

1 SB94
2 208929-1
3 By Senator Smitherman
4 RFD: Education Policy
5 First Read: 02-FEB-21
6 PFD: 01/27/2021

SYNOPSIS: The Alabama Literacy Act requires,
commencing with the 2021-2022 school year, third
grade students to demonstrate specific sufficient
reading skills before being promoted to fourth
grade.

 This bill would postpone implementation of
the third grade retention requirement until the
2024-2025 school year.

A BILL
TO BE ENTITLED
AN ACT

 Relating to the Alabama Literacy Act; to amend
Section 16-6G-5, as added to the Code of Alabama 1975 by Act
2019-523 of the 2019 Regular Session, to postpone
implementation of the third grade retention requirement from
the 2021-2022 school year until the 2024-2025 school year.
BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 16-6G-5, as added to the Code of
2 Alabama 1975 by Act 2019-523 of the 2019 Regular Session, is
3 amended to read as follows:

4 "§16-6G-5.

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

12 "(b) Based on the results of the reading assessment
13 in Section 16-6G-3, each K-3 student who exhibits a reading
14 deficiency, or the characteristics of dyslexia, shall be
15 provided an appropriate reading intervention program to
16 address his or her specific deficiencies. Additionally,
17 students shall be evaluated after every grading period and, if
18 a student is determined to have a reading deficiency, the
19 school shall provide the student with additional tutorial
20 support. The State Superintendent of Education shall provide a
21 list of vetted and approved comprehensive reading and
22 intervention programs with the advice of the task force
23 established under subsection (a) of Section 16-6G-3. The
24 intervention program shall be provided in addition to the
25 comprehensive core reading instruction that is provided to all
26 students in the general education classroom. Dyslexia specific
27 intervention, as defined by rule of the State Board of

1 Education, shall be provided to students who have the
2 characteristics of dyslexia and all struggling readers. The
3 reading intervention program shall do all of the following:

4 "(1) Provide explicit, direct instruction that is
5 systematic, sequential, and cumulative in language
6 development, phonological awareness, phonics, fluency,
7 vocabulary, and comprehension, as applicable.

8 "(2) Provide daily targeted small group reading
9 interventions based on student need in phonological awareness,
10 phonics including decoding and encoding, sight words,
11 vocabulary, or comprehension.

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

13 "(c) The parent or legal guardian of any K-3 student
14 who exhibits a consistent deficiency in letter naming fluency,
15 letter sound fluency, nonsense word reading, sight words, oral
16 reading accuracy, vocabulary, or comprehension at any time
17 during the school year shall be notified in writing no later
18 than 15 school days after the identification. The written
19 notification shall include all of the following:

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

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

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

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

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

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

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

23 "(d) Any K-3 student who exhibits a reading
24 deficiency at any time, as provided in subsection (b), shall
25 receive an individual reading improvement plan no later than
26 30 days after the identification of the reading deficiency.

1 "(1) The reading improvement plan shall be created
2 by the teacher, principal, other pertinent school personnel,
3 and the parent or legal guardian of the student, and shall
4 describe the evidence-based reading intervention services,
5 including dyslexia specific intervention services, that the
6 student shall receive to improve the reading deficit.

7 "(2) Each identified student shall receive intensive
8 reading intervention until the student no longer has a
9 deficiency in reading, as determined by a State Board of
10 Education approved reading assessment.

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

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

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

26 "(2) The highly effective teacher of reading shall
27 provide direct, explicit, and systematic reading intervention

1 services and supports to improve any identified area of
2 reading deficiency.

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

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

9 "(5) Summer reading camps may be held in conjunction
10 with existing summer programs in the school district or in
11 partnership with community-based summer programs, designated
12 as effective by the State Superintendent of Education and the
13 task force established under subsection (a) of Section
14 16-6G-3.

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

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

22 "(2) Funds allocated to the program in excess of the
23 amount needed to fully fund summer programs in public
24 elementary schools that are among the lowest five percent
25 performing schools shall be divided, based on a per pupil
26 allocation, and distributed by the State Superintendent of
27 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
25 implementation of rules adopted by the State Board of
26 Education.

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

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

7 "g. The development of guidelines for identifying
8 the characteristics of dyslexia.

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

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

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

4 "a. Additional instructional time devoted to
5 scientifically based and evidence based reading instruction
6 and intervention.

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

13 "c. Daily targeted small group reading intervention
14 based on student need.

15 "d. Explicit and systematic instruction with more
16 detailed explanations, more extensive opportunities for guided
17 practice, and more opportunities for error correction and
18 feedback.

19 "e. Frequent monitoring of the progress of the
20 reading skills of each student throughout the school year and
21 adjusting instruction according to student need.

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

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

1 "(h) Commencing with the ~~2021-2022~~ 2024-2025 school
2 year, third grade students shall demonstrate sufficient
3 reading skills for promotion to fourth grade. Students shall
4 be provided all of the following options to demonstrate
5 sufficient reading skills for promotion to fourth grade, and
6 the State Superintendent of Education shall provide guidelines
7 for the implementation of this subsection:

8 "(1) Scoring above the lowest achievement level, as
9 determined by rule of the State Board of Education, on a
10 board-approved assessment in reading as provided in Section
11 16-6G-3.

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

15 "(3) Demonstrating mastery of third grade minimum
16 essential state reading standards as evidenced by a student
17 reading portfolio. The State Superintendent of Education and
18 the task force established under subsection (a) of Section
19 16-6G-3 shall establish criteria for minimum essential
20 standards and the student reading portfolios and a definition
21 of what constitutes mastery of all third grade state reading
22 standards.

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

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

13 "(1) Students with disabilities whose Individual
14 Education Plan indicates that participation in the statewide
15 assessment program is not appropriate, consistent with state
16 law.

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

20 "(3) Students with disabilities who participate in
21 the statewide English language arts reading assessment and who
22 have an Individual Education Plan or a Section 504 plan that
23 reflects that the student has received intensive reading
24 intervention for more than two years and who still
25 demonstrates a deficiency in reading and was previously
26 retained in kindergarten, first grade, second grade, or third
27 grade.

1 "(4) Students who have received intensive reading
2 intervention for two or more years and who still demonstrate a
3 deficiency in reading and who were previously retained in
4 kindergarten, first grade, second grade, or third grade for a
5 total of two years.

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

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

12 "(1) Documentation shall be submitted to the school
13 principal from the teacher of the student that indicates that
14 the promotion of the student is appropriate. Documentation
15 shall include a statement identifying which good cause
16 exemption is requested, as well as the existing reading
17 improvement plan or Individual Education Plan of the student,
18 as applicable.

19 "(2) The school principal shall review the
20 recommendation of the teacher, determine if the student meets
21 one of the good cause exemptions, and shall make his or her
22 determination in writing to the local superintendent of
23 education. The local superintendent of education, in writing,
24 shall approve or reject the recommendation of the school
25 principal.

26 "(3) The local education agency shall assist schools
27 under its jurisdiction in providing written notification to

1 the parent of any student who is retained in third grade for
2 not achieving the reading level required for promotion. Notice
3 shall clearly state the reasons why the student is not
4 eligible for a good cause exemption and shall include a
5 description of the proposed interventions and supports that
6 shall be provided to the student to improve any identified
7 area of reading deficiency during the retained year.

8 "(4) There shall be established at each school, as
9 applicable, an intensive acceleration for any student retained
10 in third grade. In addition to the criteria established in
11 subdivisions (1) to (4), inclusive, of subsection (g), the
12 intensive acceleration shall be taught by a highly effective
13 teacher of reading who has received training in the science of
14 reading and multisensory language instruction, as demonstrated
15 by student reading performance data and teacher performance
16 evaluations; shall have a reduced teacher-student ratio; and
17 shall provide explicit and systematic reading instruction and
18 intervention for the majority of student contact time each
19 day.

20 "(m) Annually, on or before September 30, each local
21 education agency shall report in writing to the State
22 Superintendent of Education the following information on the
23 previous school year:

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

1 "(2) By grade, the number and percentage of students
2 screened for dyslexia characteristics, the number and
3 percentage of students identified as demonstrating the
4 characteristics of dyslexia and receiving dyslexia specific
5 intervention, and the name of the dyslexia specific
6 intervention being provided.

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

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

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

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

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

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

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

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

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

7 "(12) By school, the number of teachers who are
8 participating in or have completed professional development in
9 the science of reading and who hold advanced certifications in
10 those areas.

11 "(13) By school, the number of teachers who have
12 completed training in dyslexia awareness, multisensory
13 strategies, and satisfy the definition of a dyslexia
14 interventionist as defined by rule of the State Board of
15 Education.

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

1 Representatives, and the Chairs of the House Ways and Means
2 Education Committee and Senate Finance and Taxation Education
3 Committee.

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

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

20 Section 2. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.