

Legislative Analysis



ELIMINATE THIRD GRADE READING RETENTION PROVISION OF REVISED SCHOOL CODE

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Senate Bill 12 (S-2) as reported from House committee

Sponsor: Sen. Dayna Polehanki

House Committee: Education

Senate Committee: Education

Revised 3-10-23

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 7 of 2023)

BRIEF SUMMARY: Senate Bill 12 would amend section 1280f of the Revised School Code to eliminate provisions that, with some exceptions, require students who are not reading at a second-grade level¹ by the end of third grade to be held back in third grade for the following school year. The bill also would remove related notification and reporting requirements. It would retain and modify other provisions currently in effect relating to students who are not reading at grade level, such as specific supports schools are required to offer to those students.

FISCAL IMPACT: Senate Bill 12 would reduce costs for the state and could reduce costs for local school districts and public school academies (PSAs, or charter schools). See **Fiscal Information**, below, for a detailed discussion.

THE APPARENT PROBLEM:

When compared with other states, Michigan ranks in the bottom half in the percentage of students who score proficient or higher on the National Assessment of Educational Progress (NAEP), a test that measures, along other grades and subjects, fourth grade reading ability, and whose reported results also include the District of Columbia and the Department of Defense Education Activity (DoDEA), the school entity that services military bases around the world.

Using the scores and rankings compiled as part of the Nation's Report Card,² Michigan's average score is 212 points out of 500. (For comparison, DoDEA is top-ranked, with an average score of 235.) Michigan's score ranks it 44th out of 52 in fourth grade reading scores. The state's average score is four points lower than the national average, and it has declined in the most recent testing cycle, a decline attributed to the disruption of the state's traditional instruction model due to COVID-19.

Partly in response to the state's scores on NAEP, lawmakers decided in 2016 to enact a retention provision that targets third graders who read at least one grade level behind (as determined by performance on the state's standardized assessment, the Michigan Student Test of Educational Performance, or MSTEP).³ The intent of the law is to hold students back at this important point in their schooling and provide them with additional resources and supports that will allow retained students to improve their reading ability to the necessary minimum level to proceed to the fourth grade.

¹ Beginning on page 11 of the state's English language arts grade level standards: https://www.michigan.gov/-/media/Project/Websites/mde/Literacy/Content-Standards/ELA_Standards.pdf?rev=0f76588bc2bd48f89165484fa35d2b31

² <https://www.nationsreportcard.gov/profiles/stateprofile/overview/MI?chort=1&sub=RED&st=AB&year=2022R3&sfj=NP>

³ For an analysis of the 2016 bill, see <https://www.legislature.mi.gov/documents/2015-2016/billanalysis/House/pdf/2015-HLA-4822-22068DE3.pdf>

While supporters and critics of mandatory third grade retention agree that those students who are reading below grade level should be given additional supports and resources, critics of retention say that the additional help can still be offered as the student moves forward to the fourth grade, and that retaining a student leads to feelings of separation and negative self-worth as the result of being held back.

THE CONTENT OF THE BILL:

Currently under the law, to advance to the fourth grade, a third grade student must demonstrate proficiency through a qualifying score on the state standardized language arts assessment, on an alternate standardized assessment, or through a pupil work portfolio that demonstrates proficiency through multiple work samples. Children younger than 10 years old who would be enrolled in a public school or public school academy (PSA, or charter school) for the first time at the fourth grade also must meet this level of reading proficiency to be enrolled at that grade. The bill would eliminate these requirements.

To aid a student in reaching the required level of reading proficiency, schools are required to create a reading plan that outlines steps to be taken and supports offered to the student that will aid them in reaching that level. The bill would retain provisions relating to these supports, although it would remove references and notifications relating to retention.

The bill also would modify dates and deadlines relating to when the Center for Educational Performance and Information (CEPI) must identify students with a reading deficiency based on their MSTEP score and notify the student's school and their parent or legal guardian of that deficiency. The bill would add a requirement that this notification contain information on what constitutes the reading deficiency as well as what supports will be available to the student.

MCL 380.1280f

BACKGROUND:

The requirement that students not reading at a second-grade level by the end of their third-grade academic year must be held back in third grade was added by 2016 PA 306. While the retention provision officially went into effect for students enrolled in the third grade during the 2019-20 school year, students did not take the M-STEP in 2020 due to the COVID-19 pandemic. As a result, the retention provision was delayed and did not go into effect until the 2020-21 school year, when M-STEP testing resumed.

Based on student performance in the 2021-22 school year, a total of 545 students⁴ were held back in third grade (meaning that those students started the current school year repeating the third grade) due to the provisions of the "Read by Grade 3" law.

However, based on student test results, more than 90% of students who were eligible under the law for retention in third grade were promoted to the fourth grade based on one of five good-cause exemptions currently provided in law. Those exemptions are:

- The student is a student with an individualized education program or with a section 504 plan and the student's individualized education program team or section 504 coordinator, as applicable, makes the decision to exempt the student from the retention requirement based upon the team's or coordinator's knowledge of the student.

⁴ https://epicedpolicy.org/wp-content/uploads/2022/12/RBG3_Retention_Report2_Dec2022.pdf

- The student is a limited English proficient student who has had less than three years of instruction in an English language learner program.
- The student has received intensive reading intervention for two or more years but still demonstrates a reading deficiency and was previously retained in kindergarten, first grade, second grade, or third grade.
- The student has been continuously enrolled in their current school district or PSA for less than two years and there is evidence that they were not provided with an appropriate individual reading improvement plan when they displayed a reading deficiency in a grade prior to third grade by the school district or PSA where they were previously enrolled.
- The student's parent or legal guardian has requested a good-cause exemption within the allotted time period and the school superintendent or chief administrator, or their designee, determines that the exemption is in the best interests of the student.

BRIEF DISCUSSION:

While both supporters and opponents of a third-grade retention provision agree that third grade is a key grade level for students reaching reading proficiency in order to be academically successful during the rest of their schooling, they differ on whether retention is appropriate as a mandated course of action for those students reading below the required proficiency. Supporters of the bill favor retention as a non-mandatory action, while opponents of the bill believe such an action is necessary.

Those who favor required retention (and thus oppose the bill) view it as an action of last resort, pointing to literacy as a foundational skill that students must draw upon in increasingly important ways to be proficient in other skills as they move forward in their education. Supporters of retention believe that having this hard deadline for proficiency prevents students from falling further behind as they advance in grade level.

Those who oppose third-grade retention (and thus support the bill) point to studies in other states with similar mandated retention laws showing that retention does not lead to better long-term outcomes for students held back and also point to socioeconomic and racial disparities in who is held back under the law. Requests initiated by the parent or guardian of a student account for nearly half of the good-cause exemptions granted under the law that allow retention-eligible students to proceed to the fourth grade, and opponents of mandatory retention believe that lower-income or minority parents are at a disadvantage in pursuing this waiver.

FISCAL INFORMATION:

Senate Bill 12 would reduce costs for the state and could reduce costs for local school districts and PSAs.

CEPI

The Center for Educational Performance and Information would realize reduced costs from the bill's removal of the following requirements:

- CEPI must create and retain an annual retention report from each district and PSA.
- Parents of pupils identified as one or more grade levels behind on the state English Language Arts assessment must be notified via certified mail. (The bill would instead require CEPI to notify parents of pupils identified as having a reading deficiency and would not require certified mail.)

Last year, the mailing cost for CEPI to certify letters sent to parents was \$21,280. CEPI also incurred \$10,500 in return fees, for a total cost of \$31,780. CEPI also noted an annual cost of \$12,846 to maintain the Third Grade Retention Collection in the Michigan Student Data System. These costs would be eliminated under the bill.

Foundation Allowance

The state also could realize reduced foundation allowance expenses due to a potential decrease in students retained in third grade. In the 2021-22 school year, 5,680 students were eligible for retention, and 545 were retained. In the 2020-21 school year, 4,750 students were eligible for retention, and 228 were retained. To the extent that students who would have otherwise been retained advance to fourth grade, the state could realize reduced costs due to the decreased number of students in the public school system over time. Initially, there would be no fiscal impact as students simply would be counted in fourth grade instead of third grade next year (the 2023-24 school year). The bill would create a larger fourth grade count and a smaller third grade count. After that larger cohort graduates in 2031-2032, beginning with the 2032-33 school year, statewide enrollment would decrease by the number of students who would have otherwise been retained but advanced under this bill, thus decreasing statewide foundation allowance costs.

The foundation allowance is paid with a mix of state and local funding depending on a district's local operating millage revenue and number of pupils. PSAs do not receive millage revenue and therefore the full costs of a PSA's foundation allowance are borne by the state. The current foundation allowance for FY 2022-23 is \$9,150, but it is not known what the foundation allowance will be in FY 2032-33. The cost savings to the state would depend on the number of pupils who would have otherwise been retained but advanced under the bill, the district's local operating millage revenue, and the foundation allowance for that year.

Districts and PSAs

Districts and PSAs could realize reduced costs from the bill's removal of the requirement that they submit an annual retention report to CEPI.

POSITIONS:

The state superintendent of public instruction testified in support of the bill. (1-31-23)

The following entities indicated support for the bill (2-28-23):

- Michigan Alliance for Student Opportunity
- Michigan Elementary and Middle School Principals Association
- Wayne RESA
- Oakland Schools
- Michigan Association of Secondary School Principals
- Education Trust Midwest
- National Association of Social Workers
- Michigan Association of Psychologists
- Michigan League for Public Policy
- United Ways of Southeastern Michigan
- Michigan Association of School Boards
- American Federation of Teachers – Michigan
- Barry, Branch, Calhoun, Jackson, Monroe and Lenawee ISDs

- Michigan Education Association
- Education Advocates of West Michigan
- Michigan Parent Teacher Association (PTA)
- Michigan Association of Superintendents and Administrators
- American Association of University Women of Michigan

A representative of the Barry County Literacy Council testified with no position on the bill.
(2-28-23)

The following entities indicated opposition to the bill (2-28-23):

- West Michigan Policy Forum
- Grand Rapids Chamber of Commerce
- Great Lakes Education Project Education Fund
- Mackinac Center for Public Policy

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.