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To: Education

COMMITTEE SUBSTITUTE  
FOR  
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 FAILING OR  
4 THE LOWEST ACHIEVEMENT LEVEL SCORE ON THE READING SCREENER SHALL  
5 STILL BE CONSIDERED NOT READY FOR PROMOTION TO THE NEXT GRADE,  
6 PROVIDED THAT STUDENTS WHO FAIL TO SCORE THE LOWEST ACHIEVEMENT  
7 LEVEL ON THE ASSESSMENT SHALL BE GIVEN THE REMEDIAL INSTRUCTION  
8 PROVIDED FOR IN THE LITERACY-BASED PROMOTION ACT; TO PROVIDE THAT  
9 STUDENTS WHO SCORE ABOVE THE LOWEST ACHIEVEMENT LEVEL BUT DO NOT  
10 SCORE ABOVE THE SECOND LOWEST ACHIEVEMENT LEVEL SHALL BE  
11 CONSIDERED READY FOR PROMOTION WITH MANDATORY REMEDIATION; TO  
12 AMEND SECTIONS 37-177-1, 37-177-9, 37-177-11 AND 37-177-13,  
13 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS  
14 ACT; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** The following shall be codified as Section  
17 37-177-12, Mississippi Code of 1972:

18 37-177-12. (1) This act may be known and cited as the  
19 "COVID Impact Literacy-Based Promotion Modification Act."

20 (2) The purpose of the Literacy-Based Promotion Act is to  
21 improve the reading skills of kindergarten and first- through  
22 third-grade students. Due to the COVID epidemic interrupting the  
23 2019-2020, 2020-2021 and 2021-2022 school years, reading time



24 instruction has been diminished for many students in third grade  
25 across the state.

26 (3) For the 2021-2022 school year, if a student's reading  
27 deficiency is not remedied by the end of the student's third-grade  
28 year, as demonstrated by the student scoring at the lowest  
29 achievement level in reading on the state accountability  
30 assessment or on an approved alternative standardized assessment  
31 for third grade, the student shall not be considered ready for  
32 promotion to the fourth grade. Any child scoring at the lowest  
33 level of reading but not scoring at the second lowest achievement  
34 level shall be promoted to fourth grade. However, students under  
35 this subsection shall be given reading instruction remediation  
36 during their fourth-grade year as is provided for under this  
37 chapter.

38 (4) For those fourth-grade students who were promoted after  
39 the end of the 2021-2022 school year who did not score above the  
40 lowest two (2) achievement levels, school districts shall take the  
41 following actions:

42 (a) A Teacher Support Team meeting must be held the  
43 first twenty (20) days of school in order to place the student in  
44 Tier 3 in the Response to Intervention Program as is outlined by  
45 the Mississippi Department of Education Guidelines to ensure that  
46 student is placed in intensive reading instruction and  
47 intervention.



48           (b) The intensive reading instruction and intervention  
49 must be documented for the student in an individual reading plan.  
50 The student must continue to receive the Tier 3 reading services  
51 until the student's reading deficiency is remediated as  
52 demonstrated through performance on a reading screener approved or  
53 developed by the State Department of Education.

54           (c) The student must continue to receive the Tier 3  
55 reading services until the student's reading deficiency is  
56 remediated as demonstrated through performance on a reading  
57 screener approved or developed by the State Department of  
58 Education.

59           (d) The Reading Plan must include at a minimum the  
60 following:

61                   (i) The student's specific diagnosed reading skill  
62 deficiencies as determined or identified by diagnostic assessment  
63 data;

64                   (ii) The goals and benchmarks for growth;

65                   (iii) How progress will be monitored and  
66 evaluated;

67                   (iv) The type of additional instructional services  
68 and interventions the student will receive;

69                   (v) The research-based reading instructional  
70 programming the teacher will use to provide reading instruction,  
71 addressing the areas of phonemic awareness, phonics, fluency,  
72 vocabulary and comprehension;



73 (vi) The strategies the student's parent is  
74 encouraged to use in assisting the student to achieve reading  
75 competency; and

76 (vii) Any additional services the teacher deems  
77 available and appropriate to accelerate the student's reading  
78 skill development;

79 (e) The school district shall provide students with  
80 intensive instructional services, progress monitoring measures,  
81 and supports to remediate the identified areas of reading  
82 deficiency, as outlined in the student's individual reading plan,  
83 including a minimum of ninety (90) minutes during regular school  
84 hours of daily, scientifically research-based reading instruction  
85 that includes phonemic awareness, phonics, fluency, vocabulary and  
86 comprehension, and other strategies prescribed by the school  
87 district, which may include, but are not limited to:

88 (i) Small group instruction;

89 (ii) Reduced teacher-student ratios;

90 (iii) Tutoring in scientifically research-based  
91 reading services in addition to the regular school day;

92 (iv) The option of transition classes;

93 (v) Extended school day, week or year; and

94 (vi) Summer reading camps or classes.

95 (f) School districts shall provide written notification  
96 to the parent or legal guardian of any student that although the  
97 student is being promoted to the fourth-grade that they still need



98 remediation to obtain a higher proficiency level in reading. The  
99 notification must include a description of proposed interventions  
100 and supports for the child to remediate the identified areas of  
101 reading deficiency, as outlined in the student's individual  
102 reading plan. This notification must be provided to the parent or  
103 legal guardian in writing, in a format adopted by the State Board  
104 of Education in addition to report cards given by the teacher.

105 (g) The school district shall provide fourth-grade  
106 students who are promoted but scored above the lowest achievement  
107 but not above the second lowest achievements level with a  
108 high-performing teacher, as determined by student performance  
109 data, particularly related to student growth in reading,  
110 above-satisfactory performance appraisals and/or specific training  
111 relevant to implementation of this chapter.

112 (h) The school district shall provide parents and legal  
113 guardians of fourth-grade students with a "Read-at-Home" Plan  
114 outlined in a parental contract, including participation in  
115 regular parent-guided home reading.

116 (i) A student under this subsection who did not score  
117 at the lowest two (2) achievement levels may be placed in a  
118 transition class when entering fourth grade.

119 (5) This section shall stand repealed on July 1, 2023.

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



122           37-177-1. (1) There is established an act prohibiting  
123 social promotion to be known as the "Literacy-Based Promotion  
124 Act," the purpose of which is to improve the reading skills of  
125 kindergarten and first- through third-grade students enrolled in  
126 the public schools so that every student completing the third  
127 grade is able to read at or above grade level. It is the intent  
128 of the Legislature, in establishing this act, to ensure that:  
129 each kindergarten and first- through third-grade student's  
130 progression is determined, in part, upon the student's proficiency  
131 in reading; the policies of local school boards facilitate this  
132 proficiency; and each student and the student's parent or legal  
133 guardian is informed of the student's academic progress.

134           (2) Each public school student who exhibits a substantial  
135 deficiency in reading at any time, as demonstrated through  
136 performance on a reading screener approved or developed by the  
137 State Department of Education or through locally determined  
138 assessments and teacher observations conducted in kindergarten and  
139 grades 1 through 3 or through statewide end-of-year assessments or  
140 approved alternate yearly assessments in Grade 3, must be given  
141 intensive reading instruction and intervention immediately  
142 following the identification of the reading deficiency. The  
143 intensive reading instruction and intervention must be documented  
144 for each student in an individual reading plan, which includes, at  
145 a minimum, the following:



146 (a) The student's specific, diagnosed reading skill  
147 deficiencies as determined (or identified) by diagnostic  
148 assessment data;

149 (b) The goals and benchmarks for growth;

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

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

153 (e) The research-based reading instructional  
154 programming the teacher will use to provide reading instruction,  
155 addressing the areas of phonemic awareness, phonics, fluency,  
156 vocabulary and comprehension;

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

159 (g) Any additional services the teacher deems available  
160 and appropriate to accelerate the student's reading skill  
161 development.

162 (3) The universal reading screener or locally determined  
163 reading assessment may be given in the first thirty (30) days of  
164 the school year and repeated if indicated at midyear and at the  
165 end of the school year to determine student progression in reading  
166 in kindergarten through third grade. If it is determined that the  
167 student continues to have a reading deficiency, the student must  
168 be provided with continued intensive reading instruction and  
169 intervention by the school district until the reading deficiency  
170 is remedied. A student exhibiting continued reading deficiency



171 with continued intensive interventions should be considered for  
172 exceptional criteria evaluation.

173 (4) A kindergarten or first-, second- or third-grade student  
174 identified with a deficiency in reading must be provided intensive  
175 interventions in reading to ameliorate the student's specific  
176 reading deficiency, as identified by a valid and reliable  
177 diagnostic assessment. The intensive intervention must include  
178 effective instructional strategies, and appropriate teaching  
179 methodologies necessary to assist the student in becoming a  
180 successful reader, able to read at or above grade level, and ready  
181 for promotion to the next grade. A kindergarten, first-, second-  
182 or third-grade student identified with a reading deficiency or not  
183 promoted may be placed in a transition class.

184 (5) This section shall not apply for the 2021-2022 school  
185 year for applicable students. For the 2021-2022 school year,  
186 school districts shall apply the provisions of Section 37-177-12  
187 for applicable students provided for under this section. This  
188 subsection shall stand repealed on July 1, 2023.

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

191 37-177-9. (1) A public school student may not be assigned a  
192 grade level based solely on the student's age or any other factors  
193 that constitute social promotion.

194 (2) Beginning in the 2014-2015 school year, if a student's  
195 reading deficiency is not remedied by the end of the student's





196 third-grade year, as demonstrated by the student scoring at the  
197 lowest achievement level in reading on the state annual  
198 accountability assessment or on an approved alternative  
199 standardized assessment for third grade, the student shall not be  
200 promoted to fourth grade.

201 (3) Beginning in the 2018-2019 school year, if a student's  
202 reading deficiency is not remedied by the end of the student's  
203 third-grade year, as demonstrated by the student scoring above the  
204 lowest two (2) achievement levels in reading on the state annual  
205 accountability assessment or on an approved alternative  
206 standardized assessment for third grade, the student shall not be  
207 promoted to fourth grade.

208 (4) This section shall not apply for the 2021-2022 school  
209 year for applicable students. For the 2021-2022 school year,  
210 school districts shall apply the provisions of Section 37-177-12  
211 for applicable students provided for under this section. This  
212 subsection shall stand repealed on July 1, 2023.

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

215 37-177-11. (1) A third-grade student who does not meet the  
216 academic requirements for promotion to the fourth grade may be  
217 promoted by the school district only for good cause. Good cause  
218 exemptions for promotion are limited to the following students:



219 (a) Limited English proficient students who have had  
220 less than two (2) years of instruction in an English Language  
221 Learner program;

222 (b) Students with disabilities whose individual  
223 education plan (IEP) indicates that participation in the statewide  
224 accountability assessment program is not appropriate, as  
225 authorized under state law;

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

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

235 (e) Students who have received intensive intervention  
236 in reading for two (2) or more years but still demonstrate a  
237 deficiency in reading and who previously were retained in  
238 kindergarten or first, second or third grade for a total of two  
239 (2) years and have not met exceptional education criteria. A  
240 student who is promoted to fourth grade with a good cause  
241 exemption shall be provided an individual reading plan as  
242 described in Section 37-177-1(2), which outlines intensive reading  
243 instruction and intervention informed by specialized diagnostic



244 information and delivered through specific reading strategies to  
245 meet the needs of each student so promoted. The school district  
246 shall assist schools and teachers in implementing reading  
247 strategies that research has shown to be successful in improving  
248 reading among students with persistent reading difficulties.

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

252 (a) Documentation must be submitted from the student's  
253 teacher to the school principal which indicates that the promotion  
254 of the student is appropriate and is based upon the student's  
255 record. The documentation must consist of the good cause  
256 exemption being requested and must clearly prove that the student  
257 is covered by one (1) of the good cause exemptions listed in  
258 subsection (1) (a) through (e) of this section.

259 (b) The principal shall review and discuss the  
260 recommendations with the teacher and parents and make a  
261 determination as to whether or not the student should be promoted  
262 based on requirements set forth in this chapter. If the principal  
263 determines that the student should be promoted, based on the  
264 documentation provided, the principal must make the recommendation  
265 in writing to the school district superintendent, who, in writing,  
266 may accept or reject the principal's recommendation. The parents  
267 of any student promoted may choose that the student be retained



268 for one (1) year, even if the principal and district  
269 superintendent determines otherwise.

270 (3) This section shall not apply for the 2021-2022 school  
271 year for applicable students. For the 2021-2022 school year,  
272 school districts shall apply the provisions of Section 37-177-12  
273 for applicable students provided for under this section. This  
274 subsection shall stand repealed on July 1, 2023.

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

277 37-177-13. (1) Beginning in the 2014-2015 school year, each  
278 school district shall take the following actions for retained  
279 third-grade students:

280 (a) Provide third-grade students who are not promoted  
281 with intensive instructional services, progress monitoring  
282 measures, and supports to remediate the identified areas of  
283 reading deficiency, as outlined in the student's individual  
284 reading plan, including a minimum of ninety (90) minutes during  
285 regular school hours of daily, scientifically research-based  
286 reading instruction that includes phonemic awareness, phonics,  
287 fluency, vocabulary and comprehension, and other strategies  
288 prescribed by the school district, which may include, but are not  
289 limited to:

- 290 (i) Small group instruction;
- 291 (ii) Reduced teacher-student ratios;



292 (iii) Tutoring in scientifically research-based  
293 reading services in addition to the regular school day;  
294 (iv) The option of transition classes;  
295 (v) Extended school day, week or year; and  
296 (vi) Summer reading camps.

297 (b) Provide written notification to the parent or legal  
298 guardian of any third-grade student who is retained that the  
299 student has not met the proficiency level required for promotion  
300 and the reasons the student is not eligible for a good cause  
301 exemption. The notification must include a description of  
302 proposed interventions and supports that will be provided to the  
303 child to remediate the identified areas of reading deficiency, as  
304 outlined in the student's individual reading plan. This  
305 notification must be provided to the parent or legal guardian in  
306 writing, in a format adopted by the State Board of Education in  
307 addition to report cards given by the teacher.

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

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



317       (2) This section shall not apply for the 2021-2022 school  
318 year for applicable students. For the 2021-2022 school year,  
319 school districts shall apply the provisions of Section 37-177-12  
320 for applicable students provided for under this section. This  
321 subsection shall stand repealed on July 1, 2023.

322       **SECTION 6.** This act shall take effect and be in force from  
323 and after July 1, 2022, and shall stand repealed on June 30, 2022.

