



January 22, 2010

## SENATE BILL No. 258

DIGEST OF SB 258 (Updated January 20, 2010 7:43 pm - DI 71)

**Citations Affected:** IC 20-20; IC 20-32.

**Synopsis:** Reading deficiencies and student retention. Requires additional information concerning ISTEP performance and student retention be included on a school corporation's annual performance report. Requires annual reading assessments for students in kindergarten through grade 3, with intensive reading interventions for students who are not reading at grade level. Provides that a student who is not reading at grade level by the end of grade 3 may not be promoted to grade 4, and must be provided with intensive reading interventions. Provides certain good cause exemptions from mandatory retention in grade 3.

**Effective:** July 1, 2010; July 1, 2012.

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January 11, 2010, read first time and referred to Committee on Education and Career Development.  
January 21, 2010, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

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SB 258—LS 6959/DI 71+



January 22, 2010

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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## SENATE BILL No. 258

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A BILL FOR AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 20-20-8-8, AS AMENDED BY P.L.3-2008,  
2 SECTION 115, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2012]: Sec. 8. The report must include the  
4 following information:  
5 (1) Student enrollment.  
6 (2) Graduation rate (as defined in IC 20-26-13-6).  
7 (3) Attendance rate.  
8 (4) The following test scores, including the number and  
9 percentage of students meeting academic standards:  
10 (A) ISTEP program test scores.  
11 **(B) Program test scores for the reading portion of ISTEP.**  
12 ~~(B)~~ (C) Scores for assessments under IC 20-32-5-21, if  
13 appropriate.  
14 ~~(C)~~ (D) For a freeway school, scores on a locally adopted  
15 assessment program, if appropriate.  
16 (5) Average class size.  
17 (6) The number and percentage of students in the following

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- 1 groups or programs:
- 2 (A) Alternative education, if offered.
- 3 (B) Career and technical education.
- 4 (C) Special education.
- 5 (D) High ability.
- 6 (E) Remediation.
- 7 (F) Limited English language proficiency.
- 8 (G) Students receiving free or reduced price lunch under the
- 9 national school lunch program.
- 10 (H) School flex program, if offered.
- 11 (7) Advanced placement, including the following:
- 12 (A) For advanced placement tests, the percentage of students:
- 13 (i) scoring three (3), four (4), and five (5); and
- 14 (ii) taking the test.
- 15 (B) For the Scholastic Aptitude Test:
- 16 (i) test scores for all students taking the test;
- 17 (ii) test scores for students completing the academic honors
- 18 diploma program; and
- 19 (iii) the percentage of students taking the test.
- 20 (8) Course completion, including the number and percentage of
- 21 students completing the following programs:
- 22 (A) Academic honors diploma.
- 23 (B) Core 40 curriculum.
- 24 (C) Career and technical programs.
- 25 (9) The percentage of grade 8 students enrolled in algebra I.
- 26 (10) The percentage of graduates who pursue higher education.
- 27 (11) School safety, including:
- 28 (A) the number of students receiving suspension or expulsion
- 29 for the possession of alcohol, drugs, or weapons; and
- 30 (B) the number of incidents reported under IC 20-33-9.
- 31 (12) Financial information and various school cost factors,
- 32 including the following:
- 33 (A) Expenditures per pupil.
- 34 (B) Average teacher salary.
- 35 (C) Remediation funding.
- 36 (13) Technology accessibility and use of technology in
- 37 instruction.
- 38 (14) Interdistrict and intradistrict student mobility rates, if that
- 39 information is available.
- 40 (15) The number and percentage of each of the following within
- 41 the school corporation:
- 42 (A) Teachers who are certificated employees (as defined in

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- 1 IC 20-29-2-4).
- 2 (B) Teachers who teach the subject area for which the teacher
- 3 is certified and holds a license.
- 4 (C) Teachers with national board certification.
- 5 (16) The percentage of grade 3 students reading at grade 3 level.
- 6 (17) The number of students expelled, including the number
- 7 participating in other recognized education programs during their
- 8 expulsion.
- 9 (18) Chronic absenteeism, which includes the number of students
- 10 who have been absent more than ten (10) days from school within
- 11 a school year without being excused.
- 12 (19) The number of students who have dropped out of school,
- 13 including the reasons for dropping out.
- 14 (20) The number of student work permits revoked.
- 15 (21) The number of student driver's licenses revoked.
- 16 (22) The number of students who have not advanced to grade 10
- 17 due to a lack of completed credits.
- 18 (23) The number of students suspended for any reason.
- 19 (24) The number of students receiving an international
- 20 baccalaureate diploma.
- 21 **(25) Student retention information for each grade from**
- 22 **kindergarten through grade 10, including the following:**
- 23 **(A) The number and percentage of students retained in**
- 24 **each grade.**
- 25 **(B) The number of students promoted for good cause**
- 26 **under IC 20-32-8.5-2, by category of good cause.**
- 27 ~~(25)~~ **(26)** Other indicators of performance as recommended by the
- 28 education roundtable under IC 20-19-4.
- 29 SECTION 2. IC 20-32-7-2, AS ADDED BY P.L.1-2005, SECTION
- 30 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 31 2010]: Sec. 2. **(a)** Each school may authorize the school's teachers to
- 32 administer student diagnostic assessments to allow the teachers to
- 33 make detailed individual assessments of the educational progress of
- 34 students in grade levels designated by the state board.
- 35 **(b) Each student in kindergarten through grade 3 shall**
- 36 **complete:**
- 37 **(1) an annual reading diagnostic assessment under**
- 38 **IC 20-32-8.5; and**
- 39 **(2) if the student is identified as having a reading deficiency**
- 40 **under IC 20-32-8.5, at least a biannual reading diagnostic**
- 41 **assessment.**
- 42 SECTION 3. IC 20-32-8-9, AS ADDED BY P.L.1-2005, SECTION

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16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. If the governing body decides to establish a remediation program or preventive remediation program under this chapter, the governing body must:

**(1) give priority in the allocation of resources to students who are deficient in reading skills in kindergarten through grade 3;**

~~(1)~~ **(2) subject to section 10 of this chapter, determine the type of program that best fits the needs of the students of the school corporation; and**

~~(2)~~ **(3) adopt guidelines for:**

(A) procedures for determining student eligibility for a program; and

(B) implementation of the program.

SECTION 4. IC 20-32-8.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

**Chapter 8.5. Reading Deficiency Remediation**

**Sec. 1. (a) It is the intent of the general assembly that every student read at or above grade level, as defined by the department under Indiana academic standards.**

**(b) A student who exhibits a substantial deficiency in reading, based upon local or statewide assessments conducted for all students in kindergarten, grade 1, grade 2, and grade 3, must be:**

**(1) given intensive reading intervention in addition to classroom instruction immediately following the identification of the reading deficiency until the student reads at grade level; and**

**(2) reassessed by local assessments on a biannual basis for reading proficiency.**

**The department shall determine a list of assessments that may be used locally under this chapter.**

**(c) Beginning with the 2012-2013 school year, if a student is not reading at grade level by the end of grade 3, as demonstrated by achieving a passing score on the reading portion of the ISTEP assessment in grade 3, the student must be retained in grade 3.**

**(d) The parent of a student who exhibits a substantial deficiency in reading in any grade from kindergarten through grade 3 must be notified in writing of the following:**

**(1) That the child has been identified as having a substantial deficiency in reading.**

**(2) A description of the current services that are provided to**

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- the child.
  - (3) A description of the proposed supplemental instructional services and supports that:
    - (A) will be provided to the child; and
    - (B) are designed to remediate the identified area of reading deficiency.
  - (4) That if the child is not reading at grade level by the end of grade 3, the child must be retained unless the child is exempt from mandatory retention for good cause under section 2 of this chapter.
  - (5) Strategies for parents to use in helping the child develop reading skills to become a proficient reader.
  - (6) That the ISTEP is not the sole determiner of promotion and additional evaluations and assessments are available to assist parents and school personnel in knowing when a child is reading at or above grade level and is ready for grade promotion.
  - (7) The governing body's specific criteria and policies for promotion.
  - (8) If applicable, the reasons that the student is not eligible for one (1) of the five (5) good cause exemptions listed under section 2(b) of this chapter.
- Sec. 2. (a) A student may not be assigned to a grade level based solely on age or other factors that constitute social promotion.
- (b) The governing body may only exempt a student from the retention required under section 1(c) of this chapter for good cause. The following are the good cause exemptions:
- (1) Limited English proficient students who have had less than two (2) years of instruction in an English for Speakers of Other Languages program.
  - (2) Students with disabilities whose individual education plan indicates that the student is tested under an alternate or modified assessment, rather than the ISTEP.
  - (3) Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the state board.
  - (4) Students with disabilities who participate in the ISTEP and who have an individual education plan or a Section 504 plan that reflects that the student:
    - (A) has received intensive remediation in reading for more than two (2) years but still demonstrates a deficiency in reading; and

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1 (B) was previously retained in kindergarten, grade 1, grade  
2 2, or grade 3.

3 (5) Students who:

4 (A) have received intensive remediation in reading for two  
5 (2) or more years but still demonstrate a deficiency in  
6 reading; and

7 (B) were previously retained in kindergarten, grade 1,  
8 grade 2, or grade 3 for a total of two (2) years.

9 Intensive reading instruction for students promoted under  
10 this subdivision must include an altered instructional day that  
11 includes specialized diagnostic information and specific  
12 reading strategies for each student. A governing body shall  
13 assist schools and teachers to implement scientific-based  
14 reading instruction consistent with the United States  
15 Department of Education's What Works Clearinghouse.

16 (c) A request for a good cause exemption under subsection (b)(3)  
17 shall be made in the following manner:

18 (1) The student's teacher shall submit documentation,  
19 consisting of existing assessment data, to the school principal  
20 that indicates that the promotion of the student is  
21 appropriate.

22 (2) The school principal shall review and discuss the  
23 recommendation with the teacher and make the  
24 determination of whether the student should be promoted or  
25 retained. If the school principal determines the student should  
26 be promoted, the school principal shall make a  
27 recommendation in writing to the superintendent. The  
28 superintendent may accept or reject, in writing, the school  
29 principal's recommendation.

30 Sec. 3. (a) A student retained under section 1(c) of this chapter  
31 must be provided intensive interventions in reading to ameliorate  
32 the student's specific reading deficiency, as identified by a valid  
33 and reliable diagnostic assessment. The intervention must include:

- 34 (1) effective instructional strategies; and
- 35 (2) appropriate teaching methodologies;

36 necessary to assist a student in becoming a successful reader who  
37 is able to read at or above grade level and is ready for promotion  
38 to the next grade. The intensive intervention must be consistent  
39 with findings of the United States Department of Education's What  
40 Works Clearinghouse.

41 (b) Beginning with the 2012-2013 school year, each school  
42 corporation and charter school shall do the following:

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- 1 (1) Conduct a review of student assessment data for all  
 2 students who:  
 3 (A) do not achieve the score determined by the state board  
 4 to demonstrate proficiency on the reading portion of the  
 5 grade 3 ISTEP to avoid retention; and  
 6 (B) do not meet the criteria for one (1) of the good cause  
 7 exemptions in section 2(b) of this chapter.  
 8 The review must address additional supports and services  
 9 described in this subsection needed to remediate the identified  
 10 areas of reading deficiency.  
 11 (2) Provide each student who is retained under section 1(c) of  
 12 this chapter with intensive reading interventions and supports  
 13 to remediate the identified areas of reading deficiency,  
 14 including at least ninety (90) minutes each day of  
 15 uninterrupted scientifically based reading instruction and  
 16 other strategies determined by the school corporation or  
 17 charter school, which may include the following and other  
 18 appropriate strategies:  
 19 (A) Small group instruction.  
 20 (B) Frequent progress monitoring.  
 21 (C) Tutoring or mentoring by a highly qualified teacher.  
 22 (D) Transition classes containing both grade 3 and grade  
 23 4 students.  
 24 (E) An extended school day, week, or year.  
 25 (F) Summer reading programs.  
 26 (3) Implement a policy for the promotion during the school  
 27 year of a student retained under section 1(c) of this chapter  
 28 who demonstrates that the student is a successful and  
 29 independent reader, reading at or above grade level, and  
 30 ready to be promoted to grade 4. A school may use subsequent  
 31 assessments and alternative assessments, approved by the  
 32 state board, to reevaluate a retained student. A student  
 33 promoted after November 1 must demonstrate:  
 34 (A) proficiency above the grade 3 ISTEP level; and  
 35 (B) a reasonable expectation that the student's progress is  
 36 sufficient to master appropriate 4th grade level reading  
 37 skills;  
 38 under standards adopted by the state board.  
 39 (4) Provide students who are retained under section 1(c) of  
 40 this chapter with a high performing teacher, as determined by  
 41 student performance data and performance appraisals.  
 42 (5) Establish a reading initiative to:

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- (A) prevent the retention of grade 3 students; and**
- (B) offer intensive accelerated reading instruction to:**
  - (i) grade 3 students who fail to meet standards for promotion to grade 4; and**
  - (ii) each student in kindergarten through grade 3 who is assessed as exhibiting a reading deficiency.**

**The initiative must provide scientifically based and reliable assessment and skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension, as well as initial and ongoing analysis of each student's reading progress.**

**(6) Establish at each school, where applicable, an intensive acceleration class for retained grade 3 students who subsequently fail to achieve a passing score on the reading portion of the ISTEP. The focus of the intensive acceleration class must be to increase a student's reading level at least two (2) grade levels in one (1) school year. The intensive acceleration class shall:**

- (A) be provided to any student in grade 3 who:**
  - (i) scores below the level of proficiency on the reading portion of the ISTEP; and**
  - (ii) was retained in grade 3 the prior year because of scoring below the proficiency level on the reading portion of the ISTEP;**
- (B) provide uninterrupted reading instruction for the majority of student contact time each day and incorporate opportunities to master the grade level Indiana standards in other core subject areas;**
- (C) use a reading program that is based on scientifically based reading research and has proven results in accelerating student reading achievement within the same school year;**
- (D) provide intensive language and vocabulary instruction using a scientifically based reading research program;**
- (E) include weekly progress monitoring measures to ensure progress is being made; and**
- (F) report to the department, in the manner required by the department, the progress of students in the class at the end of the first semester.**

**(7) Provide the parent of a student who has been retained in grade 3 and has received intensive instructional services during the following school year but is still not ready for**

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1           **grade promotion, as determined by the school corporation,**  
 2           **the option of placing the student in a transitional instructional**  
 3           **setting. The setting must specifically be designed to produce**  
 4           **learning gains sufficient to meet grade 4 performance**  
 5           **standards while continuing to remediate the areas of reading**  
 6           **deficiency.**  
 7           **(8) Report to the department, as requested, on the specific**  
 8           **intensive reading interventions and supports implemented at**  
 9           **the school corporation level. The state superintendent shall**  
 10          **determine annually the required components of the requested**  
 11          **reports.**  
 12          **Sec. 4. The state board shall adopt rules under IC 4-22-2 to**  
 13          **carry out this chapter.**  
 14          **Sec. 5. The department shall provide technical assistance with**  
 15          **formative assessments and other areas as needed to aid governing**  
 16          **bodies in carrying out this chapter.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 258, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, delete "2010]" and insert "2012]".

Page 1, line 10, delete "scores, by subject." and insert "scores."

Page 1, between lines 10 and 11, begin a new line double block indented and insert:

**"(B) Program test scores for the reading portion of ISTEP."**

Page 1, line 11, strike "(B)" and insert "(C)".

Page 1, line 13, strike "(C)" and insert "(D)".

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 258 as introduced.)

KRUSE, Chairperson

Committee Vote: Yeas 8, Nays 3.

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