

1 SB4  
2 215066-1  
3 By Senator Smitherman  
4 RFD: Education Policy  
5 First Read: 27-SEP-21

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, Code of Alabama 1975, to postpone  
implementation of the third grade retention requirement.

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:

"§16-6G-5.

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

8           "(b) Based on the results of the reading assessment  
9 in Section 16-6G-3, each K-3 student who exhibits a reading  
10 deficiency, or the characteristics of dyslexia, shall be  
11 provided an appropriate reading intervention program to  
12 address his or her specific deficiencies. Additionally,  
13 students shall be evaluated after every grading period and, if  
14 a student is determined to have a reading deficiency, the  
15 school shall provide the student with additional tutorial  
16 support. The State Superintendent of Education shall provide a  
17 list of vetted and approved comprehensive reading and  
18 intervention programs with the advice of the task force  
19 established under subsection (a) of Section 16-6G-3. The  
20 intervention program shall be provided in addition to the  
21 comprehensive core reading instruction that is provided to all  
22 students in the general education classroom. Dyslexia specific  
23 intervention, as defined by rule of the State Board of  
24 Education, shall be provided to students who have the  
25 characteristics of dyslexia and all struggling readers. The  
26 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~~ 2024-2025 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.