

By Senator Justice

16-01630-09

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1                   A bill to be entitled  
2       An act relating to public school student progression;  
3       amending s. 1008.25, F.S.; requiring student  
4       proficiency in additional subjects; providing a  
5       process by which the retention of a student for a  
6       reading deficiency may be appealed; providing for  
7       exemption from mandatory retention through successful  
8       appeal; specifying circumstances recognized as  
9       justification for granting an appeal; providing for  
10      reporting; providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14       Section 1. Section 1008.25, Florida Statutes, is amended to  
15      read:

16       1008.25 Public school student progression; remedial  
17      instruction; reporting requirements.—

18       (1) INTENT.—It is the intent of the Legislature that each  
19      student's progression from one grade to another be determined,  
20      in part, upon proficiency in reading, writing, science, and  
21      mathematics and, where appropriate, history, civics, geography,  
22      arts, music, and physical education; that district school board  
23      policies facilitate such proficiency; and that each student and  
24      his or her parent be informed of that student's academic  
25      progress.

26       (2) COMPREHENSIVE PROGRAM.—Each district school board shall  
27      establish a comprehensive program for student progression which  
28      must include:

29       (a) Standards for evaluating each student's performance,

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30 including how well he or she masters the performance standards  
31 approved by the State Board of Education.

32 (b) Specific levels of performance in reading, writing,  
33 science, and mathematics and, where appropriate, history,  
34 civics, geography, arts, music, and physical education for each  
35 grade level, including the levels of performance on statewide  
36 assessments as defined by the commissioner, below which a  
37 student must receive remediation, or be retained within an  
38 intensive program that is different from the previous year's  
39 program and that takes into account the student's learning  
40 style.

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

43 (3) ALLOCATION OF RESOURCES.—District school boards shall  
44 allocate remedial and supplemental instruction resources to  
45 students in the following priority:

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

48 (b) Students who fail to meet performance levels required  
49 for promotion consistent with the district school board's plan  
50 for student progression required in paragraph (2) (b).

51 (4) ASSESSMENT AND REMEDIATION.—

52 (a) Each student must participate in the statewide  
53 assessment tests required by s. 1008.22. Each student who does  
54 not meet specific levels of performance as determined by the  
55 district school board in reading, writing, science, and  
56 mathematics and, where appropriate, history, civics, geography,  
57 arts, music, and physical education for each grade level, or who  
58 scores below Level 3 in reading or math, must be provided with

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59 additional diagnostic assessments to determine the nature of the  
60 student's difficulty, the areas of academic need, and strategies  
61 for appropriate intervention and instruction as described in  
62 paragraph (b).

63 (b) The school in which the student is enrolled must  
64 develop, in consultation with the student's parent, and must  
65 implement a progress monitoring plan. A progress monitoring plan  
66 is intended to provide the school district and the school  
67 flexibility in meeting the academic needs of the student and to  
68 reduce paperwork. A student who is not meeting the school  
69 district or state requirements for proficiency in reading and  
70 math shall be covered by one of the following plans to target  
71 instruction and identify ways to improve his or her academic  
72 achievement:

73 1. A federally required student plan such as an individual  
74 education plan;

75 2. A schoolwide system of progress monitoring for all  
76 students; or

77 3. An individualized progress monitoring plan.

78  
79 The plan chosen must be designed to assist the student or the  
80 school in meeting state and district expectations for  
81 proficiency. If the student has been identified as having a  
82 deficiency in reading, the K-12 comprehensive reading plan  
83 required by s. 1011.62(9) shall include instructional and  
84 support services to be provided to meet the desired levels of  
85 performance. District school boards may require low-performing  
86 students to attend remediation programs held before or after  
87 regular school hours or during the summer if transportation is

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88 provided.

89 (c) Upon subsequent evaluation, if the documented  
90 deficiency has not been remediated, the student may be retained.  
91 Each student who does not meet the minimum performance  
92 expectations defined by the Commissioner of Education for the  
93 statewide assessment tests in reading, writing, science, and  
94 mathematics must continue to be provided with remedial or  
95 supplemental instruction until the expectations are met or the  
96 student graduates from high school or is not subject to  
97 compulsory school attendance.

98 (5) READING DEFICIENCY AND PARENTAL NOTIFICATION.—

99 (a) It is the ultimate goal of the Legislature that every  
100 student read at or above grade level. Any student who exhibits a  
101 substantial deficiency in reading, based upon locally determined  
102 or statewide assessments conducted in kindergarten or grade 1,  
103 grade 2, or grade 3, or through teacher observations, must be  
104 given intensive reading instruction immediately following the  
105 identification of the reading deficiency. The student's reading  
106 proficiency must be reassessed by locally determined assessments  
107 or through teacher observations at the beginning of the grade  
108 following the intensive reading instruction. The student must  
109 continue to be provided with intensive reading instruction until  
110 the reading deficiency is remedied.

111 (b) Beginning with the 2002-2003 school year, if the  
112 student's reading deficiency, as identified in paragraph (a), is  
113 not remedied by the end of grade 3, as demonstrated by scoring  
114 at Level 2 or higher on the statewide assessment test in reading  
115 for grade 3, the student must be retained.

116 (c) The parent of any student who exhibits a substantial

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117 deficiency in reading, as described in paragraph (a), must be  
118 notified in writing of the following:

119 1. That his or her child has been identified as having a  
120 substantial deficiency in reading.

121 2. A description of the current services that are provided  
122 to the child.

123 3. A description of the proposed supplemental instructional  
124 services and supports that will be provided to the child that  
125 are designed to remediate the identified area of reading  
126 deficiency.

127 4. That if the child's reading deficiency is not remediated  
128 by the end of grade 3, the child must be retained unless he or  
129 she is exempt from mandatory retention for good cause.

130 5. Strategies for parents to use in helping their child  
131 succeed in reading proficiency.

132 6. That the Florida Comprehensive Assessment Test (FCAT) is  
133 not the sole determiner of promotion and that additional  
134 evaluations, portfolio reviews, and assessments are available to  
135 the child to assist parents and the school district in knowing  
136 when a child is reading at or above grade level and ready for  
137 grade promotion.

138 7. The district's specific criteria and policies for  
139 midyear promotion. Midyear promotion means promotion of a  
140 retained student at any time during the year of retention once  
141 the student has demonstrated ability to read at grade level.

142 8. The availability of an appeal process for a student who  
143 otherwise would be retained under paragraph (b).

144 (6) ELIMINATION OF SOCIAL PROMOTION.—

145 (a) No student may be assigned to a grade level based

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146 solely on age or other factors that constitute social promotion.

147 (b) The district school board may only exempt students from  
148 mandatory retention, as provided in paragraph (5) (b), for good  
149 cause or for successful appeal of their retention under  
150 subsection (7). Good cause exemptions shall be limited to the  
151 following:

152 1. Limited English proficient students who have had less  
153 than 2 years of instruction in an English for Speakers of Other  
154 Languages program.

155 2. Students with disabilities whose individual education  
156 plan indicates that participation in the statewide assessment  
157 program is not appropriate, consistent with the requirements of  
158 State Board of Education rule.

159 3. Students who demonstrate an acceptable level of  
160 performance on an alternative standardized reading assessment  
161 approved by the State Board of Education.

162 4. Students who demonstrate, through a student portfolio,  
163 that the student is reading on grade level as evidenced by  
164 demonstration of mastery of the Sunshine State Standards in  
165 reading equal to at least a Level 2 performance on the FCAT.

166 5. Students with disabilities who participate in the FCAT  
167 and who have an individual education plan or a Section 504 plan  
168 that reflects that the student has received intensive  
169 remediation in reading for more than 2 years but still  
170 demonstrates a deficiency in reading and was previously retained  
171 in kindergarten, grade 1, grade 2, or grade 3.

172 6. Students who have received intensive remediation in  
173 reading for 2 or more years but still demonstrate a deficiency  
174 in reading and who were previously retained in kindergarten,

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175 grade 1, grade 2, or grade 3 for a total of 2 years. Intensive  
176 reading instruction for students so promoted must include an  
177 altered instructional day that includes specialized diagnostic  
178 information and specific reading strategies for each student.  
179 The district school board shall assist schools and teachers to  
180 implement reading strategies that research has shown to be  
181 successful in improving reading among low-performing readers.

182 (c) Requests for good cause exemptions for students from  
183 the mandatory retention requirement as described in  
184 subparagraphs (b)3. and 4. shall be made consistent with the  
185 following:

186 1. Documentation shall be submitted from the student's  
187 teacher to the school principal that indicates that the  
188 promotion of the student is appropriate and is based upon the  
189 student's academic record. In order to minimize paperwork  
190 requirements, such documentation shall consist only of the  
191 existing progress monitoring plan, individual educational plan,  
192 if applicable, report card, or student portfolio.

193 2. The school principal shall review and discuss such  
194 recommendation with the teacher and make the determination as to  
195 whether the student should be promoted or retained. If the  
196 school principal determines that the student should be promoted,  
197 the school principal shall make such recommendation in writing  
198 to the district school superintendent. The district school  
199 superintendent shall accept or reject the school principal's  
200 recommendation in writing.

201 (7) APPEALS FOR EXEMPTION FROM MANDATORY RETENTION.-

202 (a) The Legislature recognizes that there are unusual and  
203 unique circumstances that may warrant that a student be exempt

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204 from mandatory retention. The Department of Education shall  
205 establish an appeal process for such circumstances in which the  
206 parent of a student who is to be retained pursuant to paragraph  
207 (5) (b) may seek an exemption from the district school board. The  
208 department may consider having each school district establish a  
209 board or authority to serve as the appeal panel to make  
210 recommendations to the district school board.

211 (b) Circumstances that shall be recognized as justification  
212 for granting an appeal include:

213 1. If a student suffers physical or emotional trauma  
214 resulting in test anxiety, including, but not limited to, death  
215 of a family member, removal from the home, or serious illness or  
216 injury to the student or a family member.

217 2. If a student develops unusual test anxiety, especially  
218 when it arises from being threatened with retention.

219 (c) A parent shall have input as to the types of additional  
220 support the student will receive to overcome his or her  
221 deficiency.

222 (d) When an appeal is filed, the school shall provide an  
223 independent assessment of the student's academic needs by a  
224 qualified school psychologist.

225 (e) If a parent wishes to appeal his or her child's  
226 retention but does not have the means or resources to do so, the  
227 school district shall appoint a qualified advocate to intervene  
228 on the child's behalf during the appeal process.

229 (f) School personnel, including guidance counselors and  
230 teachers, may initiate the appeal process on behalf of a student  
231 but must receive the parent's permission to do so before  
232 proceeding with an appeal.



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233        (8)~~(7)~~ SUCCESSFUL PROGRESSION FOR RETAINED READERS.—

234        (a) Students retained under the provisions of paragraph  
235 (5) (b) must be provided intensive interventions in reading to  
236 ameliorate the student's specific reading deficiency, as  
237 identified by a valid and reliable diagnostic assessment. This  
238 intensive intervention must include effective instructional  
239 strategies, participation in the school district's summer  
240 reading camp, and appropriate teaching methodologies necessary  
241 to assist those students in becoming successful readers, able to  
242 read at or above grade level, and ready for promotion to the  
243 next grade.

244        (b) Beginning with the 2004-2005 school year, each school  
245 district shall:

246            1. Conduct a review of student progress monitoring plans  
247 for all students who did not score above Level 1 on the reading  
248 portion of the FCAT and did not meet the criteria for one of the  
249 good cause exemptions in paragraph (6) (b). The review shall  
250 address additional supports and services, as described in this  
251 subsection, needed to remediate the identified areas of reading  
252 deficiency. The school district shall require a student  
253 portfolio to be completed for each such student.

254            2. Provide students who are retained under the provisions  
255 of paragraph (5) (b) with intensive instructional services and  
256 supports to remediate the identified areas of reading  
257 deficiency, including a minimum of 90 minutes of daily,  
258 uninterrupted, scientifically research-based reading instruction  
259 and other strategies prescribed by the school district, which  
260 may include, but are not limited to:

261            a. Small group instruction.

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- 262           b. Reduced teacher-student ratios.
- 263           c. More frequent progress monitoring.
- 264           d. Tutoring or mentoring.
- 265           e. Transition classes containing 3rd and 4th grade
- 266 students.
- 267           f. Extended school day, week, or year.
- 268           g. Summer reading camps.
- 269           3. Provide written notification to the parent of any
- 270 student who is retained under the provisions of paragraph (5) (b)
- 271 that his or her child has not met the proficiency level required
- 272 for promotion and the reasons the child is not eligible for a
- 273 good cause exemption as provided in paragraph (6) (b). The
- 274 notification must comply with the provisions of s. 1002.20(15)
- 275 and must include a description of proposed interventions and
- 276 supports that will be provided to the child to remediate the
- 277 identified areas of reading deficiency.
- 278           4. Implement a policy for the midyear promotion of any
- 279 student retained under the provisions of paragraph (5) (b) who
- 280 can demonstrate that he or she is a successful and independent
- 281 reader, reading at or above grade level, and ready to be
- 282 promoted to grade 4. Tools that school districts may use in
- 283 reevaluating any student retained may include subsequent
- 284 assessments, alternative assessments, and portfolio reviews, in
- 285 accordance with rules of the State Board of Education. Students
- 286 promoted during the school year after November 1 must
- 287 demonstrate proficiency above that required to score at Level 2
- 288 on the grade 3 FCAT, as determined by the State Board of
- 289 Education. The State Board of Education shall adopt standards
- 290 that provide a reasonable expectation that the student's

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291 progress is sufficient to master appropriate 4th grade level  
292 reading skills.

293 5. Provide students who are retained under the provisions  
294 of paragraph (5) (b) with a high-performing teacher as determined  
295 by student performance data and above-satisfactory performance  
296 appraisals.

297 6. In addition to required reading enhancement and  
298 acceleration strategies, provide parents of students to be  
299 retained with at least one of the following instructional  
300 options:

301 a. Supplemental tutoring in scientifically research-based  
302 reading services in addition to the regular reading block,  
303 including tutoring before or ~~and/or~~ after school.

304 b. A "Read at Home" plan outlined in a parental contract,  
305 including participation in "Families Building Better Readers  
306 Workshops" and regular parent-guided home reading.

307 c. A mentor or tutor with specialized reading training.

308 7. Establish a Reading Enhancement and Acceleration  
309 Development (READ) Initiative. The focus of the READ Initiative  
310 shall be to prevent the retention of grade 3 students and to  
311 offer intensive accelerated reading instruction to grade 3  
312 students who failed to meet standards for promotion to grade 4  
313 and to each K-3 student who is assessed as exhibiting a reading  
314 deficiency. The READ Initiative shall:

315 a. Be provided to all K-3 students at risk of retention as  
316 identified by the statewide assessment system used in Reading  
317 First schools. The assessment must measure phonemic awareness,  
318 phonics, fluency, vocabulary, and comprehension.

319 b. Be provided during regular school hours in addition to

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320 the regular reading instruction.

321 c. Provide a state-identified reading curriculum that has  
322 been reviewed by the Florida Center for Reading Research at  
323 Florida State University and meets, at a minimum, the following  
324 specifications:

325 (I) Assists students assessed as exhibiting a reading  
326 deficiency in developing the ability to read at grade level.

327 (II) Provides skill development in phonemic awareness,  
328 phonics, fluency, vocabulary, and comprehension.

329 (III) Provides scientifically based and reliable  
330 assessment.

331 (IV) Provides initial and ongoing analysis of each  
332 student's reading progress.

333 (V) Is implemented during regular school hours.

334 (VI) Provides a curriculum in core academic subjects to  
335 assist the student in maintaining or meeting proficiency levels  
336 for the appropriate grade in all academic subjects.

337 8. Establish at each school, where applicable, an Intensive  
338 Acceleration Class for retained grade 3 students who  
339 subsequently score at Level 1 on the reading portion of the  
340 FCAT. The focus of the Intensive Acceleration Class shall be to  
341 increase a child's reading level at least two grade levels in 1  
342 school year. The Intensive Acceleration Class shall:

343 a. Be provided to any student in grade 3 who scores at  
344 Level 1 on the reading portion of the FCAT and who was retained  
345 in grade 3 the prior year because of scoring at Level 1 on the  
346 reading portion of the FCAT.

347 b. Have a reduced teacher-student ratio.

348 c. Provide uninterrupted reading instruction for the

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349 majority of student contact time each day and incorporate  
350 opportunities to master the grade 4 Sunshine State Standards in  
351 other core subject areas.

352 d. Use a reading program that is scientifically research-  
353 based and has proven results in accelerating student reading  
354 achievement within the same school year.

355 e. Provide intensive language and vocabulary instruction  
356 using a scientifically research-based program, including use of  
357 a speech-language therapist.

358 f. Include weekly progress monitoring measures to ensure  
359 progress is being made.

360 g. Report to the Department of Education, in the manner  
361 described by the department, the progress of students in the  
362 class at the end of the first semester.

363 9. Report to the State Board of Education, as requested, on  
364 the specific intensive reading interventions and supports  
365 implemented at the school district level. The Commissioner of  
366 Education shall annually prescribe the required components of  
367 requested reports.

368 10. Provide a student who has been retained in grade 3 and  
369 has received intensive instructional services but is still not  
370 ready for grade promotion, as determined by the school district,  
371 the option of being placed in a transitional instructional  
372 setting. Such setting shall specifically be designed to produce  
373 learning gains sufficient to meet grade 4 performance standards  
374 while continuing to remediate the areas of reading deficiency.

375 (9) ~~(8)~~ ANNUAL REPORT.-

376 (a) In addition to the requirements in paragraph (5) (b),  
377 each district school board must annually report to the parent of

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378 each student the progress of the student toward achieving state  
379 and district expectations for proficiency in reading, writing,  
380 science, and mathematics. The district school board must report  
381 to the parent the student's results on each statewide assessment  
382 test. The evaluation of each student's progress must be based  
383 upon the student's classroom work, observations, tests, district  
384 and state assessments, and other relevant information. Progress  
385 reporting must be provided to the parent in writing in a format  
386 adopted by the district school board.

387 (b) Each district school board must annually publish in the  
388 local newspaper, and report in writing to the State Board of  
389 Education by September 1 of each year, the following information  
390 on the prior school year:

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

394 2. By grade, the number and percentage of all students in  
395 grades 3 through 10 performing at Levels 1 and 2 on the reading  
396 portion of the FCAT.

397 3. By grade, the number and percentage of all students  
398 retained in grades 3 through 10.

399 4. Information on the total number of students who were  
400 promoted for good cause, by each category of good cause as  
401 specified in paragraph (6) (b).

402 5. Information on the total number of students who were  
403 promoted as a result of appealing their retention under  
404 subsection (7).

405 ~~6.5.~~ Any revisions to the district school board's policy on  
406 student retention and promotion from the prior year.

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407 (c) The Department of Education shall establish a uniform  
408 format for school districts to report the information required  
409 in paragraph (b). The format shall be developed with input from  
410 district school boards and shall be provided not later than 90  
411 days prior to the annual due date. The department shall annually  
412 compile the information required in subparagraphs (b)2., 3., ~~and~~  
413 4., and 5., along with state-level summary information, and  
414 report such information to the Governor, the President of the  
415 Senate, and the Speaker of the House of Representatives.

416 (10)~~(9)~~ STATE BOARD AUTHORITY AND RESPONSIBILITIES.—

417 (a) The State Board of Education shall have authority as  
418 provided in s. 1008.32 to enforce this section.

419 (b) The State Board of Education shall adopt rules pursuant  
420 to ss. 120.536(1) and 120.54 for the administration of this  
421 section.

422 (11)~~(10)~~ TECHNICAL ASSISTANCE.—The department shall provide  
423 technical assistance as needed to aid district school boards in  
424 administering this section.

425 Section 2. This act shall take effect July 1, 2009.