

By: Senator(s) Boyd, Williams, Hickman,
Parker, McLendon, Blackwell, Sparks

To: Education

SENATE BILL NO. 2706

1 AN ACT TO CREATE THE COVID IMPACT LITERACY-BASED PROMOTION
2 MODIFICATION ACT; TO PROVIDE THAT FOR THE 2021-2022 SCHOOL YEAR,
3 STUDENTS IN THIRD GRADE WHO RECEIVE WHAT IS CONSIDERED A FAILING
4 SCORE ON THE READING SCREENER SHALL STILL BE CONSIDERED READY FOR
5 PROMOTION TO THE NEXT GRADE, HOWEVER STUDENTS WHO FAIL THE
6 ASSESSMENT SHALL BE GIVEN THE REMEDIAL INSTRUCTION PROVIDED FOR IN
7 THE LITERACY-BASED PROMOTION ACT; TO AMEND SECTIONS 37-177-1,
8 37-177-9, 37-177-11 AND 37-177-13, MISSISSIPPI CODE OF 1972, TO
9 PROVIDE THAT STUDENTS WHO FAIL THE ASSESSMENT SHALL STILL BE GIVEN
10 THE INSTRUCTION PROVIDED FOR UNDER THIS CHAPTER; TO CONFORM TO THE
11 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** The following shall be codified as Section
14 37-177-12, Mississippi Code of 1972:

15 37-177-12. (1) This act may be known and cited as the
16 "COVID Impact Literacy-Based Promotion Modification Act."

17 (2) The purpose of the Literacy-Based Promotion Act is to
18 improve the reading skills of kindergarten and first- through
19 third-grade students. Due to the COVID epidemic interrupting the
20 2021-2022 school year, reading time instruction has been
21 diminished for many students in third grade across the state.



22 (3) For the 2021-2022 school year, students in third grade
23 who receive what is considered a failing score on the reading
24 screener required by the Literacy-Based Promotion Act or otherwise
25 score at the lowest achievement level in reading on the state
26 annual accountability assessment or on an approved alternative
27 standardized assessment for third grade, shall be considered ready
28 for promotion to the fourth grade. However, students under this
29 subsection shall be given the remedial instruction provided for
30 under this chapter.

31 **SECTION 2.** Section 37-177-1, Mississippi Code of 1972, is
32 amended as follows:

33 37-177-1. (1) There is established an act prohibiting
34 social promotion to be known as the "Literacy-Based Promotion
35 Act," the purpose of which is to improve the reading skills of
36 kindergarten and first- through third-grade students enrolled in
37 the public schools so that every student completing the third
38 grade is able to read at or above grade level. It is the intent
39 of the Legislature, in establishing this act, to ensure that:
40 each kindergarten and first- through third-grade student's
41 progression is determined, in part, upon the student's proficiency
42 in reading; the policies of local school boards facilitate this
43 proficiency; and each student and the student's parent or legal
44 guardian is informed of the student's academic progress.

45 (2) Each public school student who exhibits a substantial
46 deficiency in reading at any time, as demonstrated through



47 performance on a reading screener approved or developed by the
48 State Department of Education or through locally determined
49 assessments and teacher observations conducted in kindergarten and
50 grades 1 through 3 or through statewide end-of-year assessments or
51 approved alternate yearly assessments in Grade 3, must be given
52 intensive reading instruction and intervention immediately
53 following the identification of the reading deficiency. The
54 intensive reading instruction and intervention must be documented
55 for each student in an individual reading plan, which includes, at
56 a minimum, the following:

57 (a) The student's specific, diagnosed reading skill
58 deficiencies as determined (or identified) by diagnostic
59 assessment data;

60 (b) The goals and benchmarks for growth;

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

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

64 (e) The research-based reading instructional
65 programming the teacher will use to provide reading instruction,
66 addressing the areas of phonemic awareness, phonics, fluency,
67 vocabulary and comprehension;

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



70 (g) Any additional services the teacher deems available
71 and appropriate to accelerate the student's reading skill
72 development.

73 (3) The universal reading screener or locally determined
74 reading assessment may be given in the first thirty (30) days of
75 the school year and repeated if indicated at midyear and at the
76 end of the school year to determine student progression in reading
77 in kindergarten through third grade. If it is determined that the
78 student continues to have a reading deficiency, the student must
79 be provided with continued intensive reading instruction and
80 intervention by the school district until the reading deficiency
81 is remedied. A student exhibiting continued reading deficiency
82 with continued intensive interventions should be considered for
83 exceptional criteria evaluation.

84 (4) A kindergarten or first-, second- or third-grade student
85 identified with a deficiency in reading must be provided intensive
86 interventions in reading to ameliorate the student's specific
87 reading deficiency, as identified by a valid and reliable
88 diagnostic assessment. The intensive intervention must include
89 effective instructional strategies, and appropriate teaching
90 methodologies necessary to assist the student in becoming a
91 successful reader, able to read at or above grade level, and ready
92 for promotion to the next grade. A kindergarten, first-, second-
93 or third-grade student identified with a reading deficiency or not
94 promoted may be placed in a transition class.



95 (5) For the 2021-2022 school year, each public school
96 student who exhibits a substantial deficiency in reading at any
97 time, as demonstrated through performance on a reading screener
98 approved or developed by the State Department of Education or
99 through locally determined assessments and teacher observations
100 conducted in Kindergarten and Grades 1 through 3 or through
101 statewide end-of-year assessments or approved alternate yearly
102 assessments in Grade 3, shall be considered ready for promotion to
103 the fourth grade. However, students who exhibit a substantial
104 deficiency as detailed in this subsection shall be provided with
105 the same care as is necessary under subsections (2), (3) and (4)
106 of this section.

107 **SECTION 3.** Section 37-177-9, Mississippi Code of 1972, is
108 amended as follows:

109 37-177-9. (1) A public school student may not be assigned a
110 grade level based solely on the student's age or any other factors
111 that constitute social promotion.

112 (2) Beginning in the 2014-2015 school year, if a student's
113 reading deficiency is not remedied by the end of the student's
114 third-grade year, as demonstrated by the student scoring at the
115 lowest achievement level in reading on the state annual
116 accountability assessment or on an approved alternative
117 standardized assessment for third grade, the student shall not be
118 promoted to fourth grade.



119 (3) Beginning in the 2018-2019 school year, if a student's
120 reading deficiency is not remedied by the end of the student's
121 third-grade year, as demonstrated by the student scoring above the
122 lowest two (2) achievement levels in reading on the state annual
123 accountability assessment or on an approved alternative
124 standardized assessment for third grade, the student shall not be
125 promoted to fourth grade.

126 (4) For the 2021-2022 school year, students in third grade
127 who receive what is considered a failing score on the reading
128 screeener required by the Literacy-Based Promotion Act or otherwise
129 score at the lowest achievement level in reading on the state
130 annual accountability assessment or on an approved alternative
131 standardized assessment for third grade shall be considered ready
132 for promotion to the fourth grade. However, students under this
133 subsection shall be given the remedial instruction provided for
134 under this chapter.

135 **SECTION 4.** Section 37-177-11, Mississippi Code of 1972, is
136 amended as follows:

137 37-177-11. (1) A third-grade student who does not meet the
138 academic requirements for promotion to the fourth grade may be
139 promoted by the school district only for good cause. Good cause
140 exemptions for promotion are limited to the following students:

141 (a) Limited English proficient students who have had
142 less than two (2) years of instruction in an English Language
143 Learner program;



144 (b) Students with disabilities whose individual
145 education plan (IEP) indicates that participation in the statewide
146 accountability assessment program is not appropriate, as
147 authorized under state law;

148 (c) Students with a disability who participate in the
149 state annual accountability assessment and who have an IEP or a
150 Section 504 plan that reflects that the individual student has
151 received intensive remediation in reading for more than two (2)
152 years but still demonstrates a deficiency in reading or previously
153 was retained in kindergarten or first, second or third grade;

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

157 (e) Students who have received intensive intervention
158 in reading for two (2) or more years but still demonstrate a
159 deficiency in reading and who previously were retained in
160 kindergarten or first, second or third grade for a total of two
161 (2) years and have not met exceptional education criteria. A
162 student who is promoted to fourth grade with a good cause
163 exemption shall be provided an individual reading plan as
164 described in Section 37-177-1(2), which outlines intensive reading
165 instruction and intervention informed by specialized diagnostic
166 information and delivered through specific reading strategies to
167 meet the needs of each student so promoted. The school district
168 shall assist schools and teachers in implementing reading



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

171 (2) A request for good cause exemptions for a third-grade
172 student from the academic requirements established for promotion
173 to fourth grade must be made consistent with the following:

174 (a) Documentation must be submitted from the student's
175 teacher to the school principal which indicates that the promotion
176 of the student is appropriate and is based upon the student's
177 record. The documentation must consist of the good cause
178 exemption being requested and must clearly prove that the student
179 is covered by one (1) of the good cause exemptions listed in
180 subsection (1) (a) through (e) of this section.

181 (b) The principal shall review and discuss the
182 recommendations with the teacher and parents and make a
183 determination as to whether or not the student should be promoted
184 based on requirements set forth in this chapter. If the principal
185 determines that the student should be promoted, based on the
186 documentation provided, the principal must make the recommendation
187 in writing to the school district superintendent, who, in writing,
188 may accept or reject the principal's recommendation. The parents
189 of any student promoted may choose that the student be retained
190 for one (1) year, even if the principal and district
191 superintendent determines otherwise.

192 (3) For the 2021-2022 school year, students in third grade
193 who receive what is considered a failing score on the reading



194 screeener required by the Literacy-Based Promotion Act or otherwise
195 score at the lowest achievement level in reading on the state
196 annual accountability assessment or on an approved alternative
197 standardized assessment for third grade shall be considered ready
198 for promotion to the fourth grade. However, students under this
199 subsection shall be given the remedial instruction provided for
200 under this chapter.

201 **SECTION 5.** Section 37-177-13, Mississippi Code of 1972, is
202 amended as follows:

203 37-177-13. (1) Beginning in the 2014-2015 school year, each
204 school district shall take the following actions for retained
205 third-grade students:

206 (a) Provide third-grade students who are not promoted
207 with intensive instructional services, progress monitoring
208 measures, and supports to remediate the identified areas of
209 reading deficiency, as outlined in the student's individual
210 reading plan, including a minimum of ninety (90) minutes during
211 regular school hours of daily, scientifically research-based
212 reading instruction that includes phonemic awareness, phonics,
213 fluency, vocabulary and comprehension, and other strategies
214 prescribed by the school district, which may include, but are not
215 limited to:

- 216 (i) Small group instruction;
- 217 (ii) Reduced teacher-student ratios;



- 218 (iii) Tutoring in scientifically research-based
219 reading services in addition to the regular school day;
220 (iv) The option of transition classes;
221 (v) Extended school day, week or year; and
222 (vi) Summer reading camps.

223 (b) Provide written notification to the parent or legal
224 guardian of any third-grade student who is retained that the
225 student has not met the proficiency level required for promotion
226 and the reasons the student is not eligible for a good cause
227 exemption. The notification must include a description of
228 proposed interventions and supports that will be provided to the
229 child to remediate the identified areas of reading deficiency, as
230 outlined in the student's individual reading plan. This
231 notification must be provided to the parent or legal guardian in
232 writing, in a format adopted by the State Board of Education in
233 addition to report cards given by the teacher.

234 (c) Provide third-grade students who are retained with
235 a high-performing teacher, as determined by student performance
236 data, particularly related to student growth in reading,
237 above-satisfactory performance appraisals, and/or specific
238 training relevant to implementation of this chapter.

239 (d) Provide parents and legal guardians of third-grade
240 students with a "Read at Home" plan outlined in a parental
241 contract, including participation in regular parent-guided home
242 reading.



243 (2) For the 2021-2022 school year, students in third grade
244 who receive what is considered a failing score on the reading
245 screener required by the Literacy-Based Promotion Act or otherwise
246 score at the lowest achievement level in reading on the state
247 annual accountability assessment or on an approved alternative
248 standardized assessment for third grade shall be considered ready
249 for promotion to the fourth grade. However, students under this
250 subsection shall be given the remedial instruction provided for
251 under this chapter.

252 **SECTION 6.** This act shall take effect and be in force from
253 and after July 1, 2022.

