

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

2  
3  
4 ENGROSSED

5  
6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to the Alabama Literacy Act; to amend  
12 Section 16-6G-5, as added to the Code of Alabama 1975 by Act  
13 2019-523 of the 2019 Regular Session, to postpone  
14 implementation of the third grade retention requirement from  
15 the 2021-2022 school year until the 2023-2024 school year.  
16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

20 "§16-6G-5.

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

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

20           "(1) Provide explicit, direct instruction that is  
21 systematic, sequential, and cumulative in language  
22 development, phonological awareness, phonics, fluency,  
23 vocabulary, and comprehension, as applicable.

24           "(2) Provide daily targeted small group reading  
25 interventions based on student need in phonological awareness,  
26 phonics including decoding and encoding, sight words,  
27 vocabulary, or comprehension.

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

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

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

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

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

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

24           "(5) Strategies and resources for the parent or  
25 legal guardian to use at home to help the student succeed in  
26 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.

26           "(3) Funds allocated to procuring curricula for  
27 student interventions pursuant to subdivision (5) of

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

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

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

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

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

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

24 "(5) Summer reading camps may be held in conjunction  
25 with existing summer programs in the school district or in  
26 partnership with community-based summer programs, designated  
27 as effective by the State Superintendent of Education and the

1 task force established under subsection (a) of Section  
2 16-6G-3.

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

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

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

24 "(3) The State Superintendent of Education shall  
25 provide guidelines for the administration of the Alabama  
26 Summer Achievement Program, and shall oversee all of the  
27 following:

1            "a. The administration of the Alabama Summer  
2 Achievement Program in the lowest five percent performing  
3 elementary schools.

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

6            "c. The Alabama Reading Initiative regional literacy  
7 specialists and local reading specialists.

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

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

17           "f. Collaboration with the Alabama Reading  
18 Initiative state staff and the Alabama Department of Early  
19 Childhood Education for appropriate professional learning  
20 approved by the State Department of Education.

21           "g. The development of guidelines for identifying  
22 the characteristics of dyslexia.

23           "(g) Any incoming third grade student identified  
24 with a reading deficiency shall be provided more intensified  
25 reading interventions to improve his or her specific reading  
26 deficiency. Reading intervention services shall include  
27 effective instructional strategies to accelerate student

1 progress. Each local education agency shall conduct a review  
2 of student reading improvement plans for all incoming third  
3 grade students identified with a reading deficiency. The  
4 review shall address additional supports and services, as  
5 described in this section, necessary to improve any identified  
6 area of reading deficiency. The local education agency shall  
7 provide all of the following services for third grade students  
8 identified with a reading deficiency, and those services may  
9 be funded with funds received through the allocation provided  
10 in subdivision (2) of subsection (a) of Section 16-6G-4:

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

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

17 "a. Additional instructional time devoted to  
18 scientifically based and evidence based reading instruction  
19 and intervention.

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

26 "c. Daily targeted small group reading intervention  
27 based on student need.

1 "d. Explicit and systematic instruction with more  
2 detailed explanations, more extensive opportunities for guided  
3 practice, and more opportunities for error correction and  
4 feedback.

5 "e. Frequent monitoring of the progress of the  
6 reading skills of each student throughout the school year and  
7 adjusting instruction according to student need.

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

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

14 "(h) Commencing with the ~~2021-2022~~ 2023-2024 school  
15 year, third grade students shall demonstrate sufficient  
16 reading skills for promotion to fourth grade. Students shall  
17 be provided all of the following options to demonstrate  
18 sufficient reading skills for promotion to fourth grade, and  
19 the State Superintendent of Education shall provide guidelines  
20 for the implementation of this subsection:

21 "(1) Scoring above the lowest achievement level, as  
22 determined by rule of the State Board of Education, on a  
23 board-approved assessment in reading as provided in Section  
24 16-6G-3.

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

1           "(3) Demonstrating mastery of third grade minimum  
2 essential state reading standards as evidenced by a student  
3 reading portfolio. The State Superintendent of Education and  
4 the task force established under subsection (a) of Section  
5 16-6G-3 shall establish criteria for minimum essential  
6 standards and the student reading portfolios and a definition  
7 of what constitutes mastery of all third grade state reading  
8 standards.

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

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

25           "(1) Students with disabilities whose Individual  
26 Education Plan indicates that participation in the statewide

1 assessment program is not appropriate, consistent with state  
2 law.

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

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

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

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

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

25 "(1) Documentation shall be submitted to the school  
26 principal from the teacher of the student that indicates that  
27 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  
26 teacher of reading who has received training in the science of  
27 reading and multisensory language instruction, as demonstrated

1 by student reading performance data and teacher performance  
2 evaluations; shall have a reduced teacher-student ratio; and  
3 shall provide explicit and systematic reading instruction and  
4 intervention for the majority of student contact time each  
5 day.

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

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

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

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

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

25 "(5) The total number and percentage of third grade  
26 students who started third grade with a reading deficiency but

1 completed third grade on grade level as determined by the  
2 third grade state standardized assessment in reading.

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

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

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

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

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

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

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

24 "(13) By school, the number of teachers who have  
25 completed training in dyslexia awareness, multisensory  
26 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  
26 Superintendent of Education may allocate such sums as he or  
27 she deems appropriate to establish an Alabama Reading

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

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
  
11  
12  
13  
14  
15  
16  
17

Senate

Read for the first time and referred to the Senate  
committee on Education Policy..... 02-FEB-21

Read for the second time and placed on the calen-  
dar..... 03-MAR-21

Read for the third time and passed as amended .... 13-APR-21

Yeas 23  
Nays 9

Patrick Harris,  
Secretary.