

1 SB78
2 216332-1
3 By Senator Smitherman
4 RFD: Education Policy
5 First Read: 13-JAN-22

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
2025-2026 school year.

A BILL
TO BE ENTITLED
AN ACT

 Relating to the Alabama Literacy Act; to amend
Section 16-6G-5, Code of Alabama 1975, to postpone
implementation of the third grade retention requirement from
the 2021-2022 school year until the 2025-2026 school year.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

1 "§16-6G-5.

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

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

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

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

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

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

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

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

24 "(3) A description of the proposed evidence-based
25 reading interventions and supplemental instructional services
26 and supports that shall be proposed for discussion while

1 establishing the student's reading improvement plan as
2 provided in subsection (d).

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

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

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

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

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

24 "(1) The reading improvement plan shall be created
25 by the teacher, principal, other pertinent school personnel,
26 and the parent or legal guardian of the student, and shall
27 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
26 schools that are not among the lowest five percent performing
27 elementary schools. The State Superintendent of Education

1 shall award the funds to each local education agency based on
2 the number of students who scored deficient, as determined by
3 the task force established under subsection (a) of Section
4 16-6G-3, on a state-approved reading assessment used to
5 determine reading proficiency during the administration of the
6 assessment during the preceding academic year.

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

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

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

16 "c. The Alabama Reading Initiative regional literacy
17 specialists and local reading specialists.

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

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

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

5 "g. The development of guidelines for identifying
6 the characteristics of dyslexia.

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

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

25 "(2) Reading intervention services and supports to
26 improve any identified area of reading deficiency including,
27 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.

25 "(h) Commencing with the ~~2021-2022~~ 2025-2026 school
26 year, third grade students shall demonstrate sufficient
27 reading skills for promotion to fourth grade. Students shall

1 be provided all of the following options to demonstrate
2 sufficient reading skills for promotion to fourth grade, and
3 the State Superintendent of Education shall provide guidelines
4 for the implementation of this subsection:

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

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

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

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

24 "(j) A local education agency may only exempt
25 students from mandatory retention, as provided in subsection
26 (i), for good cause. A student who is promoted to fourth grade
27 with a good cause exemption shall continue to receive

1 intensive reading intervention that includes specific reading
2 strategies prescribed in the individual reading improvement
3 plan of the student until the deficiency is improved. The
4 local education agency shall assist schools and teachers with
5 the implementation of reading strategies that research has
6 shown to be successful in improving reading among students
7 with reading difficulties. Good cause exemptions shall be
8 limited to the following:

9 "(1) Students with disabilities whose Individual
10 Education Plan indicates that participation in the statewide
11 assessment program is not appropriate, consistent with state
12 law.

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

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

24 "(4) Students who have received intensive reading
25 intervention for two or more years and who still demonstrate a
26 deficiency in reading and who were previously retained in

1 kindergarten, first grade, second grade, or third grade for a
2 total of two years.

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

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

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

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

23 "(3) The local education agency shall assist schools
24 under its jurisdiction in providing written notification to
25 the parent of any student who is retained in third grade for
26 not achieving the reading level required for promotion. Notice
27 shall clearly state the reasons why the student is not

1 eligible for a good cause exemption and shall include a
2 description of the proposed interventions and supports that
3 shall be provided to the student to improve any identified
4 area of reading deficiency during the retained year.

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

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

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

24 "(2) By grade, the number and percentage of students
25 screened for dyslexia characteristics, the number and
26 percentage of students identified as demonstrating the
27 characteristics of dyslexia and receiving dyslexia specific

1 intervention, and the name of the dyslexia specific
2 intervention being provided.

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

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

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

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

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

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

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

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

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

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

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

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