

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

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

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

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

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

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

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

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

"f. Collaboration with the Alabama Reading 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

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.

House of Representatives
Passed: 17-MAY-21

By: Senator Smitherman