

1 SB200
2 215066-4
3 By Senators Smitherman, Coleman-Madison, Hatcher, Figures and
4 Singleton
5 RFD: Education Policy
6 First Read: 09-FEB-22

1 SB200

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4 ENROLLED, An Act,

5 Relating to the Alabama Literacy Act; to amend
6 Section 16-6G-5, Code of Alabama 1975, to postpone
7 implementation of the third grade retention requirement.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Section 16-6G-5 of the Code of Alabama
10 1975, is amended to read as follows:

11 "§16-6G-5.

12 "(a) To ensure that public school students are able
13 to read at or above grade level by the end of third grade,
14 each local education agency shall offer a comprehensive core
15 reading program to all students based on the science of
16 reading which develops foundational reading skills. In
17 addition, no school district may use any curriculum for public
18 K-3 students that does not have instructional time included.

19 "(b) Based on the results of the reading assessment
20 in Section 16-6G-3, each K-3 student who exhibits a reading
21 deficiency, or the characteristics of dyslexia, shall be
22 provided an appropriate reading intervention program to
23 address his or her specific deficiencies. Additionally,
24 students shall be evaluated after every grading period and, if
25 a student is determined to have a reading deficiency, the

1 school shall provide the student with additional tutorial
2 support. The State Superintendent of Education shall provide a
3 list of vetted and approved comprehensive reading and
4 intervention programs with the advice of the task force
5 established under subsection (a) of Section 16-6G-3. The
6 intervention program shall be provided in addition to the
7 comprehensive core reading instruction that is provided to all
8 students in the general education classroom. Dyslexia specific
9 intervention, as defined by rule of the State Board of
10 Education, shall be provided to students who have the
11 characteristics of dyslexia and all struggling readers. The
12 reading intervention program shall do all of the following:

13 "(1) Provide explicit, direct instruction that is
14 systematic, sequential, and cumulative in language
15 development, phonological awareness, phonics, fluency,
16 vocabulary, and comprehension, as applicable.

17 "(2) Provide daily targeted small group reading
18 interventions based on student need in phonological awareness,
19 phonics including decoding and encoding, sight words,
20 vocabulary, or comprehension.

21 "(3) Be implemented during regular school hours.

22 "(c) The parent or legal guardian of any K-3 student
23 who exhibits a consistent deficiency in letter naming fluency,
24 letter sound fluency, nonsense word reading, sight words, oral
25 reading accuracy, vocabulary, or comprehension at any time

1 during the school year shall be notified in writing no later
2 than 15 school days after the identification. In addition to
3 the requirement that the Literacy Task Force consider and
4 minimize the impact on instructional time when recommending an
5 assessment system for approval by the State Superintendent of
6 Education pursuant to subsection (c) of Section 16-6G-3, the
7 State Superintendent of Education and each local education
8 agency shall minimize the impact on instructional time and
9 teacher paperwork required to comply with the written
10 notification requirements of this subsection.The written
11 notification shall include all of the following:

12 "(1) A statement that the student has been
13 identified as having a deficiency in reading or exhibits the
14 characteristics of dyslexia, and that a reading improvement
15 plan shall be developed by the teacher, principal, other
16 pertinent school personnel, and the parent or legal guardian.

17 "(2) A description of the current services that are
18 provided to the student.

19 "(3) A description of the proposed evidence-based
20 reading interventions and supplemental instructional services
21 and supports that shall be proposed for discussion while
22 establishing the student's reading improvement plan as
23 provided in subsection (d).

1 "(4) Notification that the parent or legal guardian
2 shall be informed in writing at least monthly of the progress
3 of the student towards grade level reading.

4 "(5) Strategies and resources for the parent or
5 legal guardian to use at home to help the student succeed in
6 reading.

7 "(6) A statement that if the reading deficiency of
8 the student is not addressed by the end of third grade, the
9 student will not be promoted to fourth grade unless a good
10 cause exemption is satisfied.

11 "(7) A statement that while the statewide reading
12 assessment is the initial determinant for promotion, the
13 assessment is not the sole determiner at the end of third
14 grade. Additionally, students shall be provided with a
15 test-based student portfolio option and an alternative reading
16 assessment option to demonstrate sufficient reading skills for
17 promotion to fourth grade.

18 "(d) Any K-3 student who exhibits a reading
19 deficiency at any time, as provided in subsection (b), shall
20 receive an individual reading improvement plan no later than
21 30 days after the identification of the reading deficiency.

22 "(1) The reading improvement plan shall be created
23 by the teacher, principal, other pertinent school personnel,
24 and the parent or legal guardian of the student, and shall
25 describe the evidence-based reading intervention services,

1 including dyslexia specific intervention services, that the
2 student shall receive to improve the reading deficit.

3 "(2) Each identified student shall receive intensive
4 reading intervention until the student no longer has a
5 deficiency in reading, as determined by a State Board of
6 Education approved reading assessment.

7 "(3) Funds allocated to procuring curricula for
8 student interventions pursuant to subdivision (5) of
9 subsection (a) of Section 16-6G-4 shall be divided, based on a
10 per pupil allocation determined by the number of students of
11 each local education agency who are not proficient on a state
12 approved reading assessment during the prior academic year,
13 and distributed by the State Superintendent of Education.

14 "(e) Each local education agency shall provide
15 summer reading camps to all K-3 students identified with a
16 reading deficiency as described in subsection (b).

17 "(1) Summer reading camps shall be staffed with
18 highly effective teachers of reading as demonstrated by
19 student reading performance data, completion of multisensory
20 structured language education, and teacher performance
21 evaluations.

22 "(2) The highly effective teacher of reading shall
23 provide direct, explicit, and systematic reading intervention
24 services and supports to improve any identified area of
25 reading deficiency.

1 "(3) Summer reading camps, at a minimum, shall
2 include 70 hours of time in scientifically based reading
3 instruction and intervention.

4 "(4) A State Board of Education approved reading
5 assessment system shall be administered at the beginning and
6 end of the summer reading camp to measure student progress.

7 "(5) Summer reading camps may be held in conjunction
8 with existing summer programs in the school district or in
9 partnership with community-based summer programs, designated
10 as effective by the State Superintendent of Education and the
11 task force established under subsection (a) of Section
12 16-6G-3.

13 "(f) The Alabama Summer Achievement Program is
14 established and shall be available to all K-3 students in
15 public elementary schools that are among the lowest performing
16 five percent of elementary schools.

17 "(1) The program shall be administered and funded by
18 the allocation provided in subdivision (2) of subsection (a)
19 of Section 16-6G-4.

20 "(2) Funds allocated to the program in excess of the
21 amount needed to fully fund summer programs in public
22 elementary schools that are among the lowest five percent
23 performing schools shall be divided, based on a per pupil
24 allocation, and distributed by the State Superintendent of
25 Education, to support high quality summer camps at elementary

1 schools that are not among the lowest five percent performing
2 elementary schools. The State Superintendent of Education
3 shall award the funds to each local education agency based on
4 the number of students who scored deficient, as determined by
5 the task force established under subsection (a) of Section
6 16-6G-3, on a state-approved reading assessment used to
7 determine reading proficiency during the administration of the
8 assessment during the preceding academic year.

9 "(3) The State Superintendent of Education shall
10 provide guidelines for the administration of the Alabama
11 Summer Achievement Program, and shall oversee all of the
12 following:

13 "a. The administration of the Alabama Summer
14 Achievement Program in the lowest five percent performing
15 elementary schools.

16 "b. The response to instruction process in the
17 lowest five percent performing elementary schools.

18 "c. The Alabama Reading Initiative regional literacy
19 specialists and local reading specialists.

20 "d. All other aspects of implementation of this
21 chapter including, but not limited to, collaboration among
22 State Department of Education staff and the task force
23 established under subsection (a) of Section 16-6G-3 to improve
24 the reading proficiency of public K-3 students and

1 implementation of rules adopted by the State Board of
2 Education.

3 "e. The implementation of rules adopted by the State
4 Board of Education pertaining to dyslexia.

5 "f. Collaboration with the Alabama Reading
6 Initiative state staff and the Alabama Department of Early
7 Childhood Education for appropriate professional learning
8 approved by the State Department of Education.

9 "g. The development of guidelines for identifying
10 the characteristics of dyslexia.

11 "(g) Any incoming third grade student identified
12 with a reading deficiency shall be provided more intensified
13 reading interventions to improve his or her specific reading
14 deficiency. Reading intervention services shall include
15 effective instructional strategies to accelerate student
16 progress. Each local education agency shall conduct a review
17 of student reading improvement plans for all incoming third
18 grade students identified with a reading deficiency. The
19 review shall address additional supports and services, as
20 described in this section, necessary to improve any identified
21 area of reading deficiency. The local education agency shall
22 provide all of the following services for third grade students
23 identified with a reading deficiency, and those services may
24 be funded with funds received through the allocation provided
25 in subdivision (2) of subsection (a) of Section 16-6G-4:

1 "(1) An effective or highly effective teacher of
2 reading as demonstrated by student reading performance data
3 and teacher performance evaluations.

4 "(2) Reading intervention services and supports to
5 improve any identified area of reading deficiency including,
6 but not limited to, all of the following:

7 "a. Additional instructional time devoted to
8 scientifically based and evidence based reading instruction
9 and intervention.

10 "b. The use of evidence based reading strategies or
11 programs, or both, that have been vetted and approved by the
12 State Superintendent of Education and the task force
13 established under subsection (a) of Section 16-6G-3, that have
14 demonstrated proven results in accelerating student reading
15 achievement within the same school year.

16 "c. Daily targeted small group reading intervention
17 based on student need.

18 "d. Explicit and systematic instruction with more
19 detailed explanations, more extensive opportunities for guided
20 practice, and more opportunities for error correction and
21 feedback.

22 "e. Frequent monitoring of the progress of the
23 reading skills of each student throughout the school year and
24 adjusting instruction according to student need.

1 "(3) Before school or after school, or both,
2 supplemental evidence-based reading intervention delivered by
3 a teacher or tutor with specialized reading training.

4 "(4) A read at home plan, including participation in
5 parent training workshops or regular parent guided home
6 reading activities.

7 "(h) Commencing with the ~~2021-2022~~ 2023-2024 school
8 year, third grade students shall demonstrate sufficient
9 reading skills for promotion to fourth grade. Students shall
10 be provided all of the following options to demonstrate
11 sufficient reading skills for promotion to fourth grade, and
12 the State Superintendent of Education shall provide guidelines
13 for the implementation of this subsection:

14 "(1) Scoring above the lowest achievement level, as
15 determined by rule of the State Board of Education, on a
16 board-approved assessment in reading as provided in Section
17 16-6G-3.

18 "(2) Earning an acceptable score on an alternative
19 standardized reading assessment as determined and approved by
20 the State Superintendent of Education.

21 "(3) Demonstrating mastery of third grade minimum
22 essential state reading standards as evidenced by a student
23 reading portfolio. The State Superintendent of Education and
24 the task force established under subsection (a) of Section
25 16-6G-3 shall establish criteria for minimum essential

1 standards and the student reading portfolios and a definition
2 of what constitutes mastery of all third grade state reading
3 standards.

4 "(i) If a student does not demonstrate sufficient
5 reading skills on one of the three options listed in
6 subsection (h) and does not qualify for a good cause
7 exemption, the student may not be promoted to fourth grade.

8 "(j) A local education agency may only exempt
9 students from mandatory retention, as provided in subsection
10 (i), for good cause. A student who is promoted to fourth grade
11 with a good cause exemption shall continue to receive
12 intensive reading intervention that includes specific reading
13 strategies prescribed in the individual reading improvement
14 plan of the student until the deficiency is improved. The
15 local education agency shall assist schools and teachers with
16 the implementation of reading strategies that research has
17 shown to be successful in improving reading among students
18 with reading difficulties. Good cause exemptions shall be
19 limited to the following:

20 "(1) Students with disabilities whose Individual
21 Education Plan indicates that participation in the statewide
22 assessment program is not appropriate, consistent with state
23 law.

1 "(2) Students identified as English language
2 learners who have had less than two years of instruction in
3 English as a second language.

4 "(3) Students with disabilities who participate in
5 the statewide English language arts reading assessment and who
6 have an Individual Education Plan or a Section 504 plan that
7 reflects that the student has received intensive reading
8 intervention for more than two years and who still
9 demonstrates a deficiency in reading and was previously
10 retained in kindergarten, first grade, second grade, or third
11 grade.

12 "(4) Students who have received intensive reading
13 intervention for two or more years and who still demonstrate a
14 deficiency in reading and who were previously retained in
15 kindergarten, first grade, second grade, or third grade for a
16 total of two years.

17 "(k) No student shall be retained more than twice in
18 kindergarten through third grade.

19 "(l) A request to exempt a student from the
20 mandatory retention requirement using one of the good cause
21 exemptions listed in subsection (j) shall be made consistent
22 with the following:

23 "(1) Documentation shall be submitted to the school
24 principal from the teacher of the student that indicates that
25 the promotion of the student is appropriate. Documentation

1 shall include a statement identifying which good cause
2 exemption is requested, as well as the existing reading
3 improvement plan or Individual Education Plan of the student,
4 as applicable.

5 "(2) The school principal shall review the
6 recommendation of the teacher, determine if the student meets
7 one of the good cause exemptions, and shall make his or her
8 determination in writing to the local superintendent of
9 education. The local superintendent of education, in writing,
10 shall approve or reject the recommendation of the school
11 principal.

12 "(3) The local education agency shall assist schools
13 under its jurisdiction in providing written notification to
14 the parent of any student who is retained in third grade for
15 not achieving the reading level required for promotion. Notice
16 shall clearly state the reasons why the student is not
17 eligible for a good cause exemption and shall include a
18 description of the proposed interventions and supports that
19 shall be provided to the student to improve any identified
20 area of reading deficiency during the retained year.

21 "(4) There shall be established at each school, as
22 applicable, an intensive acceleration for any student retained
23 in third grade. In addition to the criteria established in
24 subdivisions (1) to (4), inclusive, of subsection (g), the
25 intensive acceleration shall be taught by a highly effective

1 teacher of reading who has received training in the science of
2 reading and multisensory language instruction, as demonstrated
3 by student reading performance data and teacher performance
4 evaluations; shall have a reduced teacher-student ratio; and
5 shall provide explicit and systematic reading instruction and
6 intervention for the majority of student contact time each
7 day.

8 "(m) Annually, on or before September 30, each local
9 education agency shall report in writing to the State
10 Superintendent of Education the following information on the
11 previous school year:

12 "(1) By grade, the number and percentage of all K-3
13 students identified with a reading deficiency on a State
14 Department of Education approved reading assessment.

15 "(2) By grade, the number and percentage of students
16 screened for dyslexia characteristics, the number and
17 percentage of students identified as demonstrating the
18 characteristics of dyslexia and receiving dyslexia specific
19 intervention, and the name of the dyslexia specific
20 intervention being provided.

21 "(3) By grade, the number and percentage of all K-3
22 students performing on grade level or above on a State Board
23 of Education approved reading assessment.

1 "(4) The total number and percentage of students
2 starting third grade with a reading deficiency, which shall
3 include the specific area of reading deficiency.

4 "(5) The total number and percentage of third grade
5 students who started third grade with a reading deficiency but
6 completed third grade on grade level as determined by the
7 third grade state standardized assessment in reading.

8 "(6) By grade, the total number and percentage of
9 eligible K-3 students who attended the Alabama Summer
10 Achievement Program or other mandatory summer reading camp.

11 "(7) By grade, pre- and post-Alabama Summer
12 Achievement Program reading assessment scores and other
13 mandatory summer camp data.

14 "(8) By grade, the number and percentage of all
15 students retained in grades K-3.

16 "(9) The total number and percentage of students in
17 third grade who demonstrated sufficient reading skills for
18 promotion on the alternative reading assessment.

19 "(10) The total number and percentage of students in
20 third grade who were promoted for good cause, by each category
21 of good cause specified in subsection (j).

22 "(11) In succeeding years, the performance of
23 students promoted with a good cause on the state standardized
24 assessment in reading.

1 "(12) By school, the number of teachers who are
2 participating in or have completed professional development in
3 the science of reading and who hold advanced certifications in
4 those areas.

5 "(13) By school, the number of teachers who have
6 completed training in dyslexia awareness, multisensory
7 strategies, and satisfy the definition of a dyslexia
8 interventionist as defined by rule of the State Board of
9 Education.

10 "(n) The State Superintendent of Education shall
11 establish a uniform format for local school systems to use in
12 reporting the information required by subsection (m). The
13 format shall be developed with input from local education
14 agencies and shall be provided to each local education agency
15 no later than 90 days before the annual due date. Annually, on
16 or before December 1, the State Superintendent of Education
17 shall compile the information received from the local
18 education agencies into state level summary information and
19 report the information to the State Board of Education, the
20 public, the Governor, the Lieutenant Governor, the President
21 Pro Tempore of the Senate, the Speaker of the House of
22 Representatives, and the Chairs of the House Ways and Means
23 Education Committee and Senate Finance and Taxation Education
24 Committee.

1 "(1) The State Superintendent of Education and the
2 task force established under subsection (a) of Section 16-6G-3
3 shall establish annual reading growth and proficiency targets
4 based on the information required to be reported to the
5 superintendent in subsection (m).

6 "(2) Of the funds allocated to the Alabama Reading
7 Initiative pursuant to subdivision (6) of subsection (a) of
8 Section 16-6G-4 for state administration, the State
9 Superintendent of Education may allocate such sums as he or
10 she deems appropriate to establish an Alabama Reading
11 Initiative Incentive Program that shall distribute monetary
12 incentives to schools based on a formula, approved by the
13 State Superintendent of Education with the Alabama Committee
14 on Grade Level Reading created in Section 16-6G-7, that shall
15 factor the size and geography of the school, reading growth
16 and proficiency, and the composition of student subgroups."

17 Section 2. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB200

Senate 22-FEB-22

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed 05-APR-22

Senate concurred in House amendment 05-APR-22

By: Senator Smitherman