

HOUSE BILL NO. 352

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING EARLY LITERACY TARGETED
INTERVENTIONS; PROVIDING LEGISLATIVE FINDINGS, PURPOSE, AND INTENT; PROVIDING
DEFINITIONS; ESTABLISHING PARAMETERS AND FUNDING FOR THREE VOLUNTARY EARLY
LITERACY TARGETED INTERVENTION PROGRAMS; ESTABLISHING DUTIES OF THE BOARD OF
PUBLIC EDUCATION AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION IN ADMINISTERING THE
PROGRAMS; ESTABLISHING REPORTING REQUIREMENTS FOR PARTICIPATING SCHOOL DISTRICTS
AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION; PROVIDING AN APPROPRIATION; AMENDING
SECTIONS 20-5-101, 20-7-117, AND 20-9-311, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Findings -- purpose -- legislative intent. (1) The legislature finds that
the ability to read at or above grade level is essential for educational success. The legislature also finds that too
many Montana children are not reading proficient at the end of 3rd grade.

(2) The purposes of this bill are to:

- (a) provide parents with voluntary early literacy interventions for their children;
- (b) increase the number of children who are reading proficient at the end of 3rd grade and in so
doing help those children develop their full educational potential pursuant to Article X, section 1(1), of the
Montana constitution; and
- (c) foster a strong economic return for the state on early literacy investment through enhancing
Montana's skilled workforce and decreasing future reliance on social programs and the criminal justice system.

(3) The legislature intends that the board of public education, the office of public instruction, and

the boards of trustees of school districts collaborate to implement [sections 1 through 4] and achieve the purposes under subsection (2).

(4) The legislature further intends that the board of public education, the office of public instruction, and the boards of trustees of school districts collaborate on an ongoing basis to gather, analyze, and make available outcome data and continually refine the interventions to increase the efficacy and efficiency of each intervention.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 4], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Early literacy targeted intervention" or "intervention" means, as further described in [section 3], any of the following:

- (a) a classroom-based program;
- (b) a home-based program; or
- (c) a jumpstart program.

(2) "Eligible child" means a child who is determined through the evaluation methodology selected by the board of public education pursuant to [section 3] to be below a trajectory leading to reading proficiency at the end of 3rd grade.

(3) "Evaluation methodology" means a research-based methodology, instrument, or assessment selected by the board of public education to determine, based on a child's age or grade level, whether the child is above, at, or below a developmental trajectory leading to reading proficiency on completion of 3rd grade.

(4) "Trustees" means the board of trustees of an elementary or K-12 school district.

NEW SECTION. Section 3. Early literacy targeted interventions. (1) The trustees of a school district may provide eligible children with any of the interventions described in this section. [Sections 1 through 4] may not be construed to limit the duty or authority of trustees to provide educational opportunities described elsewhere in this title.

(2) The board of public education shall determine an evaluation methodology to determine, based on a child's age or grade level, whether the child is above, at, or below a developmental trajectory leading to

1 reading proficiency on completion of 3rd grade. The evaluation must be:

2 (a) developmentally appropriate;

3 (b) research-based;

4 (c) cost-effective; and

5 (d) if possible, aligned with formative assessments that inform instruction in the classroom-based
6 program and the jumpstart program.

7 (3) The superintendent of public instruction shall provide school districts with access to and
8 technical support for the evaluation methodology, instrument, or assessment determined by the board of public
9 education.

10 (4) A child may not be evaluated for the purposes of [sections 1 through 4] unless requested by
11 the child's parent or guardian. The trustees may administer the evaluation methodology in April, May, or June to
12 a child who will be 4 years of age or older on or before the following September 10 and who has not yet entered
13 3rd grade. A child who is evaluated to be below trajectory for 3rd-grade reading proficiency for the child's age or
14 grade level is an eligible child for the subsequent school year.

15 (5) (a) For an eligible child who is 4 years of age or older on or before September 10 of the year in
16 which the child is to participate in the program and who is not entering and who has not completed
17 kindergarten, the trustees may offer a classroom-based program, which may be a half-time or full-time program.
18 A full-time program must allow a parent or guardian to enroll the child half-time.

19 (b) The classroom-based program must align with developmentally appropriate early education
20 learning standards as determined by the board of public education. The standards must include a requirement
21 for ongoing evaluation of student progress used to tailor instruction to specific student needs.

22 (6) (a) For an eligible child who is 4 years of age or older on or before September 10 of the year in
23 which the child is to participate in the program and who has not yet completed 2nd grade, the trustees may
24 offer a home-based program.

25 (b) The home-based program must be selected by the board of public education and must:

26 (i) be operated by a nonprofit entity;

27 (ii) be research-based and proven effective at developing early literacy skills in populations at risk
28 of not being reading proficient at the end of 3rd grade;

(iii) foster parental engagement; and

(iv) have a cost of no more than \$1,000 a year for each child.

(c) The superintendent of public instruction shall provide school districts with access to and technical support for the home-based early literacy program.

(7) (a) For an eligible child who is 5 years of age or older on or before September 10 of the year in which the child is to participate in the program and who has not yet completed 3rd grade, the trustees may offer a jumpstart program.

(b) The jumpstart program must:

(i) take place during the time between the end of one school calendar year and the start of the next school calendar year, as determined by the trustees, preceding a child's entry into kindergarten, 1st grade, 2nd grade, or 3rd grade;

(ii) be at least 4 weeks in duration and provide at least 120 instructional hours;

(iii) be aligned to a framework determined by the board of public education;

(iv) be designed in a manner to increase the likelihood of a child being evaluated at the end of the ensuing school year to be at or above a trajectory leading to reading proficiency at the end of 3rd grade.

NEW SECTION. Section 4. Early literacy targeted interventions -- funding -- reporting. (1) An eligible child participating in a classroom-based program pursuant to [section 3(5)] must be included in enrollment counts for the purpose of ANB calculations in the manner described in 20-9-311.

(2) The superintendent of public instruction shall pay for the costs for an eligible child participating in a home-based program pursuant to [section 3(6)] from funds appropriated for this purpose. The cost for each child may not exceed \$1,000 a year. If the annual appropriation for this program is not sufficient to fully fund all eligible children participating in the home-based program, the superintendent shall limit participation on a first-come, first-served basis.

(3) An eligible child participating in a jumpstart program pursuant to [section 3(7)] must be counted as quarter-time enrollment for the purpose of ANB calculations pursuant to 20-9-311.

(4) Trustees offering an early literacy targeted intervention shall closely monitor the program and report annually to the superintendent of public instruction on the efficacy of the program no later than July 15.

1 The superintendent shall collaborate with trustees in maximizing the efficiency of fulfilling this reporting
2 requirement. The report must include anonymized information on student progress, including the student's
3 performance on:

- 4 (a) the evaluation methodology that led to eligibility for the program;
- 5 (b) any formative assessments administered;
- 6 (c) if administered, the evaluation methodology at the end of the school year in which ~~the student~~
7 ~~participated in the targeted intervention~~ WAS PROVIDED; and
- 8 (d) any statewide reading assessments administered in grades 4 through 6.

9 (5) Pursuant to 20-7-104, the superintendent of public instruction shall monitor early literacy
10 targeted interventions and gather data to evaluate the efficacy of the interventions while protecting the privacy
11 rights of students and families. The superintendent shall report, in accordance with 5-11-210, to the education
12 interim committee and the education interim budget committee no later than September 1 annually. THE REPORT
13 MUST CONTAIN A COMPARISON ANALYSIS BY INTERVENTION TYPE, INCLUDING NO INTERVENTION, AND. ~~For each~~
14 ~~intervention program, the report must include:~~

- 15 (a) the number of participating AND NONPARTICIPATING children and districts;
- 16 (b) longitudinal data displaying the proficiency level of participating AND NONPARTICIPATING children
17 at each grade level following participation in an intervention;
- 18 (c) AT A TIME when THE DATA IS available, long-term outcome data for participants AND
19 NONPARTICIPANTS, including but not limited to:

- 20 (i) assessment data in 8th grade and high school;
- 21 (ii) high school graduation rates; and
- 22 (iii) postsecondary participation rates; and
- 23 (d) a list of schools offering one or more targeted interventions AND A LIST OF THE MATCHED
24 COMPARABLE NONPARTICIPATING SCHOOLS that on the most recent 4th grade statewide reading assessment:

- 25 (i) had 75% or more of its students score at proficient or above; or
- 26 (ii) improved the percentage of students scoring at proficient or above by 10 or more percentage
27 points.

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Section 5. Section 20-5-101, MCA, is amended to read:

"20-5-101. Admittance of child to school. (1) The trustees shall assign and admit a child to a school in the district when the child is:

(a) 5 years of age or older on or before September 10 of the year in which the child is to enroll but is not yet 19 years of age;

(b) a resident of the district; and

(c) otherwise qualified under the provisions of this title to be admitted to the school.

(2) The trustees of a district may assign and admit any nonresident child to a school in the district under the tuition provisions of this title.

(3) (a) The trustees may at their discretion assign and admit a child to a school in the district who is under 5 years of age or an adult who is 19 years of age or older if there are exceptional circumstances that merit waiving the age provision of this section. The trustees may also admit an individual who has graduated from high school but is not yet 19 years of age even though no special circumstances exist for waiver of the age provision of this section.

(b) As used in this subsection, "exceptional circumstances" means any of the following:

(i) the child is being admitted into a preschool program established by the trustees pursuant to 20-7-117;

(ii) the child is determined by the trustees to be ready for kindergarten and the child's parents have requested early entry into the district's regular 1-year kindergarten program;

(iii) the child is being admitted into an early literacy targeted intervention classroom or jumpstart program pursuant to [sections 1 through 4]; or

(iv) the adult is 19 years of age or older and in the trustees' determination would benefit from educational programs offered by a school of the district.

(c) The admittance of an individual under this subsection (3) does not in and of itself impact the ANB calculations governed by 20-9-311.

(4) The trustees shall assign and admit a child who is homeless, as defined in the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), to a school in the district regardless of residence. The trustees may not require an out-of-district attendance agreement or tuition for a homeless child.

(5) The trustees shall assign and admit a child whose parent or guardian is being relocated to Montana under military orders to a school in the district and allow the child to preliminarily enroll in classes and apply for programs offered by the district prior to arrival and establishing residency.

(6) Except for the provisions of subsection (4), tuition for a nonresident child must be paid in accordance with the tuition provisions of this title.

(7) The trustees' assignment of a child meeting the qualifications of subsection (1) to a school in the district outside of the adopted school boundaries applicable to the child is subject to the district's grievance policy. Upon completion of procedures set forth in the district's grievance policy, the trustees' decision regarding the assignment is final."

Section 6. Section 20-7-117, MCA, is amended to read:

"20-7-117. Kindergarten and preschool programs. (1) The trustees of an elementary district shall establish or make available a kindergarten program capable of accommodating, at a minimum, all the children in the district who will be 5 years old on or before September 10 of the school year for which the program is to be conducted or who have been ~~enrolled by special permission of~~ admitted through the exceptional circumstances provision under 20-5-101 by the board of trustees. The kindergarten program, which the trustees may designate as either a half-time or full-time program, must be an integral part of the elementary school and must be financed and governed accordingly, provided that to be eligible for inclusion in the calculation of ANB pursuant to 20-9-311, a child must have reached 5 years of age on or before September 10 of the school year covered by the calculation or have been ~~enrolled by special permission of~~ admitted to the district's kindergarten program by the board of trustees through the exceptional circumstances provision under 20-5-101. A kindergarten program must meet the minimum aggregate hour requirements established in 20-1-301. A kindergarten program that is designated as a full-time program must allow a parent, guardian, or other person who is responsible for the enrollment of a child in school, as provided in 20-5-102, to enroll the child half-time.

(2) The trustees of an elementary school district may establish and operate a free preschool program for children between the ages of 3 and 5 years. When preschool programs are established, they must be an integral part of the elementary school and must be governed accordingly. Financing of preschool programs may not be supported by money available from state equalization aid.

(3) As used in this title, the following definitions apply:

(a) "Kindergarten program" means a half-time or full-time 1-year program immediately preceding a child's entry into 1st grade with curriculum and instruction selected by the board of trustees and aligned to the content standards established by the board of public education.

(b) "Preschool program" means a half-time or full-time program to prepare children for entry into kindergarten and governed by standards adopted by the board of public education."

Section 7. Section 20-9-311, MCA, is amended to read:

"20-9-311. Calculation of average number belonging (ANB) -- 3-year averaging. (1) Average number belonging (ANB) must be computed for each budget unit as follows:

(a) compute an average enrollment by adding a count of regularly enrolled pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on the first Monday in February of the prior school fiscal year or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) (a) Except as provided in subsection (4)(d), for the purpose of calculating ANB, enrollment in an education program:

(i) from 180 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

(ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time enrollment;

(iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time enrollment; and

(iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

(b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

(c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on the hours necessary and appropriate to provide the course within a regular classroom schedule.

(d) A school district may include in its calculation of ANB a pupil who is enrolled in a program providing fewer than the required aggregate hours of pupil instruction required under subsection (4)(a) or (4)(b) if the pupil has demonstrated proficiency in the content ordinarily covered by the instruction as determined by the school board using district assessments. The ANB of a pupil under this subsection (4)(d) must be converted to an hourly equivalent based on the hours of instruction ordinarily provided for the content over which the student has demonstrated proficiency.

(e) A (i) Except as provided in subsection (4)(e)(ii), a pupil in kindergarten through grade 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

(ii) A pupil who participates in a jumpstart program under [sections 1 through 4] may be counted as up to 1 1/4 enrollment for ANB purposes. A district shall add one-quarter enrollment for a pupil who participated in an early literacy jumpstart program to the pupil's regular enrollment count under this subsection (4) in both the October and February enrollment counts following the student's participation in the jumpstart program.

(5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for districts offering full-time kindergarten.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil

resumes attendance prior to the day of the enrollment count.

(7) (a) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(b) Except as provided in subsection (7)(c), a pupil who has reached 19 years of age by September 10 of the school year may not be included in the ANB calculations.

(c) A pupil with disabilities who is over 19 years of age and has not yet reached 21 years of age by September 10 of the school year and who is receiving special education services from a school district pursuant to 20-7-411(4)(a) may be included in the ANB calculations if:

(i) the student has not graduated;

(ii) the student is eligible for special education services and is likely to be eligible for adult services for individuals with developmental disabilities due to the significance of the student's disability; and

(iii) the student's individualized education program has identified transition goals that focus on preparation for living and working in the community following high school graduation since age 16 or the student's disability has increased in significance after age 16.

(d) A school district providing special education services pursuant to subsection (7)(c) is encouraged to collaborate with agencies and programs that serve adults with developmental disabilities in meeting the goals of a student's transition plan.

(8) The average number belonging of the regularly enrolled pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled pupils attending the schools of the district, except that:

(a) the ANB is calculated as a separate budget unit when:

(i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school

1 calculated separately from the other schools of the district;

2 (iii) the superintendent of public instruction approves an application not to aggregate when
3 conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or
4 when any other condition exists that would result in an unusual hardship to the pupils of the school if they were
5 transported to another school, the number of regularly enrolled pupils of the school must be calculated
6 separately for ANB purposes and the district must receive a basic entitlement for the school calculated
7 separately from the other schools of the district; or

8 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the
9 ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years
10 following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3
11 additional years as follows:

12 (A) 75% of the basic entitlement for the fourth year;

13 (B) 50% of the basic entitlement for the fifth year; and

14 (C) 25% of the basic entitlement for the sixth year.

15 (b) when a junior high school has been approved and accredited as a junior high school, all of the
16 regularly enrolled pupils of the junior high school must be considered as high school district pupils for ANB
17 purposes;

18 (c) when a middle school has been approved and accredited, all pupils below the 7th grade must
19 be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered
20 high school pupils for ANB purposes; or

21 (d) when a school has been designated as nonaccredited by the board of public education
22 because of failure to meet the board of public education's assurance and performance standards, the regularly
23 enrolled pupils attending the nonaccredited school are not eligible for average number belonging calculation
24 purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE
25 funding program for the district.

26 (9) The district shall provide the superintendent of public instruction with semiannual reports of
27 school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the
28 superintendent.

(10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes only if the pupil is offered access to the complete range of educational services for the basic education program required by the accreditation standards adopted by the board of public education.

(b) Access to school programs and services for a student placed by the trustees in a private program for special education may be limited to the programs and services specified in an approved individual education plan supervised by the district.

(c) Access to school programs and services for a student who is incarcerated in a facility, other than a youth detention center, may be limited to the programs and services provided by the district at district expense under an agreement with the incarcerating facility.

(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

(11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this title and who is:

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school of the district;

(b) unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(c) unable to attend school due to the student's incarceration in a facility, other than a youth detention center, and who is receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(d) receiving special education and related services, other than day treatment, under a placement by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

(e) participating in the running start program at district expense under 20-9-706;

(f) receiving educational services, provided by the district, using appropriately licensed district staff

1 at a private residential program or private residential facility licensed by the department of public health and
2 human services;

3 (g) enrolled in an educational program or course provided at district expense using electronic or
4 offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and
5 technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite
6 instructional setting with the approval of the trustees of the district. The pupil shall:

7 (i) meet the residency requirements for that district as provided in 1-1-215;

8 (ii) live in the district and must be eligible for educational services under the Individuals With
9 Disabilities Education Act or under 29 U.S.C. 794; or

10 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

11 (h) a resident of the district attending the Montana youth challenge program or a Montana job
12 corps program under an interlocal agreement with the district under 20-9-707.

13 (12) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth
14 challenge program participant as half-time enrollment.

15 (13) (a) A district may, for ANB purposes, include in the October and February enrollment counts an
16 individual who is otherwise eligible under this title and who during the prior school year:

17 (i) resided in the district;

18 (ii) was not enrolled in the district or was not enrolled full time; and

19 (iii) completed an extracurricular activity with a duration of at least 6 weeks.

20 (b) (i) Except as provided in subsection (13)(b)(ii), each completed extracurricular activity under
21 subsection (13)(a) may be counted as one-sixteenth enrollment for the individual, but under this subsection (13)
22 the individual may not be counted as more than one full-time enrollment for ANB purposes.

23 (ii) Each completed extracurricular activity lasting longer than 18 weeks may be counted as one-
24 eighth enrollment.

25 (c) For the purposes of this section, "extracurricular activity" means:

26 (i) a sport or activity sanctioned by an organization having jurisdiction over interscholastic
27 activities, contests, and tournaments;

28 (ii) an approved career and technical student organization, pursuant to 20-7-306; or

(iii) a school theater production.

(14) (a) For an elementary or high school district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and high school programs pursuant to subsection (14)(a) and then combined.

(15) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (15)(a) by three."

NEW SECTION. Section 8. Appropriation. (1) There is appropriated \$1.5 million from the state general fund to the office of public instruction for the fiscal year beginning July 1, 2024.

(2) The money must be used for the per-student costs of the home-based early literacy program pursuant to [sections 1 through 4].

(3) The legislature intends that the appropriation in this section be considered part of the ongoing base for the next legislative session.

NEW SECTION. Section 9. Transition. (1) The board of public education, the office of public instruction, and the boards of trustees of school districts shall collaborate and prepare for the full implementation of [sections 1 through 4] in the school year beginning July 1, 2024. The legislature intends that the evaluation methodology be available for administration in the spring of 2024 to determine child eligibility.

(2) The legislature intends that school districts operating multiyear kindergarten programs in the school year beginning July 1, 2023, plan for the transition to early literacy targeted intervention programs under [sections 1 through 4] for the school year beginning July 1, 2024.

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