

ASSEMBLY BILL NO. 409—COMMITTEE ON EDUCATION

MARCH 24, 2017

Referred to Committee on Education

SUMMARY—Revises provisions relating to the subject area of reading. (BDR 34-988)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to education; removing the requirement that certain pupils enrolled in grade 3 must be retained in grade 3; revising provisions relating to plans to improve the literacy of pupils; revising provisions relating to teachers who teach kindergarten or grades 1 to 5, inclusive; revising provisions relating to reports concerning pupil performance in the subject area of reading; revising provisions relating to notices concerning pupils who exhibit a deficiency in the subject area of reading; requiring certain interventions and services for pupils who exhibit a deficiency in the subject area of reading and the parent or legal guardian of such a pupil; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law, to become effective on July 1, 2019, provides that a pupil
- 2 enrolled in grade 3 must be retained in grade 3 rather than promoted to grade 4 if
- 3 the pupil does not obtain the score prescribed by the State Board of Education on
- 4 the criterion-referenced examination in reading. (NRS 388A.487, 392.760) **Section**
- 5 **13** of this bill removes this requirement. **Sections 1 and 2** of this bill make
- 6 conforming changes.
- 7 Existing law requires the board of trustees of each school district or the
- 8 governing body of a charter school to prepare a plan to improve the literacy of
- 9 pupils enrolled in kindergarten and grades 1, 2 and 3. (NRS 388.157) **Section 3** of
- 10 this bill additionally requires this plan to address pupils enrolled in grades 4 and 5.
- 11 Existing law requires that a plan to improve the literacy of pupils include a
- 12 program to provide intensive instruction to pupils who have been identified as
- 13 deficient in the subject area of reading to ensure that those pupils achieve adequate
- 14 proficiency in that subject area. (NRS 388.157) **Section 3** of this bill provides that



15 in order to achieve adequate proficiency in reading, a pupil must perform at a level
16 considered by the school district or charter school to be within the average range
17 for a pupil enrolled in the same grade level in which the pupil is enrolled.

18 Existing law authorizes a school district or charter school to provide additional
19 compensation to a teacher who teaches kindergarten or grade 1, 2, 3 or 4 whose
20 overall performance is determined to be highly effective. Existing law also requires
21 a teacher who teaches kindergarten or grade 1, 2, 3 or 4 to complete certain
22 professional development in the subject area of reading. (NRS 388.159) **Section 4**
23 of this bill instead provides that only licensed teachers who teach in kindergarten or
24 grade 1, 2, 3, 4 or 5: (1) may receive additional compensation; and (2) are required
25 to complete professional development in the subject area of reading.

26 Existing law, also to become effective on July 1, 2019, requires the board of
27 trustees of each school district and the governing body of a charter school to
28 prepare a report concerning the number and percentage of pupils who are retained
29 in grade 3 for a deficiency in reading. (NRS 388A.487, 392.775) **Sections 5 and 10**
30 of this bill instead require the board of trustees of each school district and the
31 governing body of a charter school to prepare a report containing certain
32 information concerning pupils who received educational programs or services in
33 the subject area of reading. Those sections become effective on July 1, 2017.

34 **Section 6** of this bill requires that the notice provided to the parent or guardian
35 of a pupil who exhibits a deficiency in the subject area of reading explain that the
36 school will: (1) monitor the progress of the pupil towards obtaining proficiency in
37 the subject area of reading; and (2) analyze and regularly adjust the programs and
38 services provided to the pupil.

39 **Section 7** of this bill requires that the plan to assess the proficiency of a pupil
40 who is deficient in the subject area of reading be established by a licensed teacher.
41 **Section 7** also removes the requirement that a school assess the proficiency of a
42 pupil in the subject area of reading at the beginning of the year and instead requires
43 the school frequently to assess the progress of the pupil in any areas of deficiency
44 in the subject area of reading.

45 Existing law requires the principal of a school to offer the parent or legal
46 guardian of a pupil who is retained in grade 3 certain additional instructional
47 options. (NRS 392.770) **Section 9** of this bill removes the reference to retention and
48 instead requires the principal of a school to offer these options to the parent or legal
49 guardian of a pupil who exhibits a deficiency in the subject area of reading.

50 Existing law requires the Department of Education to distribute money that is
51 appropriated to the Other State Education Programs Account through a competitive
52 grants program. (Section 15 of chapter 334, Statutes of Nevada 2015, p. 1867)
53 **Section 11** of this bill revises the program to require schools that receive a grant of
54 money to use the money for literacy programs in kindergarten and grades 1 to 5,
55 inclusive, to support school-based efforts to ensure that all pupils are proficient in
56 reading by the end of the fifth grade.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 385A.240 is hereby amended to read as
2 follows:

3 385A.240 1. The annual report of accountability prepared
4 pursuant to NRS 385A.070 must include information on the
5 attendance, truancy and transiency of pupils, including, without
6 limitation:



1 (a) Records of the attendance and truancy of pupils in all grades,
2 including, without limitation:

3 (1) The average daily attendance of pupils, for each school in
4 the district and the district as a whole, including, without limitation,
5 each charter school sponsored by the district.

6 (2) For each elementary school, middle school and junior
7 high school in the district, including, without limitation, each charter
8 school sponsored by the district that provides instruction to pupils
9 enrolled in a grade level other than high school, information that
10 compares the attendance of the pupils enrolled in the school with the
11 attendance of pupils throughout the district and throughout this
12 State. The information required by this subparagraph must be
13 provided in consultation with the Department to ensure the accuracy
14 of the comparison.

15 (b) The number of pupils in each grade who are retained in the
16 same grade pursuant to NRS 392.033 ~~or~~ *or* 392.125 , ~~for 392.760,~~
17 for each school in the district and the district as a whole, including,
18 without limitation, each charter school sponsored by the district.

19 (c) The transiency rate of pupils for each school in the district
20 and the district as a whole, including, without limitation, each
21 charter school sponsored by the district. For the purposes of this
22 paragraph, a pupil is not transient if the pupil is transferred to a
23 different school within the school district as a result of a change in
24 the zone of attendance by the board of trustees of the school district
25 pursuant to NRS 388.040.

26 (d) The number of habitual truants reported for each school in
27 the district and for the district as a whole, including, without
28 limitation, the number who are:

29 (1) Reported to an attendance officer, a school police officer
30 or a local law enforcement agency pursuant to paragraph (a) of
31 subsection 2 of NRS 392.144;

32 (2) Referred to an advisory board to review school
33 attendance pursuant to paragraph (b) of subsection 2 of NRS
34 392.144; and

35 (3) Referred for the imposition of administrative sanctions
36 pursuant to paragraph (c) of subsection 2 of NRS 392.144.

37 2. On or before September 30 of each year:

38 (a) The board of trustees of each school district shall submit to
39 each advisory board to review school attendance created in the
40 county pursuant to NRS 392.126 the information required by
41 paragraph (a) of subsection 1.

42 (b) The State Public Charter School Authority, the Achievement
43 School District and each college or university within the Nevada
44 System of Higher Education that sponsors a charter school shall
45 submit to each advisory board to review school attendance created



1 in a county pursuant to NRS 392.126 the information regarding the
2 records of the attendance and truancy of pupils enrolled in the
3 charter school located in that county, if any, in accordance with
4 the regulations prescribed by the Department pursuant to subsection
5 3 of NRS 385A.070.

6 **Sec. 2.** NRS 385A.450 is hereby amended to read as follows:

7 385A.450 The annual report of accountability prepared by the
8 State Board pursuant to NRS 385A.400 must include information on
9 the attendance, truancy and transiency of pupils, including, without
10 limitation:

11 1. For all elementary schools, junior high schools and middle
12 schools, the rate of attendance, reported for each school district,
13 including, without limitation, each charter school in the district, and
14 for this State as a whole.

15 2. The number of pupils in each grade who are retained in the
16 same grade pursuant to NRS 392.033 ~~+~~ or 392.125 , ~~for 392.760,~~
17 reported for each school district, including, without limitation, each
18 charter school in the district, and for this State as a whole.

19 3. The transiency rate of pupils, reported for each school
20 district, including, without limitation, each charter school in the
21 district, and for this State as a whole. For the purposes of this
22 subsection, a pupil is not a transient if the pupil is transferred to a
23 different school within the school district as a result of a change in
24 the zone of attendance by the board of trustees of the school district
25 pursuant to NRS 388.040.

26 4. The number of habitual truants reported for each school
27 district, including, without limitation, each charter school in the
28 district, and for this State as a whole, including, without limitation,
29 the number who are:

30 (a) Reported to an attendance officer, a school police officer or a
31 local law enforcement agency pursuant to paragraph (a) of
32 subsection 2 of NRS 392.144;

33 (b) Referred to an advisory board to review school attendance
34 pursuant to paragraph (b) of subsection 2 of NRS 392.144; and

35 (c) Referred for the imposition of administrative sanctions
36 pursuant to paragraph (c) of subsection 2 of NRS 392.144.

37 **Sec. 3.** NRS 388.157 is hereby amended to read as follows:

38 388.157 1. The board of trustees of each school district and
39 the governing body of each charter school shall prepare a plan to
40 improve the literacy of pupils enrolled in kindergarten and grades 1
41 ~~1, 2 and 3,~~ to 5, inclusive. Such a plan must include, without
42 limitation:

43 (a) A program to provide intensive instruction to pupils who
44 have been identified as deficient in the subject area of reading to
45 ensure that those pupils achieve adequate proficiency in ~~that subject~~



1 ~~area;~~ *the requisite reading skills and reading comprehension*
2 *skills necessary to perform at a level considered by the school*
3 *district or charter school to be within the average range for a pupil*
4 *enrolled in the same grade level in which the pupil is enrolled.*

5 Such a program must include, without limitation, regularly
6 scheduled reading sessions in small groups and specific instruction
7 ~~that~~ *designed to target any area in which the pupil demonstrates a*
8 *deficiency, including, without limitation,* phonological and
9 phonemic awareness, decoding skills, ~~and~~ reading fluency ~~and~~,
10 *vocabulary and reading comprehension strategies.*

11 (b) Procedures for assessing a pupil's proficiency in the subject
12 area of reading using valid and reliable *curriculum-based*
13 assessments that have been approved by the State Board by
14 regulation:

15 (1) Within the first 30 days of school after the pupil enters
16 kindergarten or upon enrollment in kindergarten if the pupil enrolls
17 after that period; and

18 (2) During grades 1 ~~1, 2 and 3;~~ *to 5, inclusive;*

19 (c) A program to improve the proficiency in reading of pupils
20 who are limited English proficient; and

21 (d) Procedures for facilitating collaboration between learning
22 strategists and classroom teachers.

23 2. The board of trustees of each school district or the governing
24 body of a charter school, as applicable, shall:

25 (a) Submit its plan to the Department for approval on or before
26 the date prescribed by the Department on a form prescribed by the
27 Department; and

28 (b) Make such revisions to the plan as the Department
29 determines are necessary.

30 **Sec. 4.** NRS 388.159 is hereby amended to read as follows:

31 388.159 1. The principal of a public elementary school,
32 including, without limitation, a charter school, shall designate a
33 licensed teacher employed by the school who has demonstrated
34 leadership abilities to serve as a learning strategist to train and assist
35 teachers at the school to provide intensive instruction to pupils who
36 have been identified as deficient in the subject area of reading.

37 2. A school district or charter school may provide additional
38 compensation to:

39 (a) A licensed teacher designated as a learning strategist
40 pursuant to this section; or

41 (b) A *licensed* teacher who is employed by a school district or
42 charter school to teach kindergarten or grade 1, 2, 3, ~~or~~ 4 *or 5*
43 whose overall performance is determined to be highly effective
44 under the statewide performance evaluation system established by
45 the State Board pursuant to NRS 391.465.



1 3. Each *licensed* teacher employed by a school district or
2 charter school to teach kindergarten or grade 1, 2, 3 , ~~4~~ 4 *or 5*
3 shall complete professional development provided by a learning
4 strategist designated pursuant to subsection 1 in the subject area of
5 reading.

6 4. The State Board shall prescribe by regulation:

7 (a) Any training or professional development that a learning
8 strategist is required to successfully complete;

9 (b) Any professional development that a *licensed* teacher
10 employed by a school district or charter school to teach kindergarten
11 or grade 1, 2, 3 , ~~4~~ 4 *or 5* is required to receive from a learning
12 strategist in the subject area of reading; and

13 (c) The duties and responsibilities of a learning strategist.

14 **Sec. 5.** Chapter 388A of NRS is hereby amended by adding
15 thereto a new section to read as follows:

16 *On or before September 1 of each year, the governing body of a*
17 *charter school that operates as an elementary school shall:*

18 1. *Prepare a report concerning the number and percentage of*
19 *pupils at the charter school who received educational programs*
20 *and services identified pursuant to subsection 1 of NRS 392.750 at*
21 *each grade level and whose proficiency in the subject area of*
22 *reading:*

23 (a) *Did not improve at a rate prescribed by the governing body*
24 *of the charter school, indicating a need for more intensive or*
25 *different interventions;*

26 (b) *Improved at a rate prescribed by the governing body of the*
27 *charter school, indicating the pupils are making progress toward*
28 *performing at a level considered by the charter school to be within*
29 *the average range for pupils enrolled in the same grade level in*
30 *which the pupils are enrolled; and*

31 (c) *Is considered by the charter school to be within the average*
32 *range for pupils enrolled in the same grade level in which the*
33 *pupils are enrolled.*

34 2. *Submit a copy of the report to the Department.*

35 3. *Post the report on the Internet website maintained by the*
36 *charter school and otherwise make the report available to the*
37 *parents and legal guardians of pupils enrolled in the charter*
38 *school and the general public.*

39 **Sec. 6.** NRS 392.750 is hereby amended to read as follows:

40 392.750 If a pupil enrolled at a public elementary school in
41 kindergarten or grade 1, 2 , ~~3~~ 3 , 4 *or 5* exhibits a deficiency in the
42 subject area of reading based upon state or local *curriculum-based*
43 assessments and the observations of the pupil's teacher, the
44 principal of the school must provide written notice of the deficiency to
45 the parent or legal guardian of the pupil within 30 days after the



1 date on which the deficiency is discovered. The written notice must,
2 without limitation:

3 1. Identify the educational programs and services that the pupil
4 will receive to improve the pupil's proficiency in the subject area of
5 reading, including, without limitation, the programs and services
6 included in the plan to improve the literacy of pupils enrolled in
7 kindergarten and grades 1 ~~1, 2 and 3~~ **to 5, inclusive**, that has been
8 approved by the Department pursuant to NRS 388.157;

9 2. *Explain that the school will frequently monitor the*
10 *progress of the pupil toward obtaining proficiency in the subject*
11 *area of reading using curriculum-based assessments and*
12 *periodically update the parent or legal guardian of the pupil*
13 *regarding the progress of the pupil.*

14 3. *Explain that the school will analyze and regularly adjust*
15 *the programs and services identified pursuant to subsection 1*
16 *based upon the data collected relating to the progress of the pupil*
17 *in the subject area of reading until the pupil performs at a level*
18 *considered by the school district or charter school to be within the*
19 *average range for a pupil enrolled in the same grade level in*
20 *which the pupil is enrolled.*

21 4. Describe, explain and, if appropriate, demonstrate the
22 strategies which the parent or legal guardian may use at home to
23 help improve the proficiency of the pupil in the subject area of
24 reading;

25 ~~3~~ 5. Include information regarding the English literacy
26 development of a pupil who is limited English proficient; and

27 ~~4~~ 6. Describe, explain and, if appropriate, demonstrate the
28 strategies which the parent or legal guardian may use at home to
29 help improve the English literacy of a pupil who is limited English
30 proficient.

31 **Sec. 7.** NRS 392.755 is hereby amended to read as follows:

32 392.755 1. A public elementary school that has notified the
33 parent or legal guardian of a pupil that, based upon the results of
34 state or local assessments, it has been determined that the pupil has a
35 deficiency in the subject area of reading pursuant to NRS 392.750
36 shall, within 30 days after providing such notice, establish a plan to
37 monitor the progress of the pupil in the subject area of reading.

38 2. A plan to monitor the progress of a pupil in the subject area
39 of reading must be established by the teacher of the pupil, *if the*
40 *teacher of the pupil is a licensed teacher, or a licensed teacher, if*
41 *the teacher of the pupil is not a licensed teacher*, and any other
42 relevant school personnel and approved by the principal of the
43 school and the parent or legal guardian of the pupil. The plan must
44 include a description of any intervention services that will be
45 provided to the pupil to correct the *area of* deficiency and must



1 include that the pupil will receive intensive instruction in reading ~~to~~
2 ~~ensure~~ until the pupil ~~achieves adequate proficiency in reading.~~
3 *achieves adequate proficiency in the requisite reading skills and*
4 *reading comprehension skills necessary to perform at a level*
5 *considered by the school district or charter school to be within the*
6 *average range for a pupil enrolled in the same grade level in*
7 *which the pupil is enrolled.* Such instruction must include, without
8 limitation, the programs and services included in the plan to
9 improve the literacy of pupils enrolled in kindergarten and grades 1
10 ~~1, 2 and 3~~ *to 5, inclusive*, approved by the Department pursuant to
11 NRS 388.157.

12 3. A school that establishes a plan to monitor the progress of a
13 pupil in the subject area of reading shall *frequently* assess the
14 ~~proficiency~~ *progress* of the pupil ~~in the subject area of reading at~~
15 ~~the beginning of the next school year after the plan is established~~
16 ~~pursuant to this section.~~ *in any area of deficiency in the subject*
17 *area of reading to ensure that the programs and services provided*
18 *to the pupil pursuant to subsection 1 of NRS 392.750 will continue*
19 *to increase the proficiency of the pupil in the subject area of*
20 *reading until the pupil performs at a level considered by the school*
21 *district or charter school to be within the average range for a pupil*
22 *enrolled in the same grade level in which the pupil is enrolled.*

23 **Sec. 8.** Section 8 of chapter 334, Statutes of Nevada 2015, at
24 page 1862, is hereby amended to read as follows:

25 Sec. 8. If a pupil enrolled at a public elementary school
26 in kindergarten or grade 1, 2 or 3 exhibits a deficiency in the
27 subject area of reading based upon state or local assessments
28 and the observations of the pupil's teacher, the principal of
29 the school must provide written notice of the deficiency to the
30 parent or legal guardian of the pupil within 30 days after the
31 date on which the deficiency is discovered. The written notice
32 must, without limitation:

33 1. Identify the educational programs and services that
34 the pupil will receive to improve the pupil's proficiency in
35 the subject area of reading, including, without limitation, the
36 programs and services included in the plan to improve the
37 literacy of pupils enrolled in kindergarten and grades 1, 2 and
38 3 that has been approved by the Department pursuant to
39 section 5 of this act;

40 2. ~~Explain that if the pupil does not achieve adequate~~
41 ~~proficiency in the subject area of reading before the~~
42 ~~completion of grade 3, the pupil will be retained in grade 3~~
43 ~~rather than promoted to grade 4, unless the pupil receives a~~
44 ~~good cause exemption pursuant to section 10 of this act;~~



1 —~~3.~~ Describe, explain and, if appropriate, demonstrate the
2 strategies which the parent or legal guardian may use at home
3 to help improve the proficiency of the pupil in the subject
4 area of reading;

5 ~~4.~~ Explain that the criterion referenced examination in
6 the subject area of reading administered pursuant to NRS
7 389.550 is not the only factor used to determine whether the
8 pupil will be retained in grade 3 and that other options are
9 available for the pupil to demonstrate proficiency if the pupil
10 is eligible for a good cause exemption pursuant to section 10
11 of this act;

12 —~~5.~~ Describe the policy and specific criteria adopted by
13 the board of trustees of the school district or governing body
14 of a charter school, as applicable, pursuant to section 11 of
15 this act regarding the promotion of a pupil to grade 4 at any
16 time during the school year if the pupil is retained in grade 3
17 pursuant to section 10 of this act;

18 —~~6.~~ 3. Include information regarding the English literacy
19 development of a pupil who is limited English proficient; and

20 ~~7.~~ 4. Describe, explain and, if appropriate,
21 demonstrate the strategies which the parent or legal guardian
22 may use at home to help improve the English literacy of a
23 pupil who is limited English proficient.

24 **Sec. 9.** Section 12 of chapter 334, Statutes of Nevada 2015, at
25 page 1866, is hereby amended to read as follows:

26 Sec. 12. In addition to the intensive instructional
27 services provided to a pupil who ~~is retained in grade 3~~
28 ~~pursuant to section 10 of this act,~~ *exhibits a deficiency in the*
29 *subject area of reading that is identified in subsection 1 of*
30 *NRS 392.750*, the principal of the school must offer the
31 parent or legal guardian of the pupil at least one of the
32 following instructional options:

33 1. Supplemental tutoring which is based upon
34 scientifically based research concerning reading instruction;

35 2. Providing the parent or legal guardian with a plan for
36 reading with the pupil at home and participating in any
37 workshops that may be available in the school district to
38 assist the parent or guardian with reading with his or her child
39 at home, as set forth in an agreement with the parent or legal
40 guardian; or

41 3. Providing the pupil with a mentor or tutor who has
42 received specialized training in teaching pupils how to read.



1 **Sec. 10.** Section 13 of chapter 334, Statutes of Nevada 2015,
2 at page 1866, is hereby amended to read as follows:

3 Sec. 13. On or before September 1 of each year, the
4 board of trustees of each school district shall:

5 1. Prepare a report concerning the number and
6 percentage of pupils at each public *elementary* school within
7 the school district who ~~were:~~

8 ~~—(a) Retained in grade 3 pursuant to section 10 of this act~~
9 ~~for a deficiency in the subject area of reading, including~~
10 ~~whether or not any such pupils were previously retained in~~
11 ~~kindergarten or grade 1 or 2; and~~

12 ~~—(b) Not retained in grade 3 because a good cause~~
13 ~~exemption was approved pursuant to section 10 of this act but~~
14 ~~who were previously retained in kindergarten or grade 1 or 2~~
15 ~~for a total of 2 years.]~~ *received educational programs or*
16 *services identified pursuant to subsection 1 of NRS 392.750*
17 *at each grade level and whose proficiency in the subject*
18 *area of reading:*

19 *(a) Did not improve at a rate prescribed by the board of*
20 *trustees of the school district, indicating a need for more*
21 *intensive or different interventions;*

22 *(b) Improved at a rate prescribed by the board of*
23 *trustees of the school district, indicating the pupils are*
24 *making progress toward performing at a level considered by*
25 *the school district to be within the average range for pupils*
26 *enrolled in the same grade level in which the pupils are*
27 *enrolled; and*

28 *(c) Is considered by the school district to be within the*
29 *average range for pupils enrolled in the same grade level in*
30 *which the pupils are enrolled.*

31 2. Submit a copy of the report to the Department.

32 3. Post the report on the Internet website maintained by
33 the school district and otherwise make the report available to
34 the parents and legal guardians of pupils enrolled in the
35 school district and the general public.

36 **Sec. 11.** Section 15 of chapter 334, Statutes of Nevada 2015,
37 at page 1867, is hereby amended to read as follows:

38 Sec. 15. 1. The Department of Education shall
39 distribute the money that is appropriated to the Other State
40 Education Programs Account in the State General Fund to
41 carry out the purposes of sections 1 to 14, inclusive, of this
42 act through a competitive grants program. Grants must be
43 awarded by the Department based on the demonstrated needs
44 of the school districts and charter schools and will be awarded
45 to school districts and to charter schools that have been



1 approved by the State Public Charter School Authority.
2 Grants must be used for literacy programs for pupils enrolled
3 in kindergarten and grades 1 ~~1, 2 and 3~~ to 5, inclusive,
4 established pursuant to *NRS 388.157, as amended by* section
5 ~~15~~ 3 of this act, and to support other school-based efforts to
6 ensure that all pupils are ~~proficient in the subject area of~~
7 ~~reading by the end of the third grade.~~ *performing at a level*
8 *considered by the school district or charter school to be*
9 *within the average range for pupils enrolled in each grade*
10 *level.* Such school-based efforts may include, without
11 limitation:

- 12 (a) Hiring or training learning strategists;
- 13 (b) Entering into contracts with vendors for the purchase
14 of reading assessments, textbooks, computer software or
15 other materials;
- 16 (c) Providing professional development for school
17 personnel;
- 18 (d) Providing programs to pupils before and after school
19 and during intercessions or summer school; and
- 20 (e) Providing other evidence-based literacy initiatives for
21 pupils enrolled in kindergarten and grades 1 ~~1, 2 and 3~~ to 5,
22 *inclusive.*

23 2. The board of trustees of a school district or the
24 governing body of a charter school that receives a grant of
25 money pursuant to subsection 1 shall:

- 26 (a) Set measurable performance objectives based on
27 aggregated pupil achievement data; and
- 28 (b) Prepare and submit to the Department of Education,
29 on or before July 1, ~~2016,~~ 2018, a report that includes,
30 without limitation:
 - 31 (1) A description of the programs or services for
32 which the money was used by each school; and
 - 33 (2) The number of pupils who participated in a
34 program or received services.

35 3. The Department of Education shall, to the extent that
36 money is available for that purpose, hire an independent
37 consultant to evaluate the programs or services paid for by a
38 grant of money received by a school district or charter school
39 pursuant to subsection 1.

40 4. The Department of Education shall prepare a report
41 that includes, without limitation:

- 42 (a) Identification of the schools that received an allocation
43 of money by the school district or grant of money from the
44 Department, as applicable;
- 45 (b) The amount of money received by each school;



1 (c) A description of the programs or services for which
2 the money was used by each school;

3 (d) The number of pupils who participated in a program
4 or received services;

5 (e) The average expenditure per pupil for each program or
6 service;

7 (f) An evaluation of the effectiveness of the program or
8 service, including, without limitation, data regarding the
9 academic and linguistic achievement and proficiency of
10 pupils who participated in such a program or received such
11 services; and

12 (g) Any recommendations for legislation, including,
13 without limitation, legislation to continue or expand programs
14 or services that are identified as effective in improving the
15 reading proficiency of pupils in kindergarten through grade
16 ~~13~~ 5.

17 5. On or before August 31, ~~2016,~~ 2018, the
18 Department of Education shall submit a preliminary report
19 prepared pursuant to subsection 4 to the State Board of
20 Education and the Legislative Committee on Education. On
21 or before November 15, ~~2016,~~ 2018, the Department shall
22 submit the final report prepared pursuant to subsection 4 and
23 any recommendations made by the State Board or the
24 Legislative Committee on Education to the Governor and to
25 the Director of the Legislative Counsel Bureau for transmittal
26 to the ~~79th~~ 80th Session of the Nevada Legislature.

27 6. Any money awarded to a school district or charter
28 school from the money appropriated to the Other State
29 Education Programs Account in the State General Fund
30 pursuant to subsection 1:

31 (a) Must be accounted for separately from any other
32 money received by the school districts or charter school, as
33 applicable, and used only for the purposes specified in this
34 section.

35 (b) May not be used to settle or arbitrate disputes between
36 a recognized organization representing employees of a school
37 district and the school district, or to settle any negotiations.

38 (c) May not be used to adjust the district-wide schedules
39 of salaries and benefits of the employees of a school district.

40 **Sec. 12.** Section 16 of chapter 334, Statutes of Nevada 2015,
41 at page 1868, is hereby amended to read as follows:

42 Sec. 16. This act becomes effective upon passage and
43 approval for the purpose of adopting any regulations and
44 performing any other preparatory administrative tasks



1 necessary to carry out the provisions of this act and for all
2 other purposes:

3 1. This section ~~††~~ *and* sections 4 to 9, inclusive, and 15
4 of this act become effective on July 1, 2015.

5 2. Sections 1, 2, ~~†3 and 10 to 14, inclusive,†~~ *12 and 13* of
6 this act become effective on July 1, ~~†2019.†~~ *2017.*

7 **Sec. 13.** Sections 3, 10, 11 and 14 of chapter 334, Statutes of
8 Nevada 2015, at pages 1860, 1863, 1864 and 1866 are hereby
9 repealed.

10 **Sec. 14.** 1. This section and section 8 of this act become
11 effective upon passage and approval.

12 2. Sections 1 to 7, inclusive, and 9 to 13, inclusive, of this act
13 become effective:

14 (a) Upon passage and approval for the purpose of adopting any
15 regulations and performing any other preparatory administrative
16 tasks necessary to carry out the provisions of this act; and

17 (b) On July 1, 2017, for all other purposes.

TEXT OF REPEALED SECTIONS

Section 3 of chapter 334, Statutes of Nevada 2015:

Sec. 3. NRS 386.583 is hereby amended to read as follows:

386.583 *1.* The governing body of a charter school shall adopt rules for the academic retention of pupils who are enrolled in the charter school ~~†† that are consistent with sections 8, 10 and 11 of this act.††~~ The rules must ~~†prescribe†~~:

(a) Prescribe the conditions under which a pupil may be retained in the same grade rather than promoted to the next higher grade for the immediately succeeding school year.

(b) Require a pupil enrolled in grade 3 to be retained in the same grade rather than promoted to grade 4 when required pursuant to section 10 of this act.

2. On or before September 1 of each year, the governing body of each charter school shall:

(a) Prepare a report concerning the number and percentage of pupils at the charter school who were:

(1) Retained in grade 3 pursuant to section 10 of this act for a deficiency in the subject area of reading, including whether or not any such pupils were previously retained in kindergarten or grade 1 or 2; and



(2) Not retained in grade 3 because a good cause exemption was approved pursuant to section 10 of this act but who were previously retained in kindergarten or grade 1 or 2 for a total of 2 years;

(b) Submit a copy of the report to the Department; and

(c) Post the report on the Internet website maintained by the charter school and otherwise make the report available to the parents and legal guardians of pupils enrolled in the charter school and the general public.

Section 10 of chapter 334, Statutes of Nevada 2015:

Sec. 10. 1. Except as otherwise provided in this section, a pupil enrolled in grade 3 must be retained in grade 3 rather than promoted to grade 4 if the pupil does not obtain a score in the subject area of reading on the criterion-referenced examination administered pursuant to NRS 389.550 that meets the passing score prescribed by the State Board pursuant to subsection 7.

2. The superintendent of schools of a school district or the governing body of a charter school, as applicable, may authorize the promotion of a pupil to grade 4 who would otherwise be retained in grade 3 only if the superintendent or governing body, as applicable, approves a good-cause exemption for the pupil upon a determination by the principal of the school pursuant to subsection 4 that the pupil is eligible for such an exemption.

3. A good-cause exemption must be approved for a pupil who previously was retained in grade 3. Any other pupil is eligible for a good-cause exemption if the pupil:

(a) Demonstrates an acceptable level of proficiency in reading on an alternative standardized reading assessment approved by the State Board;

(b) Demonstrates, through a portfolio of the pupil's work, proficiency in reading at grade level, as evidenced by demonstration of mastery of the academic standards in reading beyond the retention level;

(c) Is limited English proficient and has received less than 2 years of instruction in a program of instruction that teaches English as a second language;

(d) Received intensive remediation in the subject area of reading for 2 or more years but still demonstrates a deficiency in reading and was previously retained in kindergarten or grade 1 or 2 for a total of 2 years;

(e) Is a pupil with a disability and his or her individualized education program indicates that the pupil's



participation in the criterion-referenced examinations administered pursuant to NRS 389.550 is not appropriate; or

(f) Is a pupil with a disability and:

(1) He or she participates in the criterion-referenced examinations administered pursuant to NRS 389.550;

(2) His or her individualized education program or plan developed in accordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, documents that the pupil has received intensive remediation in reading for more than 2 years, but he or she still demonstrates a deficiency in reading; and

(3) He or she was previously retained in kindergarten or grade 1, 2 or 3.

4. The principal of a school in which a pupil who may be retained in grade 3 pursuant to subsection 1 is enrolled shall consider the factors set forth in subsection 3 and determine whether the pupil is eligible for a good-cause exemption. In making the determination, the principal must consider documentation provided by the pupil's teacher indicating whether the promotion of the pupil is appropriate based upon the record of the pupil. Such documentation must only consist of the existing plan for monitoring the progress of the pupil, the pupil's individualized education program, if applicable, and the pupil's plan in accordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, if applicable. If the principal determines that promotion of the pupil to grade 4 is appropriate, the principal must submit a written recommendation to the superintendent of schools of the school district or to the governing body of the charter school, as applicable. The superintendent of schools or the governing body of the charter school, as applicable, shall approve or deny the recommendation of the principal and provide written notice of the approval or denial to the principal.

5. A principal who determines that a pupil is eligible for a good-cause exemption shall notify the parent or legal guardian of the pupil whether the superintendent of schools of the school district or the governing body of the charter school, as applicable, approves the good-cause exemption.

6. The principal of a school in which a pupil for whom a good-cause exemption is approved and who is promoted to grade 4 must ensure that the pupil continues to receive intensive instruction in the subject area of reading. Such instruction must include, without limitation, strategies based



upon scientifically based research that will improve proficiency in the subject area of reading.

7. The State Board shall prescribe by regulation:

(a) The score which a pupil enrolled in grade 3 must obtain in the subject area of reading on the criterion-referenced examination administered pursuant to NRS 389.550 to be promoted to grade 4 without a good-cause exemption; and

(b) An alternate examination for administration to pupils enrolled in grade 3 who do not obtain the passing score in the subject area of reading on the criterion-referenced examination administered pursuant to NRS 389.550 and the passing score such a pupil must obtain on the alternate examination to be promoted to grade 4 without a good-cause exemption.

8. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

Section 11 of chapter 334, Statutes of Nevada 2015:

Sec. 11. 1. If a pupil will be retained in grade 3 pursuant to section 10 of this act, the principal of the school must:

(a) Provide written notice to the parent or legal guardian of the pupil that the pupil will be retained in grade 3. The written notice must include, without limitation, a description of the intensive instructional services in the subject area of reading that the pupil will receive to improve the proficiency of the pupil in that subject area.

(b) Develop a plan to monitor the progress of the pupil in the subject area of reading.

(c) Require the teacher of the pupil to develop a portfolio of the pupil's work in the subject area of reading, which must be updated as necessary to reflect progress made by the pupil.

(d) Ensure that the pupil receives intensive instructional services in the subject area of reading that are designed to improve the pupil's proficiency in the subject area of reading, including, without limitation:

(1) Programs and services included in the plan to improve the literacy of pupils enrolled in kindergarten and grades 1, 2 and 3 approved by the Department pursuant to section 5 of this act;



(2) *Instruction for at least 90 minutes each school day based upon scientifically based reading instruction research; and*

(3) *Intensive instructional services prescribed by the board of trustees of the school district pursuant to subsection 2, as determined appropriate for the pupil.*

2. *The board of trustees of each school district or the governing body of a charter school, as applicable, shall:*

(a) *Review and evaluate the plans for monitoring the progress of pupils developed pursuant to subsection 1.*

(b) *Prescribe the intensive instructional services in the subject area of reading which the principal of a school must implement as determined appropriate for a pupil who is retained in grade 3 pursuant to section 10 of this act, which may include, without limitation:*

(1) *Instruction that is provided in small groups;*

(2) *Instruction provided in classes with reduced pupil-teacher ratios;*

(3) *A timeline for frequently monitoring the progress of the pupil;*

(4) *Tutoring and mentoring;*

(5) *Classes which are designed to increase the ability of pupils to transition from grade 3 to grade 4;*

(6) *Instruction provided through an extended school day, school week or school year;*

(7) *Programs to improve a pupil's proficiency in reading which are offered during the summer; or*

(8) *Any combination of the services set forth in subparagraphs (1) to (7), inclusive.*

3. *Except as otherwise provided in subsection 4, the intensive instructional services in the subject area of reading required by this section must be provided to the pupil by a teacher:*

(a) *Who is different than the teacher who provided instructional services to the pupil during the immediately preceding school year; and*

(b) *Who has been determined to be highly effective, as demonstrated by pupil performance data and performance evaluations.*

4. *The intensive instructional services in the subject area of reading required by this section may be provided to the pupil by the same teacher who provided instructional services to the pupil during the immediately preceding school year if a different teacher who meets the*



requirements of paragraph (b) of subsection 3 is not reasonably available and the pupil:

(a) Has an individualized education program; or

(b) Is enrolled in a school district in a county whose population is less than 100,000.

5. The board of trustees of each school district and the governing body of a charter school, as applicable, shall develop a policy by which the principal of a school may promote a pupil who is retained in grade 3 pursuant to section 10 of this act to grade 4 at any time during the school year if the pupil demonstrates adequate proficiency in the subject area of reading. The policy must include the specific criteria a pupil must satisfy to be eligible for promotion, including, without limitation, a reasonable expectation that the pupil's progress will allow him or her to sufficiently master the requirements for a fourth-grade reading level. If a pupil is promoted after November 1 of a school year, he or she must demonstrate proficiency in reading at a level prescribed by the State Board.

6. If a principal of a school determines that a pupil is not academically ready for promotion to grade 4 after being retained in grade 3 and the pupil received intensive instructional services pursuant to this section, the school district in which the pupil is enrolled must allow the parent or legal guardian of the pupil to decide, in consultation with the principal of the school, whether to place the pupil in a transitional instructional setting which is designed to produce learning gains sufficient for the pupil to meet the performance standards required for grade 4 while continuing to receive remediation in the subject area of reading.

7. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

Section 14 of chapter 334, Statutes of Nevada 2015:

Sec. 14. NRS 392.125 is hereby amended to read as follows:

392.125 1. Except as otherwise provided in subsection 4, before any pupil enrolled in a public school may be retained in the same grade rather than promoted to the next higher grade for the succeeding school year, the pupil's teacher and principal must make a reasonable effort to arrange a meeting and to meet with the pupil's parents or guardian to discuss the reasons and circumstances.



2. ~~{The}~~ *Except as otherwise provided in section 10 of this act, the* teacher and the principal in joint agreement have the final authority to retain a pupil in the same grade for the succeeding school year.

3. Except as otherwise provided in subsection 2 of NRS 392.033 for the promotion of a pupil to high school, no pupil may be retained more than one time in the same grade.

4. ~~{This}~~ *Except as otherwise provided in NRS 386.583, this* section does not apply to the academic retention of pupils who are enrolled in a charter school.



