



Montana State Legislature
MONTANA HOUSE OF REPRESENTATIVES
Representative Brad Barker
Chairman, Legislative Consumer Committee
House District 58

February 29, 2024

The Honorable Elsie Arntzen
Montana Superintendent of Public Instruction
Office of Public Instruction (OPI)
1227 11th Avenue, Helena, MT 59601

via electronic delivery

Dear Superintendent Arntzen,

The guidance provided to school districts by OPI for the implementation of the summer jump start program does not align with Legislative intent under HB 352 (2023). The delayed implementation date of July 1st, 2024, served only to provide the Board of Public Education, OPI, and school districts time to smoothly transition from programs previously implemented under "exceptional circumstances" to the targeted interventions required by HB 352. The primary objective of the legislation was to address the alarming lack of grade-level reading proficiency across the State while establishing reporting mechanisms to evaluate the effective use of taxpayer dollars. The legislation is clear that school districts have local control to conduct the jump start program at any point during the summer school break.

Many have highlighted the importance of early literacy with the adage that kids learn to read through 3rd grade, then read to learn. When HB 352 was passed in the 2023 session, school year 2021-2022 data showed that only 46% of Montana's 3rd through 8th graders were reading proficient at grade level. Data from the 2022-2023 school year indicates that there has been a decline, with proficiency dropping to 45%. Requiring school districts to delay implementation to July 1st will reduce the number of kids with reading deficiencies who will attend. Many districts believe that the best opportunity to remain connected with those families before they move on to other summer plans is to offer jump start shortly after the conclusion of the school year. Allowing local control over the timing of the jump start, in accordance with HB 352's language and intent, offers the best opportunity to effectively address early reading literacy immediately.

I urge you to revisit the guidance provided to school districts on the implementation of summer jump start programs. School districts' budget development and approval for FY 2024 are well underway, and student outcomes will be adversely impacted with the current guidance provided by OPI. School districts should receive full, $\frac{1}{4}$ ANB, funding for jump start programs conducted during any portion of the summer break between school years. For your consideration, I have included the legal opinion I requested on this matter. I also understand that this topic will be on the joint agenda of the Interim Education Committee and Education Interim Budget Committee on March 12th.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brad Barker".

Brad Barker

Enclosure 1 – Implementation of HB 352, Montana Legislative Services Division, Legal Services Office

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February 20, 2024

Representative Brad Barker
House District 58

RE: Implementation of House Bill 352

Dear Representative Barker,

You recently shared some questions regarding the implementation of the early literacy targeted intervention programs created in House Bill 352 (2023). In this letter, I will walk through the provisions of the bill and discuss the implementation of the various sections under the multiple effective dates in the bill.

SUBSTANTIVE PROVISIONS OF THE TARGETED INTERVENTION PROGRAMS

Section 1 is a purpose statement, setting out the Legislature's intent that Montana's children be reading proficient by the end of 3rd grade. The Legislature directed the Board of Public Education (BPE), the Office of Public Instruction (OPI), and the trustees of school boards to collaborate on the early learning targeted intervention programs and to gather and analyze outcome data to continually refine the designed interventions to increase efficacy and efficiency.

Section 2 provides definitions for terms used throughout the bill. "Early literacy targeted intervention" includes the 3 different program options that are available for districts, including the classroom-based program, the home-based program, and the jumpstart program. An "eligible child" is a child who is below a trajectory that would lead to reading proficiency at the end of 3rd grade, as determined by the evaluation methodology selected by BPE.

Section 3 describes how the early literacy targeted intervention programs are to be implemented. Subsection (1) authorizes trustees to choose any one or more of the interventions outlined in this section. BPE is tasked in subsection (2) with determining a developmentally appropriate, research-based and cost-effective evaluation methodology that will determine whether a child is above, at, or below a developmental trajectory to be reading proficient at the end of 3rd grade.

Section 3(4) specifies that a child may not be evaluated for an intervention unless the parent or guardian requests it. Additionally, the district trustees are directed to administer the evaluation methodology in April, May, or June for a child who is at least 4 years old on the following September 10 and has not yet entered 3rd grade.

Section 3(5) lays out the structure for the classroom-based program. The classroom-based program is intended to serve eligible children who are 4 years old on September 10 and who are not entering/have not completed kindergarten. The trustees may decide to offer a full-time or half-time program, but if they choose a full-time program, they must allow a child to be enrolled half-time. The program must also be aligned with the developmentally appropriate early education learning standards set by BPE, which must

include a requirement for ongoing evaluation of a child's progress that can be used to tailor instruction to that child's specific needs.

Section 3(6) outlines the requirements for the home-based targeted intervention program. BPE is directed to select a home-based program offered by a nonprofit entity. The program must be research-based and proven effective at developing early literacy skills for children at risk of not being reading proficient at the end of 3rd grade. Children who are at least 4 years old and who have not yet completed 2nd grade are eligible to participate in the home-based program, and the program must also be designed to foster parental engagement. The bill also caps the cost of the home-based program at \$1,000 per year per child.

Section 3(7) provides the third option for the jumpstart program. The jumpstart program is a summertime program for children who are at least 5 years old on September 10 and who are about to enter kindergarten through 3rd grade. The jumpstart program must provide at least 120 hours of instruction over at least 4 weeks between the end of one school calendar year and the start of the next school calendar year. The Program must be aligned to a framework set by BPE and must be designed to increase the likelihood of a participating child who is to be evaluated at the end of the next school year to be at or above a trajectory leading to reading proficiency at the end of 3rd grade.

Comparing and contrasting the 3 available options, the classroom-based and home-based programs are both available for kids as early as the year before they enroll in kindergarten, while the jumpstart program doesn't start until the summer before a kid enrolls in kindergarten. The classroom-based program is intended to serve only those kids who are not yet enrolled in kindergarten. The home-based program can serve kids from their pre-kindergarten year through their 2nd grade year. The jumpstart program can serve kids over the summer time before they start kindergarten, 1st, 2nd, or 3rd grade. Again, establishment of any program is at the election of the school district trustees, and participation by any eligible child is voluntary at the choice of the parent or guardian. BPE has a role in setting standards or program framework for each type of intervention, and the Superintendent of Public Instruction, through OPI, is directed to facilitate access to and provide technical support for districts to implement both the evaluation methodology and the home-based program.

FUNDING THE EARLY LITERACY TARGETED INTERVENTION PROGRAMS

For each of the intervention programs, section 4 of HB 352 provides a separate method of funding. Eligible children participating in the classroom-based program are to be included in the regular enrollment counts used to calculate the Average Number Belonging (ANB) as part of the regular school general fund formula for full- or half-time programs. For the home-based program, the Superintendent required to pay the costs, not to exceed \$1,000 per child per year, to the entity providing the program. If the funding appropriated for the home-based program is insufficient to meet demand, participation is limited to a first-come, first-served basis. Finally, for the jumpstart program, each eligible child is counted as a quarter-time enrollment for ANB purposes.

MISCELLANEOUS PROVISIONS

As part of the transition to the early literacy targeted intervention programs, the Legislature imposed some additional restrictions around admittance of children under the "exceptional circumstances"

provision of §20-5-101 (section 5 of the bill). Prior to the enactment of HB 352, there wasn't a statutory definition of "exceptional circumstances," so districts were admitting children under that provision in myriad different ways. However, HB 352 defined what "exceptional circumstances" means, and going forward, districts will have a consistent understanding of which children are eligible to be admitted to school even though the child is not yet 5 years old on September 10 of that school year.

The legislation also amended §20-7-117 (section 6 of the bill) and included new definitions for "kindergarten program", meaning the 1-year program immediately preceding a child's entry into 1st grade, and "preschool program," meaning a program designed to prepare a child to enter kindergarten. Here again, the Legislature wanted to provide consistent definitions for what constituted a kindergarten program, and how it was different from a preschool program or an early learning targeted intervention program.

Regarding funding, the bill also amended §20-9-311 (section 7 of the bill) to provide clarification on calculating additional ANB for eligible children participating in the jumpstart programs (children participating in the classroom-based program are to be counted as part of the normal ANB calculation under section 4(1)). An eligible child who participates in a qualifying jumpstart program creates an extra .25 enrollment to be added to the regular ANB count based on the enrollment of that child for the school year, adding up to a maximum of 1.25 ANB, to be counted in the October and February enrollment counts following the summer the student participated in the jumpstart program.

Finally, the Legislature appropriated \$1.5 million to OPI for the fiscal year that starts July 1, 2024. That money is specifically meant to fund the home-based intervention program, and the appropriation will be included as part of the ongoing base budget for OPI in the next legislative session.

IMPLEMENTATION OF HB 352 (2023)

Section 11 of House Bill 352 (2023) is an effective date section with two different effective dates. The first effective date was July 1, 2023, which applies to the substantive provisions regarding the creation of early literacy targeted intervention programs; this includes the 3 different program options and the evaluation methodology to be determined by BPE. Those sections have already taken effect, as of July 1, 2023. The second effective date is July 1, 2024, which has not taken effect yet. That effective date applies to sections 5, 6, and 7, which are the sections that address the enrollment of children under exceptional circumstances, the definitions of kindergarten and preschool programs, and the changes to the calculation of ANB. However, while these amendments take effect on July 1, 2024, the bill doesn't change the enrollment count dates on the first Monday of October and first Monday of February.

The transition section was meant to provide an off-ramp for districts currently running general pre-kindergarten programs in the current school year under the previous "exceptional circumstances" provision, so that districts could transition to a targeted intervention meant to serve children at risk of not being reading proficient at the end of 3rd grade. The transition section also provided some breathing room to BPE, OPI, and district trustees by delaying "full implementation" of the targeted interventions until the next school year, beginning July 1, 2024. However, section 9 also made clear that the Legislature intended the evaluation methodology be administered starting Spring 2024.

I believe there is some confusion specifically regarding the implementation and the funding of the jumpstart programs for Summer 2024. Reading the bill as a whole, school districts should be able to start their jumpstart programs immediately following the last day of school in June 2024, which would meet the requirement in section 3(7)(b)(i) that the program take place between the end of one school calendar year and the start of the next school calendar year. As long as the jumpstart program meets the other requirements of section (3)(7)(b)(ii)-(iv), the participating eligible children may be counted in both the October and February enrollment counts as an additional .25 enrollment on top of the 1.0 enrollment for the regular school year. The sections of law authorizing the creation of the jumpstart program are already in effect, and while the language amending 20-9-311 does not take effect until July 1, 2024, that amendment language will be in effect at the time of the enrollment counts in October and February.

Read together, any hours of instruction provided in June 2024 should count toward the 120 hours threshold because section 3 is already in effect, and those participating children should generate an extra .25 ANB because the language directing the inclusion of the jumpstart program ANB on the October and February count dates will have gone into effect by the time the October count date arrives.

I hope this is helpful in addressing any questions regarding implementation of the early literacy targeted intervention programs. If there is any additional information I can provide or if you need any clarification from me, please let me know and I would be happy to help.

Thanks,



Laura M. Sankey Keip
Staff Attorney