

# HOUSE BILL REPORT

## HB 1452

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### As Reported by House Committee On: Education

**Title:** An act relating to establishing accountability for student performance in third grade.

**Brief Description:** Establishing accountability for student performance in third grade.

**Sponsors:** Representatives Dahlquist, Magendanz, Angel, Buys, Fagan, Pike and Smith.

#### **Brief History:**

##### **Committee Activity:**

Education: 2/5/13, 2/14/13, 2/22/13 [DPS].

#### **Brief Summary of Substitute Bill**

- Requires school districts to provide specified educational options for any student who did not meet the state standard on the third grade English Language Arts (ELA) assessment in the previous year, beginning in 2013-14.
- Requires that students who score Below Basic on the third grade ELA assessment may not be promoted to fourth grade, unless they are exempt.
- Provides for certain students to be exempt from the promotion standard, including if the parent or guardian does not concur with retaining the student in third grade.
- Provides that the promotion standard takes effect in the school year when the first cohort of third grade students has had an opportunity to enroll in state-funded all-day kindergarten and reduced kindergarten through third grade class sizes.
- Requires school districts to provide certain services and support before seeking the concurrence of a parent to retain a student in third grade.

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### HOUSE COMMITTEE ON EDUCATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass.  
Signed by 15 members: Representatives Santos, Chair; Dahlquist, Ranking Minority

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Member; Magendanz, Assistant Ranking Minority Member; Fagan, Haigh, Hargrove, Hawkins, Hayes, Klippert, McCoy, Orwall, Parker, Pike, Pollet and Warnick.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Stonier, Vice Chair; Bergquist, Hunt, Lytton, Maxwell and Seaquist.

**Staff:** Barbara McLain (786-7383).

**Background:**

The statewide student assessment in grades 3 through 8 is called the Measurements of Student Progress (MSP). Results from the MSP are reported according to four performance levels, based on the degree to which the student meets the state learning standard for knowledge and skills in a particular subject area:

- Level 4: Advanced – exceeds the state standard;
- Level 3: Proficient – meets the state standard;
- Level 2: Basic – below the state standard; and
- Level 1: Below Basic – well below the state standard.

A small number of students, generally less than 2 percent of the student population, have significant cognitive disabilities and are assessed through the Washington Alternate Assessment System (WAAS) using a portfolio of data aligned to specific skills that a student demonstrates in a classroom setting.

The MSP is offered in Reading, Writing, Mathematics, and Science. Students in third grade take the MSP in Reading and Mathematics. However, the Office of the Superintendent of Public Instruction (OSPI) is planning to implement assessment of the Common Core State Standards (CCSS) in the 2014-15 school year. The CCSS measure student performance in English Language Arts (ELA) as a combined subject, rather than Reading and Writing as separate subjects.

The following table from the OSPI website shows the results from the MSP in third grade Reading for 2011-12:

<b>Performance Level</b>	<b>Percent</b>	<b>Number</b>
Level 4: Advanced	32.1%	24,644
Level 3: Proficient	35.7%	27,434
Level 2: Basic	21.8%	16,731
Level 1: Below Basic	8.4%	6,430
WAAS Portfolio	–	777
No Score/Not Included	–	1,701

In addition to state funding to support general education, school districts receive state and federal funds specifically targeted toward low-achieving students, students with disabilities in special education, and English language learners who need assistance with English language proficiency.

Under current law, state funding to support all-day kindergarten and reduced class sizes for kindergarten through third grade is being phased in, with each to be completed by the 2017-18 school year.

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### **Summary of Substitute Bill:**

Beginning in 2013-14, school districts must, at a minimum, provide one or more of the following educational options for any student who did not meet the state standard on the third grade ELA assessment in the previous year:

- the opportunity to assign the student to a different classroom or school;
- an evaluation of the student to determine if an Individualized Education Program (IEP) or Section 504 plan should be developed or revised and then implemented;
- provision of intensive, research-based supplemental instruction in the ELA, which may include various listed strategies;
- use of diagnostic assessments to identify needs and monitor progress; or
- retention of the student in third grade as provided in the bill.

Students who score Below Basic on the third grade ELA assessment may not be promoted to fourth grade unless they meet a good cause exemption, or unless the student's parent or guardian does not concur with the retention of the student in third grade. This promotion standard takes effect in the school year when the first cohort of third grade students has had an opportunity to enroll in statewide, state-funded all-day kindergarten and to enroll in reduced kindergarten through third grade class sizes as provided under current law.

School districts may exempt students from the promotion standard if they are:

- students who take the WAAS portfolio due to significant cognitive disabilities;
- students in special education whose IEP requires remediation in the ELA, and the IEP team determines that retention in third grade is not an appropriate placement;
- English language learner students enrolled in the Transitional Bilingual Instructional Program for two or fewer years; or
- students who have previously been retained in the same grade and received remediation for at least two years.

School districts must exempt students from the promotion standard if the student's parent or guardian does not concur. School districts must adopt policies regarding mid-year promotion of retained students who demonstrate sufficient progress to be likely to receive at least a Basic score on the fourth grade ELA assessment.

Beginning in 2013-14, school districts must provide written notice to parents or guardians of students who did not meet the state standard on the third grade ELA assessment about the promotion policy, and about the options for intensive instructional supports and services. The district must consult with the parent about the forms of support the parent prefers and the forms recommended by the district. If the student is subject to the promotion standard, the district must seek the parent's concurrence to retain the student in third grade.

Before seeking concurrence of a parent to retain a student in third grade under the promotion standard, a school district must have:

- assessed whether a student has a learning disability or is an English language learner whose language proficiency is impeding the student's reading;
- communicated these assessment results to the parent in writing;
- provided appropriate intensive instructional support for the student for at least five months; and
- informed the parents of the possible negative effects of retention and that the student is eligible to receive intensive instructional support as an alternative to retention.

For students with no score results on the third grade ELA assessment, school districts must use results from another diagnostic or standardized assessment. If student performance on these assessments is equivalent to Basic or Below Basic on the MSP, the policies regarding instructional support and promotion apply.

Districts may use funds from any source that are available generally or specifically to support student learning in the ELA to provide the required instructional supports and services.

The OSPI must identify a range of research-based, intensive instructional supports and services designed to enable a student not reading at grade level in second grade to reach proficiency by the end of third grade. The supports and services must address such contributing factors as dyslexia, environmental and social emotional factors, and any other form of disability. A report is due to the Education Committees of the Legislature by December 31, 2013, along with the estimated number of students who could benefit and the estimated costs to provide the supports and services.

### **Substitute Bill Compared to Original Bill:**

Provision of intensive instructional supports and services (rather than remediation) is required for any student who does not meet the state standard on the third grade ELA assessment beginning in 2013-14, rather than 2015-16. A requirement that these students receive 90 minutes of daily ELA instruction, small group instruction, and supplemental tutoring is removed. Instead, the district must at a minimum provide: the opportunity to assign the student to a different classroom or school; an evaluation to determine if an IEP or Section 504 plan should be developed or revised and then implemented; provision of intensive, research-based supplemental instruction; or retention of the student in third grade.

The standard for promoting students to fourth grade takes effect not in 2014-15, but rather in the school year when the first cohort of third grade students has had an opportunity to enroll in statewide, state-funded all-day kindergarten and to enroll in reduced kindergarten through third grade class sizes. In addition to other exemptions, students are exempt from the promotion standard if the parent or guardian does not concur with the retention of the student in third grade.

For students who do not meet the state standard on the third grade ELA assessment, the district must consult with the parent about the forms of support the parent prefers and the forms recommended by the district. If the student is subject to the promotion standard, the district must seek the parent's concurrence to retain the student in third grade. Before seeking

the parent's concurrence, the district must have assessed whether a student has a learning disability or is an English language learner whose language proficiency is impeding the students reading, communicated these results to the parent, provided instructional support for at least five months, and informed the parents of the possible negative effects of retention.

The OSPI must identify a range of research-based instructional supports and services designed to enable a student to reach proficiency in reading by the end of third grade, and submit a report by December 31, 2013.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 23, 2013.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This starts to get at the core of the opportunity gap. Before third grade, students are learning to read. By fourth grade, students are reading to learn. If students are passed along without true intervention, it does them a disservice. One of the reasons for the opportunity gap is that third grade students who are behind in reading rarely catch up. If they are not at grade level by fourth grade, only one in eight will ever catch up. They are four times more likely to drop out of school. Without an accountability checkpoint in third grade, it is much too easy simply to pass students on.

This approach gives kids the gift of time. Something has to be done throughout the whole system as soon as kids demonstrate that they do not get it. Florida passed a similar law in 2000 and their opportunity gap has significantly narrowed. The gap in our state has only grown. In Washington one out of four third grade students is not reading at grade level. Most of them are children of color. This starts the conversation about early intervention. It is agreed that intervening in third grade is too late. More early intervention should be a part of this policy, and there should be assurance that the state provides funding to support the interventions that are needed.

(Opposed) The intent of this bill is what everyone wants: students reading at grade level in third grade. There is anecdotal evidence cited from other states such as Florida and Massachusetts. A bigger context is needed, however. Florida invested heavily in early learning and reading intervention, as did Massachusetts. There is no additional funding proposed in this bill.

There is no doubt about the good intent, but the research does not support retention. There are few areas in education where one can say that the research is clear, but this is one of them. Dropout rates increase for students who are retained. Gains in performance, if any, are short-term. It is expensive. When schools make decisions about retention, a number of

factors are considered, including the child's maturity, behavior, and social-emotional status. Each child is considered individually.

Children should not be penalized for their background. High poverty children come to school with a 3,000 word vocabulary, compared to 15-20,000 words for higher income children. Florida did a follow-up study on their retention policy. After six years, the gains were insignificant, and some students' performance had declined. Retention policies single out children of color. Even if that were not the case, it is too costly to repeat a grade solely on the basis of the ELA proficiency. Put the dollars into early intervention where they will do the most good.

Putting a high stakes test on an 8-year-old is a large over-reach by the state. School districts already identify and support struggling students, but more help is needed. Three years ago one district had to stop summer school due to budget cuts. For the last two years, they have scraped money together, but now more cuts to the Learning Assistance Program are expected.

**Persons Testifying:** (In support) Representative Dahlquist, prime sponsor; and Dave Powell, Stand for Children.

(Opposed) Randy Dorn, Office of the Superintendent of Public Instruction; Dr. Steve Holland, Raymond School District; Edri Geiger, Vancouver Public Schools; and Dave Larson, Tukwila School District.

**Persons Signed In To Testify But Not Testifying:** Ron Sisson, Elementary School Principals Association of Washington; Don Haas, Yelm Education Association and Washington State Association of School Psychologists; Wendy Rader-Konofalski, Washington Education Association; Ramona Hattendorf, Washington State Parent Teacher Association; Ben Rarick, State Board of Education; and Carrie Suchy, Washington State Association of School Psychologists.