

By: Senator(s) Tollison

To: Education

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2157

1 AN ACT TO AMEND SECTIONS 37-177-1, 37-177-3, 37-177-5,
2 37-177-9, 37-177-11, 37-177-13 AND 37-177-19, MISSISSIPPI CODE OF
3 1972, TO PROVIDE STANDARDS TO BE DOCUMENTED FOR INTENSIVE READING
4 INSTRUCTION AND INTERVENTION UNDER THE LITERACY-BASED PROMOTION
5 ACT; TO PROVIDE THAT BEGINNING IN THE 2018-2019 SCHOOL YEAR
6 PROMOTION TO GRADE 4 IS PROHIBITED UNLESS A STUDENT'S READING
7 DEFICIENCY IS REMEDIED BEFORE THE END OF GRADE 3 AS DEMONSTRATED
8 BY CERTAIN ASSESSMENTS AND TO MAKE CERTAIN TECHNICAL AMENDMENTS TO
9 THE "LITERACY-BASED PROMOTION ACT"; AND FOR RELATED PURPOSES.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

11 **SECTION 1.** Section 37-177-1, Mississippi Code of 1972, is
12 amended as follows:

13 37-177-1. (1) There is established an act prohibiting
14 social promotion to be known as the "Literacy-Based Promotion
15 Act," the purpose of which is to improve the reading skills of
16 Kindergarten and First through Third Grade students enrolled in
17 the public schools so that every student completing the Third
18 Grade is able to read at or above grade level. It is the intent
19 of the Legislature, in establishing this act, to ensure that:
20 each Kindergarten and First through Third Grade student's
21 progression is determined, in part, upon the student's proficiency



22 in reading; the policies of local school boards facilitate this
23 proficiency; and each student and the student's parent or legal
24 guardian is informed of the student's academic progress.

25 (2) Each public school student who exhibits a substantial
26 deficiency in reading at any time, as demonstrated through
27 performance on a reading screener approved or developed by the
28 State Department of Education or through locally determined
29 assessments and teacher observations conducted in Kindergarten and
30 Grades 1 through 3 or through statewide end-of-year assessments or
31 approved alternate yearly assessments in Grade 3, must be given
32 intensive reading instruction and intervention immediately
33 following the identification of the reading deficiency.
34 assessments or approved alternate yearly assessments in Grade 3,
35 must be given intensive reading instruction and intervention
36 immediately following the identification of the reading
37 deficiency. The intensive reading instruction and intervention
38 must be documented for each student in an individual reading plan,
39 which includes, at a minimum, the following:

40 (a) The student's specific, diagnosed reading skill
41 deficiencies as determined (or identified) by diagnostic
42 assessment data;

43 (b) The goals and benchmarks for growth;

44 (c) How progress will be monitored and evaluated;

45 (d) The type of additional instructional services and
46 interventions the student will receive;



47 (e) The research-based reading instructional
48 programming the teacher will use to provide reading instruction,
49 addressing the areas of phonemic awareness, phonics, fluency,
50 vocabulary and comprehension;

51 (f) The strategies the student's parent is encouraged
52 to use in assisting the student to achieve reading competency; and

53 (g) Any additional services the teacher deems available
54 and appropriate to accelerate the students reading skill
55 development.

56 (3) The universal reading screener or locally determined
57 reading assessment may be given in the first thirty (30) days of
58 the school year and repeated if indicated at midyear and at the
59 end of the school year to determine student progression in reading
60 in Kindergarten through Third Grade. If it is determined that the
61 student continues to have a reading deficiency, the student must
62 be provided with continued intensive reading instruction and
63 intervention by the school district until the reading deficiency
64 is remedied. A student exhibiting continued reading deficiency
65 with continued intensive interventions should be considered for
66 exceptional criteria evaluation.

67 (4) A Kindergarten or First, Second or Third Grade student
68 identified with a deficiency in reading must be provided intensive
69 interventions in reading to ameliorate the student's specific
70 reading deficiency, as identified by a valid and reliable
71 diagnostic assessment. The intensive intervention must include



72 effective instructional strategies, and appropriate teaching
73 methodologies necessary to assist the student in becoming a
74 successful reader, able to read at or above grade level, and ready
75 for promotion to the next grade. A Kindergarten, First, Second or
76 Third Grade student identified with a reading deficiency or not
77 promoted may be placed in a transition class.

78 **SECTION 2.** Section 37-177-3, Mississippi Code of 1972, is
79 amended as follows:

80 37-177-3. Immediately upon the determination of a reading
81 deficiency, and subsequently with each quarterly progress report
82 until the deficiency is remediated, the parent or legal guardian
83 of a Kindergarten or First, Second or Third Grade student who
84 exhibits a substantial deficiency in reading must be notified in
85 writing by the student's teacher of the following:

86 (a) That the student has been identified as having a
87 substantial deficiency in reading;

88 (b) A description of the services that the school
89 district currently is providing to the student;

90 (c) A description of the proposed supplemental
91 instructional services and supports that are designed to remediate
92 the identified area of reading deficiency which the school
93 district plans to provide the student, as outlined in the
94 student's individual reading plan;

95 (d) That if the student's reading deficiency is not
96 remediated before the end of the student's Third Grade year, the



97 student will not be promoted to Fourth Grade unless a good cause
98 exemption specified under Section 37-177-11 is met;

99 (e) Strategies for parents and guardians to use in
100 helping the student to succeed in reading proficiency; and

101 (f) That while the state annual accountability
102 assessment for reading in Third Grade is the initial determinant,
103 it is not the sole determiner of promotion and that approved
104 alternative standardized assessments are available to assist the
105 school district in knowing when a child is reading at or above
106 grade level and ready for promotion to the next grade.

107 **SECTION 3.** Section 37-177-5, Mississippi Code of 1972, is
108 amended as follows:

109 37-177-5. The State Department of Education shall establish
110 a Mississippi Reading Panel to collaborate with the State
111 Department of Education in recommending appropriate equitable
112 alternative standardized assessments and cut scores to be used to
113 determine promotion to the Fourth Grade of those Third Grade
114 students who * * * ~~scored at the lowest~~ did not score at the
115 required achievement level on the state annual accountability
116 assessment, as outlined in Section 37-177-9, or who, for
117 unforeseen circumstances, were unable to take the assessment. The
118 panel should have knowledge and input in the adoption or
119 development of a universal screener for required use only in
120 select schools most in need for the reading intervention program
121 to identify reading deficiencies and determine progress. A



122 suggestive list of no less than four (4) screening assessments
123 should be available to schools not selected for the critical
124 reading intervention program taking into consideration those
125 screening assessments already being used satisfactorily in
126 Mississippi elementary schools. An approved alternative
127 standardized reading assessment may be used in * * * ~~2014-2015~~ in
128 ~~the transition to common core standardization of testing~~ years
129 when the state is transitioning to a new state annual
130 accountability assessment. The panel shall consist of six (6)
131 members as follows: the State Superintendent of Education, or
132 his/her designee, who will chair the committee; the Chair of the
133 House Education Committee, or his designee; the Chairman of the
134 Senate Education Committee, or his designee; one (1) member
135 appointed by the Governor; and two (2) additional members
136 appointed by the State Superintendent of Education.

137 **SECTION 4.** Section 37-177-5, Mississippi Code of 1972, is
138 amended as follows:

139 37-177-5. The State Department of Education shall establish
140 a Mississippi Reading Panel to collaborate with the State
141 Department of Education in recommending appropriate equitable
142 alternative standardized assessments and cut scores to be used to
143 determine promotion to the Fourth Grade of those Third Grade
144 students who * * * ~~scored at the lowest~~ did not score at the
145 required achievement level on the state annual accountability
146 assessment, as outlined in Section 37-177-9, or who, for



147 unforeseen circumstances, were unable to take the assessment. The
148 panel should have knowledge and input in the adoption or
149 development of a universal screener for required use only in
150 select schools most in need for the reading intervention program
151 to identify reading deficiencies and determine progress. A
152 suggestive list of no less than four (4) screening assessments
153 should be available to schools not selected for the critical
154 reading intervention program taking into consideration those
155 screening assessments already being used satisfactorily in
156 Mississippi elementary schools. An approved alternative
157 standardized reading assessment may be used in * * *~~2014-2015 in~~
158 ~~the transition to common core standardization of testing~~ years
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160 accountability assessment. The panel shall consist of six (6)
161 members as follows: the State Superintendent of Education, or
162 his/her designee, who will chair the committee; the Chair of the
163 House Education Committee, or his designee; the Chairman of the
164 Senate Education Committee, or his designee; one (1) member
165 appointed by the Governor; and two (2) additional members
166 appointed by the State Superintendent of Education.

167 **SECTION 5.** Section 37-177-9, Mississippi Code of 1972, is
168 amended as follows:

169 37-177-9. A public school student may not be assigned a
170 grade level based solely on the student's age or any other factors
171 that constitute social promotion.



172 Beginning in the 2014-2015 school year, if a student's
173 reading deficiency is not remedied by the end of the student's
174 Third Grade year, as demonstrated by the student scoring at the
175 lowest achievement level in reading on the state annual
176 accountability assessment or on an approved alternative
177 standardized assessment for Third Grade, the student shall not be
178 promoted to Fourth Grade.

179 Beginning in the 2018-2019 school year, if a student's
180 reading deficiency is not remedied by the end of the student's
181 Third Grade year, as demonstrated by the student scoring at the
182 lowest two (2) achievement levels in reading on the state annual
183 accountability assessment or on an approved alternative
184 standardized assessment for Third Grade, the student shall not be
185 promoted to Fourth Grade.

186 **SECTION 6.** Section 37-177-11, Mississippi Code of 1972, is
187 amended as follows:

188 37-177-11. (1) A Third Grade student who does not meet the
189 academic requirements for promotion to the Fourth Grade may be
190 promoted by the school district only for good cause. Good cause
191 exemptions for promotion are limited to the following students:

192 (a) Limited English proficient students who have had
193 less than two (2) years of instruction in an English Language
194 Learner program;

195 (b) Students with disabilities whose individual
196 education plan (IEP) indicates that participation in the statewide



197 accountability assessment program is not appropriate, as
198 authorized under state law;

199 (c) Students with a disability who participate in the
200 state annual accountability assessment and who have an IEP or a
201 Section 504 plan that reflects that the individual student has
202 received intensive remediation in reading for more than two (2)
203 years but still demonstrates a deficiency in reading * * *~~and~~ or
204 previously was retained in Kindergarten or First, Second or Third
205 Grade;

206 (d) Students who demonstrate an acceptable level of
207 reading proficiency on an alternative standardized assessment
208 approved by the State Board of Education; and

209 (e) Students who have received intensive intervention
210 in reading for two (2) or more years but still demonstrate a
211 deficiency in reading and who previously were retained in
212 Kindergarten or First, Second or Third Grade for a total of two
213 (2) years and have not met exceptional education criteria. A
214 student who is promoted to Fourth Grade with a good cause
215 exemption shall be provided an individual reading plan as
216 described in Section 37-177-1(2), which outlines intensive reading
217 instruction and intervention informed by specialized diagnostic
218 information and delivered through specific reading strategies to
219 meet the needs of each student so promoted. The school district
220 shall assist schools and teachers in implementing reading



221 strategies that research has shown to be successful in improving
222 reading among students with persistent reading difficulties.

223 (2) A request for good cause exemptions for a Third Grade
224 student from the academic requirements established for promotion
225 to Fourth Grade must be made consistent with the following:

226 (a) Documentation must be submitted from the student's
227 teacher to the school principal which indicates that the promotion
228 of the student is appropriate and is based upon the student's
229 record. The documentation must consist of the good cause
230 exemption being requested and must clearly prove that the student
231 is covered by one (1) of the good cause exemptions listed in
232 subsection (1) (a) through (e) of this section.

233 (b) The principal shall review and discuss the
234 recommendations with the teacher and parents and make a
235 determination as to whether or not the student should be promoted
236 based on requirements set forth in this chapter. If the principal
237 determines that the student should be promoted, based on the
238 documentation provided, the principal must make the recommendation
239 in writing to the school district superintendent, who, in writing,
240 may accept or reject the principal's recommendation. The parents
241 of any student promoted may choose that the student be retained
242 for one (1) year, even if the principal and district
243 superintendent determines otherwise.

244 **SECTION 7.** Section 37-177-13, Mississippi Code of 1972, is
245 amended as follows:



246 37-177-13. Beginning in the 2014-2015 school year, each
247 school district shall take the following actions for retained
248 Third Grade students:

249 (a) Provide Third Grade students who are not promoted
250 with intensive instructional services, progress monitoring
251 measures, and supports to remediate the identified areas of
252 reading deficiency, as outlined in the student's individual
253 reading plan, including a minimum of ninety (90) minutes during
254 regular school hours of daily, scientifically research-based
255 reading instruction that includes phonemic awareness, phonics,
256 fluency, vocabulary and comprehension, and other strategies
257 prescribed by the school district, which may include, but are not
258 limited to:

- 259 (i) Small group instruction;
260 (ii) Reduced teacher-student ratios;
261 (iii) Tutoring in scientifically research-based
262 reading services in addition to the regular school day;
263 (iv) The option of transition classes;
264 (v) Extended school day, week or year; and
265 (vi) Summer reading camps.

266 (b) Provide written notification to the parent or legal
267 guardian of any Third Grade student who is retained that the
268 student has not met the proficiency level required for promotion
269 and the reasons the student is not eligible for a good cause
270 exemption. The notification must include a description of



271 proposed interventions and supports that will be provided to the
272 child to remediate the identified areas of reading deficiency, as
273 outlined in the student's individual reading plan. This
274 notification must be provided to the parent or legal guardian in
275 writing, in a format adopted by the State Board of Education in
276 addition to report cards given by the teacher.

277 (c) Provide Third Grade students who are retained with
278 a high-performing teacher, as determined by student performance
279 data, particularly related to student growth in reading,
280 above-satisfactory performance appraisals, and/or specific
281 training relevant to implementation of this chapter.

282 (d) Provide parents and legal guardians of Third Grade
283 students with a "Read at Home" plan outlined in a parental
284 contract, including participation in regular parent-guided home
285 reading.

286 **SECTION 8.** Section 37-177-19, Mississippi Code of 1972, is
287 amended as follows:

288 37-177-19. (1) The State Board of Education shall adopt
289 such policies, rules and regulations as may be necessary for the
290 implementation of this chapter.

291 (2) The State Department of Education shall provide such
292 technical assistance and training of teachers/administrators as
293 may be needed to aid local school districts in administering the
294 provisions of this chapter. The training shall include the
295 Language Essentials for Teachers of Reading and Spelling (LETRS®).



296 (3) Each local school district must include provisions
297 required by this chapter as an addition to the district's
298 published handbook of policy for employees and students beginning
299 in school year 2013-2014.

300 **SECTION 9.** This act shall take effect and be in force from
301 and after July 1, 2016.

