

By the Committee on Education; and Senators Sullivan and Cowin

304-2320-02

1                                   A bill to be entitled  
2           An act relating to public school student  
3           progression; amending s. 232.245, F.S.;  
4           revising guidelines for allocation of school  
5           district remedial and supplemental instruction  
6           resources; prescribing content of academic  
7           improvement plans; prescribing guidelines for  
8           remedial reading instruction; requiring  
9           parental notification of reading deficiency;  
10          prohibiting social promotion and providing  
11          standards for exemptions from  
12          mandatory-retention requirements; requiring  
13          reports by district school boards; providing  
14          powers and duties of the State Board of  
15          Education with respect to enforcement of  
16          mandatory retention; providing an effective  
17          date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

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21           Section 1. Section 232.245, Florida Statutes, is  
22 amended to read:

23           232.245 Public school student ~~Pupil~~ progression;  
24 remedial instruction; reporting requirements.--

25           (1) INTENT.--It is the intent of the Legislature that  
26 each student's progression from one grade to another be  
27 determined, in part, upon proficiency in reading, writing,  
28 science, and mathematics; that school district policies  
29 facilitate such proficiency; and that each student and his or  
30 her parent ~~or legal guardian~~ be informed of that student's  
31 academic progress.

1           (2) COMPREHENSIVE PROGRAM.--Each district school board  
2 shall establish a comprehensive program for student pupil  
3 progression which must include:

4           (a) Standards for evaluating each student's pupil's  
5 performance, including how well he or she masters the  
6 performance standards approved by the State Board of Education  
7 according to s. 229.565; ~~and~~

8           (b) Specific levels of performance in reading,  
9 writing, science, and mathematics for each grade level,  
10 including the levels of performance on statewide assessments  
11 as defined by the State Board Commissioner of Education, below  
12 which a student must receive remediation, or be retained  
13 within an intensive program that is different from the  
14 previous year's program and that takes into account the  
15 student's learning style; ~~and~~

16           (c) Appropriate alternative placement for a student  
17 who has been retained 2 or more years.

18           (3) ALLOCATION OF RESOURCES.--~~District. No student may~~  
19 ~~be assigned to a grade level based solely on age or other~~  
20 ~~factors that constitute social promotion.~~ school boards shall  
21 allocate remedial and supplemental instruction resources to  
22 the following priorities:

23           (a) Students who are deficient in reading by the end  
24 of grade 3.

25           (b) ~~first to~~ Students who fail to meet ~~achievement~~  
26 performance levels required for promotion consistent with the  
27 district school board's plan for student progression required  
28 in paragraph (2)(b). ~~The state board shall adopt rules to~~  
29 ~~prescribe limited circumstances in which a student may be~~  
30 ~~promoted without meeting the specific assessment performance~~  
31 ~~levels prescribed by the district's pupil progression plan.~~

1 ~~Such rules shall specifically address the promotion of~~  
2 ~~students with limited English proficiency and students with~~  
3 ~~disabilities. A school district must consider an appropriate~~  
4 ~~alternative placement for a student who has been retained 2 or~~  
5 ~~more years.~~

6 (4)(3) ASSESSMENT AND REMEDIATION.--

7 (a) Each student must participate in the statewide  
8 assessment tests required by s. 229.57. Each student who does  
9 not meet specific levels of performance as determined by the  
10 district school board in reading, writing, science, and  
11 mathematics for each grade level, or who does not meet  
12 specific levels of performance, determined by the State Board  
13 ~~Commissioner~~ of Education, on statewide assessments at  
14 selected grade levels, must be provided with additional  
15 diagnostic assessments to determine the nature of the  
16 student's difficulty and areas of academic need.

17 (b) The school in which the student is enrolled must  
18 develop, in consultation with the student's parent ~~or legal~~  
19 ~~guardian~~, and must implement an academic improvement plan  
20 designed to assist the student in meeting state and district  
21 expectations for proficiency. Beginning with the 2002-2003  
22 school year, if the student has been identified as having a  
23 deficiency in reading, the academic improvement plan shall  
24 identify the student's specific areas of deficiency in  
25 phonemic awareness, phonics, fluency, comprehension, and  
26 vocabulary; the desired levels of performance in these areas;  
27 and the instructional and support services to be provided to  
28 help the student meet the desired levels of performance.  
29 Schools shall also provide for the frequent monitoring of the  
30 student's progress in meeting the desired levels of  
31 performance. District school boards shall assist schools and

1 teachers in implementing research-based reading activities  
2 that have been shown to be successful in teaching reading to  
3 low-performing students.~~Each plan must include the provision~~  
4 ~~of intensive remedial instruction in the areas of weakness.~~  
5 Remedial instruction provided during high school may not be in  
6 lieu of English and mathematics credits required for  
7 graduation.

8 (c) Upon subsequent evaluation, if the documented  
9 deficiency has not been remediated ~~corrected~~ in accordance  
10 with the academic improvement plan, the student shall ~~may~~ be  
11 retained. Each student who does not meet the minimum  
12 performance expectations defined by the Commissioner of  
13 Education for the statewide assessment tests in reading,  
14 writing, science, and mathematics must continue to be provided  
15 with remedial or supplemental instruction until the  
16 expectations are met or the student graduates from high school  
17 or is not subject to compulsory school attendance.

18 (5) READING DEFICIENCY AND PARENTAL NOTIFICATION.--

19 (a) It is the ultimate goal of the Legislature that  
20 every student read at or above grade level. Any student who  
21 exhibits a substantial deficiency in reading, based upon  
22 locally determined or statewide assessments conducted in  
23 kindergarten, grade 1, grade 2, or grade 3, or through teacher  
24 observations, must be given intensive reading instruction  
25 immediately following the identification of the reading  
26 deficiency. The student's reading proficiency must be  
27 reassessed by locally determined assessments or through  
28 teacher observations at the beginning of the grade following  
29 the intensive reading instruction. The student must continue  
30 to be provided with intensive reading instruction until the  
31 reading deficiency is remedied.

1           (b) Beginning with the 2002-2003 school year, if the  
2 student's reading deficiency, as identified in paragraph (a),  
3 is not remediated by the end of grade 3, as demonstrated by  
4 scoring at level 2 or higher on the statewide assessment test  
5 in reading for grade 3, the student must be retained.

6           (c) Beginning with the 2002-2003 school year, the  
7 parent of any student who exhibits a substantial deficiency in  
8 reading, as described in paragraph (a), must be given, in  
9 writing:

10           1. Notice that his or her child has been identified as  
11 having a substantial deficiency in reading;

12           2. A description of the current services that are  
13 provided to the child;

14           3. A description of the proposed supplemental  
15 instructional services and supports that will be provided to  
16 the child which are designed to remediate the identified area  
17 of reading deficiency; and

18           4. Notice that, if the child's reading deficiency is  
19 not remediated by the end of grade 3, the child must be  
20 retained unless the student is exempt for good cause from  
21 mandatory retention.

22           ~~(4) Any student who exhibits substantial deficiency in~~  
23 ~~reading skills, based on locally determined assessments~~  
24 ~~conducted before the end of grade 1 or 2, or based on teacher~~  
25 ~~recommendation, must be given intensive reading instruction~~  
26 ~~immediately following the identification of the reading~~  
27 ~~deficiency. The student's reading proficiency must be~~  
28 ~~reassessed by locally determined assessment or based on~~  
29 ~~teacher recommendation at the beginning of the grade following~~  
30 ~~the intensive reading instruction, and the student must~~  
31 ~~continue to be given intensive reading instruction until the~~

1 ~~reading deficiency is remedied. If the student's reading~~  
2 ~~deficiency, as determined by the locally determined assessment~~  
3 ~~at grades 1 and 2, or by the statewide assessment at grade 3,~~  
4 ~~is not remedied by the end of grade 4, and if the student~~  
5 ~~scores below the specific level of performance on the~~  
6 ~~statewide assessment test in reading, the student must be~~  
7 ~~retained.~~

8 (6) ELIMINATION OF SOCIAL PROMOTIONS.--

9 (a) No student shall be assigned to a grade level  
10 based solely on age or other factors that constitute social  
11 promotion.

12 (b) The ~~district local~~ school board may exempt  
13 students ~~a student~~ from mandatory retention, as provided in  
14 paragraph (5)(b), only for good cause. Good-cause exemptions  
15 shall be limited to the following:

16 1. Students having limited English proficiency who  
17 have had less than 2 years of instruction in a program of  
18 English for speakers of other languages.

19 2. Students with disabilities, whose individual  
20 education plan indicates that participation in the statewide  
21 assessment program is not appropriate, consistent with the  
22 requirements of State Board of Education rule.

23 3. Students who demonstrate an acceptable level of  
24 performance on an alternative standardized reading assessment  
25 approved by the State Board of Education.

26 4. Students who demonstrate, through a student  
27 portfolio, that they are reading on grade level as evidenced  
28 by demonstration of mastery of the Sunshine State Standards in  
29 reading equal to at least a level 2 performance on the FCAT.

30 5. Students with disabilities who participate in the  
31 FCAT, with an individual education plan or a Section 504 plan

1 that reflects that the student has received the intensive  
2 remediation in reading as required by paragraph (4)(b) for  
3 more than 2 years but still demonstrates a deficiency in  
4 reading and who were previously retained in kindergarten,  
5 grade 1, or grade 2.

6 6. Students who have received the intensive  
7 remediation in reading as required by paragraph (4)(b) for 2  
8 or more years but still demonstrate a deficiency in reading  
9 and who were previously retained in kindergarten, grade 1, or  
10 grade 2 for a total of 2 years. Intensive reading instruction  
11 for students so promoted must include an altered instructional  
12 day based upon an academic improvement plan that includes  
13 specialized diagnostic information and specific reading  
14 strategies for each student. The school district shall assist  
15 schools and teachers in implementing reading strategies that  
16 research has shown to be successful in improving reading among  
17 low-performing readers.

18 (c) Requests for good-cause exemptions from the  
19 mandatory retention requirement, as described in  
20 sub-subparagraphs (b)3. and 4., shall be made consistent with  
21 the following:

22 1. The student's teacher must submit documentation to  
23 the school principal which indicates that the promotion of the  
24 student is appropriate and is based upon the student's  
25 academic record. In order to minimize paperwork requirements,  
26 such documentation shall consist only of the existing Academic  
27 Improvement Plan; Individual Education Plan, if applicable;  
28 report card; or student portfolio.

29 2. The school principal shall review and discuss such  
30 recommendation with the teacher and make the determination as  
31 to whether the student should be promoted or retained. If the

1 school principal determines that the student should be  
2 promoted, the school principal shall make such recommendation  
3 in writing to the district school superintendent. The district  
4 school superintendent must accept or reject the school  
5 principal's recommendation in writing.

6 (7)(5) ANNUAL REPORT.--

7 (a) In addition to the requirements in paragraph  
8 (5)(b), each district school board must annually report to the  
9 parent ~~or legal guardian~~ of each student the progress of the  
10 student towards achieving state and district expectations for  
11 proficiency in reading, writing, science, and mathematics. The  
12 district school board must report to the parent ~~or legal~~  
13 guardian the student's results on each statewide assessment  
14 test. The evaluation of each student's progress must be based  
15 upon the student's classroom work, observations, tests,  
16 district and state assessments, and other relevant  
17 information. Progress reporting must be provided to the parent  
18 ~~or legal guardian~~ in writing in a format adopted by the  
19 district school board.

20 (b) Beginning with the 2002-2003 school year, each  
21 district school board must annually publish, in the local  
22 newspaper, and submit in a report to the State Board of  
23 Education, by September 1, the following information on the  
24 prior school year:

25 1. The provisions of this section relating to public  
26 school student progression and the district school board's  
27 policies and procedures on student retention and promotion.

28 2. By grade, the number and percent of all students in  
29 grades 3 through 10 performing at levels 1 and 2 on the  
30 reading portion of the FCAT.

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1           3. By grade, the number and percent of all students  
2 retained in grades 3 through 10.

3           4. Information on the total number of students that  
4 were promoted for good-cause, by each category of good cause  
5 in paragraph (6)(b).

6           5. Any revisions to the district school board's policy  
7 on student retention and promotion from the prior year.

8           (8) STATE BOARD OF EDUCATION OVERSIGHT ENFORCEMENT  
9 AUTHORITY.--The State Board of Education shall oversee the  
10 performance of district school boards in enforcement of this  
11 section and applicable state board rules. District school  
12 boards shall be primarily responsible for compliance with this  
13 section and applicable state board rules.

14           (a) In order to ensure compliance with this section  
15 and applicable state board rules, the State Board of Education  
16 shall have the authority to request and receive information,  
17 data, and reports from school districts. District school  
18 superintendents are responsible for the accuracy of the  
19 information and data reported to the state board.

20           (b) The Commissioner of Education may investigate  
21 allegations of noncompliance with this section and applicable  
22 state board rules and determine probable cause for future  
23 action. Upon determination of probable cause, the commissioner  
24 shall report to the State Board of Education, which shall  
25 require the district school board to document compliance with  
26 this section or applicable state board rules.

27           (c) If the district school board cannot satisfactorily  
28 document compliance, the State Board of Education may order  
29 compliance within a specified timeframe.

30           (d) If the State Board of Education determines that a  
31 district school board is unwilling or unable to comply with

1 this section or applicable state board rules within the  
2 specified time, the state board shall have the authority to  
3 initiate any of the following actions:

4 1. Report to the Legislature that the school district  
5 has been unwilling or unable to comply with this section or  
6 applicable state board rules and recommend action to be taken  
7 by the Legislature.

8 2. Reduce the discretionary lottery appropriation  
9 until the school district complies with this section or  
10 applicable state board rules.

11 3. Withhold the transfer of state funds, discretionary  
12 grant funds, or any other funds specified as eligible for this  
13 purpose by the Legislature until the school district complies  
14 with this section or applicable state board rules.

15 4. Declare the school district ineligible for  
16 competitive grants.

17 5. Require monthly or periodic reporting on the  
18 situation related to noncompliance until the noncompliance is  
19 remedied.

20 (e) Nothing in this section shall be construed to  
21 create a private cause of action or create any rights for  
22 individuals or entities in addition to those provided  
23 elsewhere in law or rule.

24 (f)(6) The State Board ~~Commissioner~~ of Education shall  
25 adopt rules pursuant to ss. 120.536(1) and 120.54 for the  
26 administration of this section.

27 (9)(7) TECHNICAL ASSISTANCE.--The Department of  
28 Education shall provide technical assistance as needed to aid  
29 school districts in administering this section.

30 Section 2. This act shall take effect July 1, 2002.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 2488 and Senate Bill 2314

Adds a good-cause exemption for students who have been retained for two years. Provides guidelines for the type of instruction to be given those students when they are promoted.

Specifies the type of documentation that teachers must provide to principals when recommending that a student be promoted for good-cause.

Authorizes the State Board of Education to take certain steps to enforce the provisions of this legislation.