

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

1 SB94

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4 ENROLLED, An Act,

5 Relating to the Alabama Literacy Act; to amend  
6 Section 16-6G-5, as added to the Code of Alabama 1975 by Act  
7 2019-523 of the 2019 Regular Session, to postpone  
8 implementation of the third grade retention requirement from  
9 the 2021-2022 school year until the 2023-2024 school year.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

14 "§16-6G-5.

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

22 "(b) Based on the results of the reading assessment  
23 in Section 16-6G-3, each K-3 student who exhibits a reading  
24 deficiency, or the characteristics of dyslexia, shall be  
25 provided an appropriate reading intervention program to

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

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

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

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

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

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

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

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

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

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

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

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

12           "(d) Any K-3 student who exhibits a reading  
13 deficiency at any time, as provided in subsection (b), shall  
14 receive an individual reading improvement plan no later than  
15 30 days after the identification of the reading deficiency.

16           "(1) The reading improvement plan shall be created  
17 by the teacher, principal, other pertinent school personnel,  
18 and the parent or legal guardian of the student, and shall  
19 describe the evidence-based reading intervention services,  
20 including dyslexia specific intervention services, that the  
21 student shall receive to improve the reading deficit.

22           "(2) Each identified student shall receive intensive  
23 reading intervention until the student no longer has a  
24 deficiency in reading, as determined by a State Board of  
25 Education approved reading assessment.

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

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

11           "(1) Summer reading camps shall be staffed with  
12 highly effective teachers of reading as demonstrated by  
13 student reading performance data, completion of multisensory  
14 structured language education, and teacher performance  
15 evaluations.

16           "(2) The highly effective teacher of reading shall  
17 provide direct, explicit, and systematic reading intervention  
18 services and supports to improve any identified area of  
19 reading deficiency.

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

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

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

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

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

14           "(2) Funds allocated to the program in excess of the  
15 amount needed to fully fund summer programs in public  
16 elementary schools that are among the lowest five percent  
17 performing schools shall be divided, based on a per pupil  
18 allocation, and distributed by the State Superintendent of  
19 Education, to support high quality summer camps at elementary  
20 schools that are not among the lowest five percent performing  
21 elementary schools. The State Superintendent of Education  
22 shall award the funds to each local education agency based on  
23 the number of students who scored deficient, as determined by  
24 the task force established under subsection (a) of Section  
25 16-6G-3, on a state-approved reading assessment used to

1 determine reading proficiency during the administration of the  
2 assessment during the preceding academic year.

3 "(3) The State Superintendent of Education shall  
4 provide guidelines for the administration of the Alabama  
5 Summer Achievement Program, and shall oversee all of the  
6 following:

7 "a. The administration of the Alabama Summer  
8 Achievement Program in the lowest five percent performing  
9 elementary schools.

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

12 "c. The Alabama Reading Initiative regional literacy  
13 specialists and local reading specialists.

14 "d. All other aspects of implementation of this  
15 chapter including, but not limited to, collaboration among  
16 State Department of Education staff and the task force  
17 established under subsection (a) of Section 16-6G-3 to improve  
18 the reading proficiency of public K-3 students and  
19 implementation of rules adopted by the State Board of  
20 Education.

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

23 "f. Collaboration with the Alabama Reading  
24 Initiative state staff and the Alabama Department of Early



1 Childhood Education for appropriate professional learning  
2 approved by the State Department of Education.

3 "g. The development of guidelines for identifying  
4 the characteristics of dyslexia.

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

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

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

1            "a. Additional instructional time devoted to  
2 scientifically based and evidence based reading instruction  
3 and intervention.

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

10           "c. Daily targeted small group reading intervention  
11 based on student need.

12           "d. Explicit and systematic instruction with more  
13 detailed explanations, more extensive opportunities for guided  
14 practice, and more opportunities for error correction and  
15 feedback.

16           "e. Frequent monitoring of the progress of the  
17 reading skills of each student throughout the school year and  
18 adjusting instruction according to student need.

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

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

1           "(h) Commencing with the ~~2021-2022~~ 2023-2024 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

1 subsection (h) and does not qualify for a good cause  
2 exemption, the student may not be promoted to fourth grade.

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

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

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

22 "(3) Students with disabilities who participate in  
23 the statewide English language arts reading assessment and who  
24 have an Individual Education Plan or a Section 504 plan that  
25 reflects that the student has received intensive reading

1 intervention for more than two years and who still  
2 demonstrates a deficiency in reading and was previously  
3 retained in kindergarten, first grade, second grade, or third  
4 grade.

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

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

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

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

23 "(2) The school principal shall review the  
24 recommendation of the teacher, determine if the student meets  
25 one of the good cause exemptions, and shall make his or her

1 determination in writing to the local superintendent of  
2 education. The local superintendent of education, in writing,  
3 shall approve or reject the recommendation of the school  
4 principal.

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

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

1           "(m) Annually, on or before September 30, each local  
2 education agency shall report in writing to the State  
3 Superintendent of Education the following information on the  
4 previous school year:

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

8           "(2) By grade, the number and percentage of students  
9 screened for dyslexia characteristics, the number and  
10 percentage of students identified as demonstrating the  
11 characteristics of dyslexia and receiving dyslexia specific  
12 intervention, and the name of the dyslexia specific  
13 intervention being provided.

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

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

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

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

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

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

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

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

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

18           "(12) By school, the number of teachers who are  
19 participating in or have completed professional development in  
20 the science of reading and who hold advanced certifications in  
21 those areas.

22           "(13) By school, the number of teachers who have  
23 completed training in dyslexia awareness, multisensory  
24 strategies, and satisfy the definition of a dyslexia



1 interventionist as defined by rule of the State Board of  
2 Education.

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

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

23 "(2) Of the funds allocated to the Alabama Reading  
24 Initiative pursuant to subdivision (6) of subsection (a) of  
25 Section 16-6G-4 for state administration, the State

1 Superintendent of Education may allocate such sums as he or  
2 she deems appropriate to establish an Alabama Reading  
3 Initiative Incentive Program that shall distribute monetary  
4 incentives to schools based on a formula, approved by the  
5 State Superintendent of Education with the Alabama Committee  
6 on Grade Level Reading created in Section 16-6G-7, that shall  
7 factor the size and geography of the school, reading growth  
8 and proficiency, and the composition of student subgroups."

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

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB94  
Senate 13-APR-21  
I hereby certify that the within Act originated in and passed  
the Senate, as amended.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 17-MAY-21

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By: Senator Smitherman