 **proposed or adopted after August 28, 2018, shall be invalid and void.**

 [167.268. 1. Each local school district shall have on file a
2 policy for reading intervention plans for any pupils of the district
3 in grades kindergarten through three pursuant to the provisions of
4 this section. Such plans shall identify strategies to be followed by
5 the district teachers to raise a pupil identified as reading below
6 grade level by recognized methods to reading at grade level by the
7 end of the third grade. Recognized methods of identification may

8 include but need not be limited to the scores of the pupil obtained
9 through any established standardized testing program currently
10 administered by the district, observations of classroom teachers,
11 and documented classroom performance.

12 2. The state board of education shall develop guidelines to
13 assist districts in formulating policies for reading intervention
14 plans. Such guidelines may include, but are not limited to,
15 timelines for measuring pupil improvement in reading, information
16 on screening for and treatment of auditory dyslexia, and
17 information on the Lindamood Auditory Conceptualization Test and
18 the Auditory Discrimination in Depth Program. Such guidelines
19 may also identify performance levels for pupils identified as
20 handicapped or severely handicapped and conditions under which
21 such pupils are exempt from the provisions of this section.

22 3. Each local school district enrolling a pupil identified as
23 reading below grade level shall develop an individual plan of
24 reading intervention for such pupil. The individual pupil's plan
25 may include individual or group reading development
26 activities. The plan may be developed after consultation with the
27 pupil's parent or legal guardian.]

[167.645. 1. For purposes of this section, the following
2 terms mean:

3 (1) "Reading assessment", a recognized method of judging
4 a student's reading ability, with results expressed as reading at a
5 particular grade level. The term reading assessment shall include,
6 but is not limited to, standard checklists designed for use as a
7 student reads out loud, paper-and-pencil tests promulgated by
8 nationally recognized organizations and other recognized methods
9 of determining a student's reading accuracy, expression, fluency
10 and comprehension in order to make a determination of the
11 student's grade-level reading ability. Assessments which do not
12 give a grade-level result may be used in combination with other
13 assessments to reach a grade-level determination. Districts are
14 encouraged but not required to select assessment methods
15 identified pursuant to section 167.346. Districts are also
16 encouraged to use multiple methods of assessment;

17 (2) "Summer school", for reading instruction purposes, a
18 minimum of forty hours of reading instruction and practice. A
19 school district may arrange the hours and days of instruction to
20 coordinate with its regular program of summer school.

21 2. For purposes of this section, methods of reading
22 assessment shall be determined by each school district. Unless a
23 student has been determined in the current school year to be
24 reading at grade level or above, each school district shall
25 administer a reading assessment or set of assessments to each
26 student within forty-five days of the end of the third-grade year,
27 except that the provisions of this subsection shall not apply to
28 students receiving special education services under an
29 individualized education plan pursuant to sections 162.670 to
30 162.999, to students receiving services pursuant to Section 504 of
31 the Rehabilitation Act of 1973 whose services plan includes an
32 element addressing reading or to students determined to have
33 limited English proficiency or to students who have been
34 determined, prior to the beginning of any school year, to have a
35 cognitive ability insufficient to meet the reading requirement set
36 out in this section, provided that districts shall provide reading
37 improvement plans for students determined to have such
38 insufficient cognitive ability. The assessment required by this
39 subsection shall also be required for students who enter a school
40 district in grades four, five or six unless such student has been
41 determined in the current school year to be reading at grade level
42 or above.

43 3. Beginning with school year 2002-03, for each student
44 whose third-grade reading assessment determines that such
45 student is reading below second-grade level, the school district
46 shall design a reading improvement plan for the student's
47 fourth-grade year. Such reading improvement plan shall include,
48 at a minimum, thirty hours of additional reading instruction or
49 practice outside the regular school day during the fourth-grade
50 year. The school district shall determine the method of reading
51 instruction necessary to enforce this subsection. The school district
52 may also require the student to attend summer school for reading

53 instruction as a condition of promotion to fourth grade. The
54 department of elementary and secondary education may, from
55 funds appropriated for the purpose, reimburse school districts for
56 additional instructional personnel costs incurred in the
57 implementation and execution of the thirty hours of additional
58 reading instruction minus the revenue generated by the school
59 district through the foundation formula for the additional reading
60 instruction average daily attendance.

61 4. Each student for whom a reading improvement plan has
62 been designed pursuant to subsection 3 of this section shall be
63 given another reading assessment, to be administered within
64 forty-five days of the end of such student's fourth-grade year. If
65 such student is determined to be reading below third-grade level,
66 the student shall be required to attend summer school to receive
67 reading instruction. At the end of such summer school instruction,
68 such student shall be given another reading assessment. If such
69 student is determined to be reading below third-grade level, the
70 district shall notify the student's parents or guardians, and the
71 student shall not be promoted to fifth grade. No student shall be
72 denied promotion more than once solely for inability to meet the
73 reading standards set out in this section.

74 5. The process described in subsections 3 and 4 of this
75 section shall be repeated as necessary through the end of the sixth
76 grade, with the target grade level rising accordingly. Mandatory
77 retention in grade shall not apply to grades subsequent to fourth
78 grade.

79 6. The mandatory process of additional reading instruction
80 pursuant to this section shall cease at the end of the sixth
81 grade. The permanent record of students who are determined to be
82 reading below the fifth-grade level at the end of sixth grade shall
83 carry a notation advising that such student has not met minimal
84 reading standards. The notation shall stay on the student's record
85 until such time as the district determines that a student has met
86 minimal reading standards.

87 7. Each school district shall be required to offer summer
88 school reading instruction to any student with a reading

89 improvement plan. Districts may fulfill the requirement of this
90 section through cooperative arrangements with neighboring
91 districts; provided that such districts shall timely make all
92 payments provided pursuant to such cooperative agreements.

93 8. A school district may adopt a policy that requires
94 retention in grade of any student who has been determined to
95 require summer school instruction in reading and who does not
96 fulfill the summer school attendance requirement.

97 9. Nothing in this section shall preclude a school district
98 from retaining any student in grade when a determination is made
99 in accordance with district policy that retention is in the best
100 interests of the student.

101 10. The state board of education shall not incorporate
102 information about the number of students receiving additional
103 instruction pursuant to this section into any element of any
104 standard of the Missouri school improvement program or its
105 successor accreditation program; provided, however, each district
106 shall make available, upon the request of any parent, patron, or
107 media outlet within the district, the number and percentage of
108 students receiving remediation pursuant to this section. The
109 information shall be presented in a way that does not permit
110 personal identification of any student or educational personnel.

111 11. Each school district shall make a systematic effort to
112 inform parents of the methods and materials used to teach reading
113 in kindergarten through fourth grade, in terms understandable to
114 a layperson and shall similarly inform parents of students for
115 whom a reading improvement plan is required pursuant to this
116 section.]

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