

Senator Howard A. Stephenson proposes the following substitute bill:

EARLY LITERACY PROGRAM

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ann Millner

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to programs for early literacy.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ renames the K-3 Reading Improvement Program the Early Literacy Program;
- ▶ amends requirements for a school district or charter school plan related to early literacy;
- ▶ amends provisions related to the consequences of a school district or charter school failing to meet a goal described in the school district or charter school's plan related to early literacy;
- ▶ requires the State Board of Education to provide support for a school district or charter school that fails to meet a goal in the school district or charter school's plan related to early literacy;
- ▶ requires the State Board of Education to use a digital reporting platform;
- ▶ provides that the State Board of Education may use funding provided for the Early Literacy Program for administration, up to a limit;
- ▶ amends other provisions related to the Early Literacy Program;



- 26 ▶ amends provisions related to software for early literacy including:
- 27 • amending provisions related to usage requirements for early literacy interactive
- 28 software; and
- 29 • amending provisions related to a school that does not meet usage requirements
- 30 for early literacy interactive software;
- 31 ▶ authorizes the State Board of Education to acquire certain analytic software related
- 32 to the early literacy interactive software program; and
- 33 ▶ makes technical and conforming changes.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **53F-2-312**, as renumbered and amended by Laws of Utah 2018, Chapter 2

41 **53F-2-503**, as renumbered and amended by Laws of Utah 2018, Chapter 2

42 **53F-2-704**, as enacted by Laws of Utah 2018, Chapter 2

43 **53F-4-203**, as enacted by Laws of Utah 2018, Chapter 2

44 **53F-8-406**, as renumbered and amended by Laws of Utah 2018, Chapter 2



46 *Be it enacted by the Legislature of the state of Utah:*

47 Section 1. Section **53F-2-312** is amended to read:

48 **53F-2-312. Appropriation for class size reduction.**

49 (1) Money appropriated to the State Board of Education for class size reduction shall
50 be used to reduce the average class size in kindergarten through the eighth grade in the state's
51 public schools.

52 (2) Each school district or charter school shall receive an allocation based upon the
53 school district or charter school's prior year average daily membership in kindergarten through
54 grade 8 plus growth as determined under Subsection **53F-2-302**(3) as compared to the total
55 prior year average daily membership in kindergarten through grade 8 plus growth of school
56 districts and charter schools that qualify for an allocation pursuant to Subsection (8).

57 (3) (a) A local education board may use an allocation to reduce class size in any one or
58 all of the grades referred to under this section, except as otherwise provided in Subsection
59 (3)(b).

60 (b) (i) Each local education board shall use 50% of an allocation to reduce class size in
61 any one or all of grades kindergarten through grade 2, with an emphasis on improving student
62 reading skills.

63 (ii) If a school district's or charter school's average class size is below 18 in grades
64 kindergarten through grade 2, a local education board may petition the State Board of
65 Education for, and the State Board of Education may grant, a waiver to use an allocation under
66 Subsection (3)(b)(i) for class size reduction in the other grades.

67 (4) Schools may use nontraditional innovative and creative methods to reduce class
68 sizes with this appropriation and may use part of an allocation to focus on class size reduction
69 for specific groups, such as at risk students, or for specific blocks of time during the school
70 day.

71 (5) (a) A local education board may use up to 20% of an allocation under Subsection
72 (1) for capital facilities projects if such projects would help to reduce class size.

73 (b) If a school district's or charter school's student population increases by 5% or 700
74 students from the previous school year, the local education board may use up to 50% of any
75 allocation received by the respective school district or charter school under this section for
76 classroom construction.

77 (6) This appropriation is to supplement any other appropriation made for class size
78 reduction.

79 (7) The Legislature shall provide for an annual adjustment in the appropriation
80 authorized under this section in proportion to the increase in the number of students in the state
81 in kindergarten through grade eight.

82 (8) (a) For a school district or charter school to qualify for class size reduction money,
83 a local education board shall submit:

84 (i) a plan for the use of the allocation of class size reduction money to the State Board
85 of Education; and

86 (ii) beginning with the 2014-15 school year, a report on the local education board's use
87 of class size reduction money in the prior school year.

88 (b) The plan and report required pursuant to Subsection (8)(a) shall include the
89 following information:

90 (i) (A) the number of teachers employed using class size reduction money;
91 (B) the amount of class size reduction money expended for teachers; and
92 (C) if supplemental school district or charter school funds are expended to pay for
93 teachers employed using class size reduction money, the amount of the supplemental money;

94 (ii) (A) the number of paraprofessionals employed using class size reduction money;
95 (B) the amount of class size reduction money expended for paraprofessionals; and
96 (C) if supplemental school district or charter school funds are expended to pay for
97 paraprofessionals employed using class size reduction money, the amount of the supplemental
98 money; and

99 (iii) the amount of class size reduction money expended for capital facilities.

100 (c) In addition to submitting a plan and report on the use of class size reduction money,
101 a local education board shall annually submit a report to the State Board of Education that
102 includes the following information:

103 (i) the number of teachers employed using [~~K-3 Reading Improvement~~] Early Literacy
104 Program money received pursuant to Sections [53F-2-503](#) and [53F-8-406](#);

105 (ii) the amount of [~~K-3 Reading Improvement~~] Early Literacy Program money
106 expended for teachers;

107 (iii) the number of teachers employed in kindergarten through grade 8 using Title I
108 money;

109 (iv) the amount of Title I money expended for teachers in kindergarten through grade
110 8; and

111 (v) a comparison of actual average class size by grade in grades kindergarten through 8
112 in the school district or charter school with what the average class size would be without the
113 expenditure of class size reduction, [~~K-3 Reading Improvement Program~~] the Early Literacy
114 Program described in Section [53F-2-503](#), and Title I money.

115 (d) The information required to be reported in Subsections (8)(b)(i)(A) through (C),
116 (8)(b)(ii)(A) through (C), and (8)(c) shall be categorized by a teacher's or paraprofessional's
117 teaching assignment, such as the grade level, course, or subject taught.

118 (e) The State Board of Education may make rules specifying procedures and standards

119 for the submission of:

120 (i) a plan and a report on the use of class size reduction money as required by this
121 section; and

122 (ii) a report required under Subsection (8)(c).

123 (f) Based on the data contained in the class size reduction plans and reports submitted
124 by local education boards, and data on average class size, the State Board of Education shall
125 annually report to the Public Education Appropriations Subcommittee on the impact of class
126 size reduction, [~~K-3 Reading Improvement Program~~] the Early Literacy Program described in
127 Section 53F-2-503, and Title I money on class size.

128 Section 2. Section 53F-2-503 is amended to read:

129 **53F-2-503. Early Literacy Program -- Literacy proficiency plan.**

130 (1) As used in this section:

131 (a) "Board" means the State Board of Education.

132 [~~(b) "Five domains of reading" include phonological awareness, phonics, fluency,~~
133 ~~comprehension, and vocabulary.~~]

134 [~~(c)~~] (b) "Program" means the [~~K-3 Reading Improvement~~] Early Literacy Program.

135 [~~(d)~~] (c) "Program money" means:

136 (i) school district revenue allocated to the program from other money available to the
137 school district, except money provided by the state, for the purpose of receiving state funds
138 under this section; and

139 (ii) money appropriated by the Legislature to the program.

140 (2) The [~~K-3 Reading Improvement~~] Early Literacy Program consists of program
141 money and is created to supplement other school resources [~~to achieve the state's goal of~~
142 ~~having third graders reading at or above grade level~~] for early literacy.

143 (3) Subject to future budget constraints, the Legislature may annually appropriate
144 money to the [~~K-3 Reading Improvement~~] Early Literacy Program.

145 (4) (a) [~~For a school district or charter school to receive program money, a~~] A local
146 education board of a school district or a charter school that serves students in any of grades
147 kindergarten through grade 3 shall submit a plan to the board for [~~reading~~] literacy proficiency
148 improvement that incorporates the following components:

149 [~~(i) assessment;~~]

- 150 (i) core instruction in:
151 (A) phonological awareness;
152 (B) phonics;
153 (C) fluency;
154 (D) comprehension;
155 (E) vocabulary;
156 (F) oral language; and
157 (G) writing;
158 (ii) intervention strategies that are aligned to student needs;
159 (iii) professional development for classroom teachers, literacy coaches, and
160 interventionists in kindergarten through grade [three] 3;
161 ~~[(iv) reading performance standards; and]~~
162 ~~[(v) specific measurable goals that include the following:]~~
163 (iv) the use of interactive literacy software, such as the early literacy interactive
164 software described in Section [53F-4-203](#);
165 (v) assessments that support adjustments to core and intervention instruction;
166 ~~[(A)]~~ (vi) a growth goal for [each school within a] the school district [and each] or
167 charter school that:
168 (A) is based upon student learning gains as measured by benchmark assessments
169 administered pursuant to Section [53E-4-307](#); and
170 ~~[(B) a growth goal for each school district and charter school to increase the percentage~~
171 ~~of third grade students who read on grade level from year to year as measured by the third~~
172 ~~grade reading test administered pursuant to Section [53E-4-302](#).]~~
173 (B) includes a target of at least 60% of all students in grades 1 through 3 meeting the
174 growth goal; and
175 (vii) at least two goals that are specific to the school district or charter school that:
176 (A) are measurable;
177 (B) address current performance gaps in student literacy based on data; and
178 (C) include specific strategies for improving outcomes.
179 (b) A local education board shall approve a plan described in Subsection (4)(a) in a
180 public meeting before submitting the plan to the board.

181 ~~[(b)]~~ (c) The board shall provide model plans that a local education board may use, or
 182 ~~[the]~~ a local education board may develop the local education board's own plan.

183 ~~[(c)]~~ (d) ~~[Plans]~~ A plan developed by a local education board shall be approved by the
 184 board.

185 ~~[(d)]~~ (e) The board shall develop uniform standards for acceptable growth goals that a
 186 local education board adopts for a school district or charter school as described in this
 187 Subsection (4).

188 (5) (a) There ~~[is]~~ are created within the ~~[K-3 Reading Achievement]~~ Early Literacy
 189 Program three funding programs:

- 190 (i) the Base Level Program;
- 191 (ii) the Guarantee Program; and
- 192 (iii) the Low Income Students Program.

193 (b) The board may use ~~[no more than]~~ up to \$7,500,000 from an appropriation
 194 described in Subsection (3) for computer-assisted instructional learning and assessment
 195 programs.

196 (6) Money appropriated to the board for the ~~[K-3 Reading Improvement]~~ Early Literacy
 197 Program and not used by the board for computer-assisted instructional learning and
 198 assessments ~~[as]~~ described in Subsection (5)(b)~~];~~ shall be allocated to the three funding
 199 programs as follows:

- 200 (a) 8% to the Base Level Program;
- 201 (b) 46% to the Guarantee Program; and
- 202 (c) 46% to the Low Income Students Program.

203 (7) (a) For a school district or charter school to participate in the Base Level Program,
 204 the local education board shall submit a ~~[reading proficiency improvement plan to the board as~~
 205 ~~provided in]~~ plan described in Subsection (4) and ~~[must]~~ shall receive approval of the plan
 206 from the board.

207 (b) (i) The local school board of a school district qualifying for Base Level Program
 208 funds and the governing boards of qualifying elementary charter schools combined shall
 209 receive a base amount.

210 (ii) The base amount for the qualifying elementary charter schools combined shall be
 211 allocated among each charter school in an amount proportionate to:

212 (A) each existing charter school's prior year fall enrollment in grades kindergarten
213 through grade [~~three~~] 3; and

214 (B) each new charter school's estimated fall enrollment in grades kindergarten through
215 grade [~~three~~] 3.

216 (8) (a) A local school board that applies for program money in excess of the Base Level
217 Program funds [~~shall~~] may choose to first participate in [~~either~~] the Guarantee Program or the
218 Low Income Students Program.

219 (b) A school district [~~must~~] shall fully participate in either the Guarantee Program or
220 the Low Income Students Program before the local school board may elect for the school
221 district to either fully or partially participate in the other program.

222 (c) For a school district to fully participate in the Guarantee Program, the local school
223 board shall allocate to the program money available to the school district, except money
224 provided by the state, equal to the amount of revenue that would be generated by a tax rate of
225 .000056.

226 (d) For a school district to fully participate in the Low Income Students Program, the
227 local school board shall allocate to the program money available to the school district, except
228 money provided by the state, equal to the amount of revenue that would be generated by a tax
229 rate of .000065.

230 (e) (i) The board shall verify that a local school board allocates the money required in
231 accordance with Subsections (8)(c) and (d) before the [~~local school~~] board distributes funds in
232 accordance with this section.

233 (ii) The State Tax Commission shall provide the board the information the board needs
234 in order to comply with Subsection (8)(e)(i).

235 (9) (a) Except as provided in Subsection (9)(c), the local school board of a school
236 district that fully participates in the Guarantee Program shall receive state funds in an amount
237 that is:

238 (i) equal to the difference between \$21 multiplied by the school district's total WPU's
239 and the revenue the local school board is required to allocate under Subsection (8)(c) for the
240 school district to fully participate in the Guarantee Program; and

241 (ii) not less than \$0.

242 (b) Except as provided in Subsection (9)(c), an elementary charter school shall receive

243 under the Guarantee Program an amount equal to \$21 times the elementary charter school's
244 total WPUs.

245 (c) The board may adjust the \$21 guarantee amount described in Subsections (9)(a) and
246 (b) to account for actual appropriations and money used by the board for computer-assisted
247 instructional learning and assessments.

248 (10) The board shall distribute Low Income Students Program funds in an amount
249 proportionate to the number of students in each school district or charter school who qualify for
250 free or reduced price school lunch multiplied by two.

251 (11) A school district that partially participates in the Guarantee Program or Low
252 Income Students Program shall receive program funds based on the amount of school district
253 revenue allocated to the program as a percentage of the amount of revenue that could have been
254 allocated if the school district had fully participated in the program.

255 (12) (a) A local education board shall use program money for ~~[reading proficiency~~
256 ~~improvement interventions in grades]~~ early literacy interventions and supports in kindergarten
257 through grade 3 that have proven to significantly increase the percentage of students ~~[reading at~~
258 ~~grade level]~~ who are proficient in literacy, including:

259 ~~[(i) reading assessments; and]~~

260 ~~[(ii) focused reading remediations that may include:]~~

261 (i) evidence-based intervention curriculum;

262 (ii) literacy assessments that identify student learning needs and monitor learning

263 progress; or

264 (iii) focused literacy interventions that may include:

265 (A) the use of reading specialists or paraprofessionals;

266 (B) tutoring;

267 (C) before or after school programs;

268 (D) summer school programs; or

269 ~~[(E) the use of reading software; or]~~

270 ~~[(F)]~~ (E) the use of interactive computer software programs for literacy instruction and
271 assessments for students.

272 (b) A local education board may use program money for portable technology devices
273 used to administer ~~[reading]~~ literacy assessments.

274 (c) Program money may not be used to supplant funds for existing programs, but may
275 be used to augment existing programs.

276 (13) (a) ~~[Each]~~ A local education board shall annually submit a report to the board
277 accounting for the expenditure of program money in accordance with ~~[its plan for reading~~
278 ~~proficiency improvement]~~ the local education board's plan described in Subsection (4).

279 (b) If a local education board uses program money in a manner that is inconsistent with
280 Subsection (12), the school district or charter school is liable for reimbursing the board for the
281 amount of program money improperly used, up to the amount of program money received from
282 the board.

283 (14) (a) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative
284 Rulemaking Act, the board shall make rules to implement the program.

285 (b) (i) The rules under Subsection (14)(a) shall require each local education board to
286 annually report progress in meeting goals ~~[stated in the school district's or charter school's plan~~
287 ~~for student reading proficiency]~~ described in Subsections (4)(a)(vi) and (vii), including the
288 strategies the school district or charter school uses to address the goals.

289 (ii) If a school district or charter school does not meet or exceed the school district's or
290 charter school's goals described in Subsection (4)(a)(vi) or (vii), the local education board shall
291 prepare a new plan ~~[which]~~ that corrects deficiencies.

292 (iii) The new plan described in Subsection (14)(b)(ii) shall be approved by the board
293 before the local education board receives an allocation for the next year.

294 ~~[(15) (a) If for two consecutive school years, a school district fails to meet the school~~
295 ~~district's goal to increase the percentage of third grade students who read on grade level as~~
296 ~~measured by the third grade reading test administered pursuant to Section 53E-4-302, the~~
297 ~~school district shall terminate any levy imposed under Section 53F-8-406 and may not receive~~
298 ~~money appropriated by the Legislature for the K-3 Reading Improvement Program.]~~

299 ~~[(b) If for two consecutive school years, a charter school fails to meet the charter~~
300 ~~school's goal to increase the percentage of third grade students who read on grade level as~~
301 ~~measured by the third grade reading test administered pursuant to Section 53E-4-302, the~~
302 ~~charter school may not receive money appropriated by the Legislature for the K-3 Reading~~
303 ~~Improvement Program.]~~

304 (15) (a) The board shall:

305 (i) develop strategies to provide support for a school district or charter school that fails
306 to meet a goal described in Subsection (4)(a)(vi) or (vii); and

307 (ii) provide increasing levels of support to a school district or charter school that fails
308 to meet a goal described in Subsection (4)(a)(vi) or (vii) for two consecutive years.

309 (b) (i) The board shall use a digital reporting platform to provide information to school
310 districts and charter schools about interventions that increase proficiency in literacy.

311 (ii) The digital reporting platform shall include performance information for a school
312 district or charter school on the goals described in Subsection (4)(a)(vi) and (vii).

313 (16) The board may use up to 3% of the funds appropriated by the Legislature to carry
314 out the provisions of this section for administration of the program.

315 ~~[(16)]~~ (17) The board shall make an annual report to the Public Education
316 Appropriations Subcommittee that:

317 (a) includes information on:

318 (i) student learning gains in ~~[reading]~~ early literacy for the past school year and the
319 five-year trend;

320 (ii) the percentage of ~~[third]~~ grade 3 students ~~[reading on grade level]~~ who are
321 proficient in English language arts in the past school year and the five-year trend;

322 (iii) the progress of ~~[schools and]~~ school districts and charter schools in meeting goals
323 ~~[stated in a school district's or charter school's plan for student reading proficiency]~~ described
324 in a plan described in Subsection (4)(a); and

325 ~~[(iv) the correlation between third grade students reading on grade level and results of~~
326 ~~third grade language arts scores on a criterion-referenced test or computer adaptive test; and]~~

327 (iv) the specific strategies or interventions used by school districts or charter schools
328 that have significantly improved early grade literacy proficiency; and

329 (b) may include recommendations on how to increase the percentage of ~~[third]~~ grade 3
330 students who ~~[read on grade level]~~ are proficient in English language arts, including how to use
331 a strategy or intervention described in Subsection (17)(a)(iv) to improve literacy proficiency for
332 additional students.

333 (18) The report described in Subsection (17) shall include information provided
334 through the digital reporting platform described in Subsection (15)(b).

335 Section 3. Section **53F-2-704** is amended to read:

336 **53F-2-704. Charter school levy state guarantee.**

337 (1) As used in this section:

338 (a) "Charter school levy per pupil revenues" means the same as that term is defined in
339 Section [53F-2-703](#).340 (b) "Charter school students' average local revenues" means the amount determined as
341 follows:342 (i) for each student enrolled in a charter school on the previous October 1, calculate the
343 district per pupil local revenues of the school district in which the student resides;344 (ii) sum the district per pupil local revenues for each student enrolled in a charter
345 school on the previous October 1; and346 (iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students
347 enrolled in charter schools on the previous October 1.348 (c) "District local property tax revenues" means the sum of a school district's revenue
349 received from the following:350 (i) a voted local levy imposed under Section [53F-8-301](#);351 (ii) a board local levy imposed under Section [53F-8-302](#), excluding revenues expended
352 for:353 (A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of
354 taxable value of the school district's board local levy; and355 (B) the [~~K-3 Reading Improvement Program~~] Early Literacy Program described in
356 Section [53F-2-503](#), up to the amount of revenue generated by a .000121 per dollar of taxable
357 value of the school district's board local levy;358 (iii) a capital local levy imposed under Section [53F-8-303](#); and359 (iv) a guarantee described in Section [53F-2-601](#), [53F-2-602](#), [53F-3-202](#), or [53F-3-203](#).360 (d) "District per pupil local revenues" means, using data from the most recently
361 published school district annual financial reports and state superintendent's annual report, an
362 amount equal to district local property tax revenues divided by the sum of:

363 (i) a school district's average daily membership; and

364 (ii) the average daily membership of a school district's resident students who attend
365 charter schools.

366 (e) "Resident student" means a student who is considered a resident of the school

367 district under Title 53G, Chapter 6, Part 3, School District Residency.

368 (f) "Statewide average debt service revenues" means the amount determined as
369 follows, using data from the most recently published state superintendent's annual report:

370 (i) sum the revenues of each school district from the debt service levy imposed under
371 Section 11-14-310; and

372 (ii) divide the sum calculated under Subsection (1)(f)(i) by statewide school district
373 average daily membership.

374 (2) (a) Subject to future budget constraints, the Legislature shall provide an
375 appropriation for charter schools for each charter school student enrolled on October 1 to
376 supplement the allocation of charter school levy per pupil revenues described in Subsection
377 53F-2-702(3)(a).

378 (b) Except as provided in Subsection (2)(c), the amount of money provided by the state
379 for a charter school student shall be the sum of:

380 (i) charter school students' average local revenues minus the charter school levy per
381 pupil revenues; and

382 (ii) statewide average debt service revenues.

383 (c) If the total of charter school levy per pupil revenues distributed by the State Board
384 of Education and the amount provided by the state under Subsection (2)(b) is less than \$1,427,
385 the state shall provide an additional supplement so that a charter school receives at least \$1,427
386 per student under Subsection 53F-2-702(3).

387 (d) (i) If the appropriation provided under this Subsection (2) is less than the amount
388 prescribed by Subsection (2)(b) or (c), the appropriation shall be allocated among charter
389 schools in proportion to each charter school's enrollment as a percentage of the total enrollment
390 in charter schools.

391 (ii) If the State Board of Education makes adjustments to Minimum School Program
392 allocations as provided under Section 53F-2-205, the allocation provided in Subsection
393 (2)(d)(i) shall be determined after adjustments are made under Section 53F-2-205.

394 (3) (a) Except as provided in Subsection (3)(b), of the money provided to a charter
395 school under Subsection 53F-2-702(3), 10% shall be expended for funding school facilities
396 only.

397 (b) Subsection (3)(a) does not apply to an online charter school.

398 Section 4. Section **53F-4-203** is amended to read:

399 **53F-4-203. Early literacy interactive software -- Independent evaluator.**

400 [~~(1) In addition to an enhanced kindergarten program described in Section **53F-2-507**,~~
401 ~~the early intervention program includes a component to address early reading through the use~~
402 ~~of early interactive reading software.]~~

403 (1) As used in this section:

404 (a) "Dosage" means an amount of instructional time.

405 (b) "School fidelity rate" means:

406 (i) at least 60% of the students in a public school who are using early literacy
407 interactive software described in this section are using the software at a rate that is at least 80%
408 of the dosage recommended by the technology provider of the software during the first year in
409 which the public school implements the early literacy interactive software; or

410 (ii) at least 75% of the students in a public school who are using early literacy
411 interactive software described in this section are using the software at a rate that is at least 80%
412 of the dosage recommended by the technology provider of the software during a school year
413 after the first year in which the public school implements the software.

414 (2) (a) Subject to legislative appropriations, the State Board of Education shall select
415 and contract with one or more technology providers, through a request for proposals process, to
416 provide early literacy interactive [~~reading~~] software for literacy instruction and assessments for
417 students in kindergarten through grade 3.

418 (b) [~~By~~] Except as provided in Subsection (4)(c), by August 1 of each year, the State
419 Board of Education shall distribute licenses for early literacy interactive [~~reading~~] software
420 described in Subsection (2)(a) to the school districts and charter schools of local education
421 boards that apply for the licenses.

422 (c) Except as provided in Subsection [~~(3)~~] (4)(c), a school district or charter school that
423 received a license described in Subsection (2)(b) during the prior year shall be given first
424 priority to receive an equivalent license during the current year.

425 (d) Licenses distributed to school districts and charter schools in addition to the
426 licenses described in Subsection (2)(c) shall be distributed through a competitive process.

427 [~~(3) (a) As used in this Subsection (3), "dosage" means amount of instructional time.]~~

428 [~~(b)~~] (3) A public school that receives a license described in Subsection (2)(b) shall use

429 the license:

430 ~~[(†)]~~ (a) for a student in kindergarten or grade 1:

431 ~~[(A)]~~ (i) for intervention for the student if the student is reading below grade level; or

432 ~~[(B)]~~ (ii) for advancement beyond grade level for the student if the student is reading at

433 or above grade level; and

434 ~~[(††)]~~ (b) for a student in grade 2 or 3, for intervention for the student if the student is

435 reading below grade level~~[-and]~~.

436 ~~[(iii)]~~ ~~in accordance with the technology provider's dosage recommendations.]~~

437 ~~[(c)]~~ ~~A public school that does not use the early interactive reading software in~~

438 ~~accordance with the technology provider's dosage recommendations for two consecutive years~~

439 ~~may not continue to receive a license.]~~

440 (4) (a) The State Board of Education, a technology provider, and, for a district school,

441 the school district shall work with a public school to develop a plan to increase the use of early

442 literacy interactive software if the public school fails to meet the school fidelity rate within the

443 first month of the public school implementing the software.

444 (b) The State Board of Education and, for a district school, the school district shall

445 place a public school on probation for the second half of the school year if the public school

446 fails to meet the school fidelity rate by the halfway point in the school year.

447 (c) (i) Except as provided in Subsection (4)(c)(ii), a public school that fails to meet the

448 school fidelity rate by the end of the school year in which the public school is placed on

449 probation may not continue to receive a license for early literacy interactive software.

450 (ii) A public school that fails to meet the school fidelity rate after being placed on

451 probation as described in Subsection (4)(b) may continue to receive a license for early literacy

452 interactive software if the public school demonstrates:

453 (A) a 50% growth in the rate of use toward the school fidelity rate; and

454 (B) at least 10% overall growth in the rate of use.

455 ~~[(4)]~~ (5) (a) On or before August 1 of each year, the State Board of Education shall

456 select and contract with an independent evaluator, through a request for proposals process, to

457 act as an independent contractor to evaluate early literacy interactive ~~[reading]~~ software

458 provided under this section.

459 (b) The State Board of Education shall ensure that a contract with an independent

460 evaluator requires the independent evaluator to:

461 (i) evaluate a student's learning gains as a result of using early literacy interactive

462 [~~reading~~] software provided under Subsection (2);

463 (ii) for the evaluation under Subsection [~~(4)~~] (5)(b)(i), use an assessment that is not

464 developed by a provider of early literacy interactive [~~reading~~] software; and

465 (iii) determine the extent to which a public school uses the early literacy interactive

466 [~~reading~~] software [~~in accordance with a technology provider's dosage recommendations under~~

467 ~~Subsection (3)]~~.

468 (c) The State Board of Education and the independent evaluator selected under

469 Subsection [~~(4)~~] (5)(a) shall report annually on the results of the evaluation to the Education

470 Interim Committee and the governor.

471 [~~(4)~~] (6) The State Board of Education may use up to 4% of the appropriation provided

472 under Subsection (2)(a) to:

473 (a) acquire an analytical software program that:

474 (i) monitors, for an individual school, early literacy interactive software use and the

475 associated impact on student performance; and

476 (ii) analyzes the information gathered under Subsection (6)(a)(i) to prescribe individual

477 school usage time to maximize the beneficial impact on student performance; or

478 (b) contract with an independent evaluator selected under Subsection [~~(4)~~] (5)(a).

479 (7) The State Board of Education may use a portion of the appropriation described in

480 this section to hire one full-time employee to administer the early literacy interactive software

481 implementation authorized by this section.

482 Section 5. Section **53F-8-406** is amended to read:

483 **53F-8-406. Board leeway for reading improvement.**

484 (1) Except as provided in Subsection (4), a local school board may levy a tax rate of up

485 to .000121 per dollar of taxable value for funding the school district's [~~K-3 Reading~~

486 ~~Improvement~~] Early Literacy Program created under Section **53F-2-503**.

487 (2) The levy authorized under this section:

488 (a) is in addition to any other levy or maximum rate;

489 (b) does not require voter approval; and

490 (c) may be modified or terminated by a majority vote of the local school board.

491 (3) A local school board shall establish a local school board-approved levy under this
492 section by June 1 to have the levy apply to the fiscal year beginning July 1 in that same
493 calendar year.

494 (4) Beginning January 1, 2012, a local school board may not levy a tax in accordance
495 with this section.

496 (5) The terms defined in Section [53F-2-102](#) apply to this section.