

House Bill 2293

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Education)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires annual assessment of reading ability for students in grades one through three. Requires school district to retain student in grade three if student is reading at grade one level or lower, with certain exceptions. Requires school district to provide intensive reading program for students reading below grade level in grades one through three and students retained in grade three because of below-grade reading level.

A BILL FOR AN ACT

1
2 Relating to education; creating new provisions; and amending ORS 329.007 and 329.485.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 329.**

5 **SECTION 2. (1) Based upon the assessment of the reading portion of English conducted**
6 **pursuant to ORS 329.485 (2)(c), and an individualized evaluation by a student's reading**
7 **teacher, each school district shall assign a reading grade level to each student in grades one**
8 **through three. The Department of Education shall adopt by rule factors to be used in making**
9 **individualized evaluations.**

10 **(2) A school district shall notify in writing the parents of a student who is evaluated to**
11 **be reading at a grade level below the grade of the student that:**

12 **(a) The student has been identified as having a deficiency in reading ability, based upon**
13 **an individualized evaluation, and include a description of the factors used in making the in-**
14 **dividualized evaluation;**

15 **(b) The school district will provide supplemental instructional services to the student,**
16 **and include a description of the supplemental instructional services;**

17 **(c) If the student's deficiency in reading ability is not remediated to at least a reading**
18 **grade level of two by the end of the student's year in grade three, the student must be re-**
19 **tained in grade three unless the student is exempt from retention for any of the reasons set**
20 **forth in subsection (4)(b) of this section; and**

21 **(d) The student's parents may also use strategies to help the student attain a proficiency**
22 **in reading ability, and shall include a description of those strategies.**

23 **(3) A school district shall establish a reading program designed to prevent the retention**
24 **of grade three students because of deficiencies in reading ability. The program shall:**

25 **(a) Measure phonemic awareness, phonics, fluency, vocabulary and reading comprehen-**
26 **sion;**

27 **(b) Be provided during regular school hours in addition to standard classroom reading**
28 **instruction; and**

29 **(c) Provide a reading curriculum that:**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (A) Assists students evaluated as having a deficiency in reading ability in developing the
2 ability to read at grade level;

3 (B) Promotes skill development in phonemic awareness, phonics, fluency, vocabulary and
4 reading comprehension;

5 (C) Requires initial and ongoing analysis of each student's reading progress using scien-
6 tificallly based and reliable assessment methods; and

7 (D) Includes instruction in core academic subjects to assist students in maintaining or
8 meeting proficiency levels for the appropriate grade in all academic subjects.

9 (4)(a) A school district may not promote a student from grade three to grade four unless
10 the student is reading at a grade level of two or higher, as determined through the assess-
11 ment and evaluation required by subsection (1) of this section conducted during the student's
12 grade three school year.

13 (b) Notwithstanding paragraph (a) of this subsection, a school district may promote a
14 student who is not reading at a grade two level or higher from grade three to grade four if
15 the student:

16 (A) Has limited proficiency in the English language and has had less than two years of
17 instruction in an English language program or courses under ORS 336.079;

18 (B) Is a child with a disability, as defined under ORS 343.035, and has an individualized
19 education program developed under ORS 343.151 indicating that participation in a reading
20 assessment is not appropriate;

21 (C) Has demonstrated an acceptable level of performance on an alternative standardized
22 reading assessment approved by the Department of Education;

23 (D) Has demonstrated, through a student portfolio reviewed by the school district, that
24 the student is reading at a grade level of two or higher;

25 (E) Is a child with a disability, as defined under ORS 343.035, has an individualized edu-
26 cation plan developed under ORS 343.151 indicating that the student has received intensive
27 remedial instruction in reading for more than two years, and was previously retained for at
28 least one year in kindergarten, grade one, grade two or grade three, but still demonstrates
29 a deficiency in reading ability;

30 (F) Has received intensive remedial instruction in reading for at least two years and was
31 previously retained in kindergarten, grade one, grade two or grade three for at least two
32 years, but still is unable to read at grade level two; or

33 (G) Qualifies for a good cause exemption from the retention requirement, based upon:

34 (i) A recommendation submitted from the student's teacher to the school district indi-
35 cating that promotion of the student is appropriate and is based upon the student's academic
36 record; and

37 (ii) Review, discussion and written approval of the recommendation by the school district
38 and the student's parents.

39 (5) A school district shall notify in writing the parents of a student who is retained in
40 grade three that the student has not met the proficiency level required for promotion to
41 grade four, and include the reasons the child is not eligible for an exemption pursuant to
42 subsection (4)(b) of this section. The notification must also include a description of the pro-
43 gram proposed to be provided to the student to remediate the deficiency in reading ability.

44 (6) A school district shall provide a program designed to remediate the deficiency in
45 reading ability of students who are retained in grade three pursuant to subsection (4) of this

1 section. The program must include:

2 (a) A detailed analysis of each student's deficiency in reading ability, the causes of the
3 deficiency and recommended methods for remediating the deficiency; and

4 (b) Intensive instructional services and supports to remediate each student's identified
5 areas of deficiency in reading ability, including a minimum of 90 minutes daily of uninter-
6 rupted, research-based reading instruction and other instructional strategies as prescribed
7 by the school district, which may include:

8 (A) Small group instruction;

9 (B) Reduced student-to-teacher ratios;

10 (C) Frequent progress monitoring;

11 (D) Tutoring or mentoring;

12 (E) Transition classes containing grade three and grade four students;

13 (F) Extended school days, weeks or years; and

14 (G) Summer reading camps.

15 (7) A school district shall assign a student who is retained in grade three pursuant to
16 subsection (4) of this section to the class of a grade three teacher at the student's school
17 that the school district has determined is best able to help the student achieve a reading
18 ability that will allow subsequent promotion of the student to grade four.

19 (8) A school district shall implement a policy of mid-year advancement to grade four of
20 any student retained in grade three who is able to demonstrate reading ability at grade three
21 or higher during a school year, based upon subsequent assessments, alternative assessments
22 or portfolio reviews, in accordance with rules adopted by the State Board of Education.

23 (9) A school district shall provide instructional assistance to parents of students who are
24 retained in grade three, consisting of development of a plan for increased parental instruc-
25 tion, supervision of students' reading outside of school and joint student-parent reading
26 workshops.

27 (10) A school district shall report annually to the parents of each student in grades one
28 through three who is evaluated as having a deficiency in reading ability in a uniform format
29 adopted by the school district board:

30 (a) The progress of the student toward achieving an at-grade or higher level of reading
31 proficiency;

32 (b) The student's results on statewide assessment tests, including reading assessment
33 tests; and

34 (c) The student's related progress in proficiency in writing, science and mathematics.

35 (11) Before September 1 of each year, each school district shall report to the Department
36 of Education, in a form established by the department by rule, the following information on
37 the previous school year:

38 (a) The school district's policies and procedures on student retention and promotion;

39 (b) The number and percentage of all students in grades 3 through 10 performing at grade
40 level one or two on reading assessments;

41 (c) The number and percentage of all students in grades 3 through 10 who are retained
42 in grade three;

43 (d) The number and percentage of all students in grades 3 through 10 of students who
44 were promoted pursuant to subsection (4)(b) of this section; and

45 (e) Any revisions to the school district's policy on student retention and promotion from

1 **the previous school year.**

2 **SECTION 3.** ORS 329.007 is amended to read:

3 329.007. As used in this chapter, unless the context requires otherwise:

4 (1) “Academic content standards” means expectations of student knowledge and skills adopted
5 by the State Board of Education under ORS 329.045.

6 (2) “Administrator” includes all persons whose duties require an administrative license.

7 (3) “Board” or “state board” means the State Board of Education.

8 (4) “Community learning center” means a school-based or school-linked program providing in-
9 formal meeting places and coordination for community activities, adult education, child care, infor-
10 mation and referral and other services as described in ORS 329.157. “Community learning center”
11 includes, but is not limited to, a community school program as defined in ORS 336.505, family re-
12 source centers as described in ORS 417.725, full service schools[, *lighted schools*] and 21st century
13 community learning centers.

14 (5) “Department” means the Department of Education.

15 (6) “English” includes, but is not limited to, reading and writing.

16 (7) “History, geography, economics and civics” includes, but is not limited to, Oregon Studies.

17 (8) “Oregon Studies” means history, geography, economics and civics specific to the State of
18 Oregon. Oregon Studies instruction in Oregon government shall include municipal, county, tribal
19 and state government, as well as the electoral and legislative processes.

20 (9) “Parents” means parents or guardians of students who are covered by this chapter.

21 **(10) “Promotion” means the advancement of a student from a grade level to the next**
22 **grade level in a subsequent school year.**

23 [(10)] (11) “Public charter school” has the meaning given that term in ORS 338.005.

24 **(12) “Retention” means the keeping of a student at the same grade level in a subsequent**
25 **school year that the student was enrolled in during the previous school year.**

26 [(11)] (13) “School district” means a school district as defined in ORS 332.002, a state-operated
27 school or any legally constituted combination of such entities.

28 [(12)] (14) “Second languages” means any foreign language or American Sign Language.

29 [(13)] (15) “Teacher” means any licensed employee of a school district who has direct responsi-
30 bility for instruction, coordination of educational programs or supervision of students and who is
31 compensated for such services from public funds. “Teacher” does not include a school nurse, as
32 defined in ORS 342.455, or a person whose duties require an administrative license.

33 [(14)] (16) “The arts” includes, but is not limited to, literary arts, performing arts and visual
34 arts.

35 [(15)] (17) “21st Century Schools Council” means a council established pursuant to ORS 329.704.

36 **SECTION 4.** ORS 329.485 is amended to read:

37 329.485. (1) As used in this section:

38 (a) “Content-based assessment” means testing of the understanding of a student of a predeter-
39 mined body of knowledge.

40 (b) “Criterion-referenced assessment” means testing of the knowledge or ability of a student with
41 respect to some standard.

42 (c) “Performance-based assessment” means testing of the ability of a student to use knowledge
43 and skills to create a complex or multifaceted product or complete a complex task.

44 (2)(a) The Department of Education shall implement statewide a valid and reliable assessment
45 system for all students that meets technical adequacy standards. The assessment system shall in-

1 clude criterion-referenced assessments including performance-based assessments, content-based as-
2 sessments, and other valid methods to measure the academic content standards and to identify
3 students who meet or exceed the standards.

4 (b) The department shall develop the statewide assessment system in mathematics, science,
5 English, history, geography, economics and civics.

6 **(c) The statewide assessment system must include assessment of all students in grades**
7 **one through three in the reading portion of English, to be completed at least yearly.**

8 (3) In addition to the assessment system implemented under subsection (2) of this section, the
9 department may make available to school districts and public charter schools an assessment system
10 that uses criterion-referenced assessments including performance-based assessments and content-
11 based assessments to:

12 (a) Measure a student's progress in achieving the academic content standards for the student's
13 current grade level;

14 (b) Determine the grade level of the understanding, knowledge or ability of a student, which
15 shall be determined regardless of the actual grade level of the student and may be determined by
16 adapting the assessment during the assessment process as a result of the performance of the student;

17 (c) Track and provide reports on the progress of a student based on the information provided
18 under paragraphs (a) and (b) of this subsection; and

19 (d) Provide predictions of anticipated student progress that are based on the information pro-
20 vided under this subsection and not on the current grade level of the student.

21 (4)(a) School districts and public charter schools shall implement the statewide assessment sys-
22 tem in mathematics, science and English. In addition, school districts and public charter schools
23 may implement the statewide assessment system in history, geography, economics and civics.

24 (b) School districts and public charter schools may implement the assessment system described
25 in subsection (3) of this section.

26 (5) Each year the resident district shall be accountable for determining the student's progress
27 toward achieving the academic content standards. Progress toward the academic content standards
28 shall be measured in a manner that clearly enables the student and parents to know whether the
29 student is making progress toward meeting or exceeding the academic content standards. In addi-
30 tion, the district shall adopt a grading system based on the local school district board adopted
31 course content of the district's curriculum. The grading system shall clearly enable the student and
32 parents to know how well the student is achieving course requirements.

33 (6) If a student has not met or has exceeded all of the academic content standards, the school
34 district shall make additional services or alternative educational or public school options available
35 to the student.

36 (7) If the student to whom additional services or alternative educational options have been made
37 available does not meet or exceed the academic content standards within one year, the school dis-
38 trict, with the consent of the parents, shall make an appropriate placement, which may include an
39 alternative education program or the transfer of the student to another public school in the district
40 or to a public school in another district that agrees to accept the student. The district that receives
41 the student shall be entitled to payment. The payment shall consist of:

42 (a) An amount equal to the district expenses from its local revenues for each student in average
43 daily membership, payable by the resident district in the same year; and

44 (b) Any state and federal funds the attending district is entitled to receive payable as provided
45 in ORS 339.133 (2).

1 **SECTION 5. Section 2 of this 2011 Act and the amendments to ORS 329.007 and 329.485**
2 **by sections 3 and 4 of this 2011 Act first apply to the 2012-2013 school year.**
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