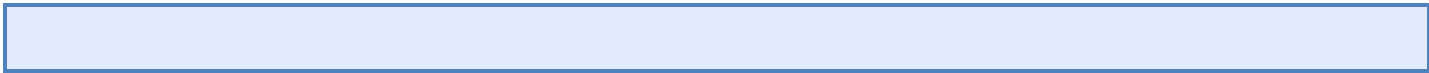




Crosswalk of AB 400 (2023) and AB 289 (2019)

Overview

This document serves as a high-level overview to compare AB 400 (2023) and AB 289 (2019) as both laws are related to Read by Grade 3 (RBG3). All sections of both laws which pertain to RBG3 have been included in this document by topic. Key differences between the laws have been highlighted in bold. It is important to note that AB 400 (2023) is an omnibus bill and contains sections which are unrelated to RBG3. AB 400 (2023) also contains portions which will not be enacted until July 1, 2028.



Summary Title	Laws and Brief Synopsis
Commission on School Funding	<p>AB 400 (2023) Section 23</p> <p>The Commission on School Funding is responsible for collecting information about the following metrics: K-12 academic achievement (including reading), the literacy improvement for students in elementary school, the ability to hire/retain school staff, and progress towards improving students’ literacy. In addition, quarterly reports are required identifying how the per pupil funding is being used to improve academic achievement. The Governor may, with the approval of the Interim Finance Committee or Legislature (if in session) direct a charter school or district to take remedial actions. Enacted July 1, 2023.</p> <p>AB 289 (2019)</p> <p>The Commission on School Funding is not part of AB 289 (2019).</p>
Subject Area of Reading is Defined	<p>AB 400 (2023) Section 70.5</p> <p>The subject area of reading is defined to include, without limitation, phonological and phonemic awareness, decoding, fluency, vocabulary, and comprehension. Will be enacted July 1, 2028.</p> <p>AB 289 (2019) Section 1</p> <p>The subject area of reading is not explicitly defined in AB 289 (2019), however, regularly small group reading sessions must be designed to target any area of need in reading including phonological and phonemic awareness, decoding, fluency, vocabulary, and comprehension. Enacted July 1, 2019.</p>



Assessment and Identification of Students for RBG3 Services	<p>AB 400 (2023) Section 71 and Section 76</p> <p>The State Board will prescribe the uniform examination and passing score and the alternative assessment and passing score. The uniform assessment, in conjunction with teacher observation, will determine if students qualify for RBG3 services in kindergarten or grades 1, 2, or 3. Will be enacted July 1, 2028.</p> <p>AB 289 (2019) Section 1 and Section 5</p> <p>Within the first 30 days of kindergarten or upon enrollment in a school, students' reading proficiency must be assessed using a valid and reliable standards-based assessment approved by the State Board of Education. This, in addition to local assessments and the observations of the teacher will determine if a student qualifies for RBG3 services. Enacted July 1, 2019.</p>
Parent Notification	<p>AB 400 (2023) Section 76</p> <p>Parents must be notified in writing within 30 days after the reading deficiency has been identified. The notification must include: the programs and services the student will receive, an explanation that the student will be retained in grade 3 if adequate proficiency in reading has not been achieved unless the student qualifies for a good-cause exemption, that intervention services and intensive instruction will continue each year as necessary, an explanation or demonstration of strategies that can be used at home, other options (as outlined in the law) that the student can demonstrate proficiency, that the student can be promoted to the 4th grade at any time during the school year. Parent Notification information on the English literacy development of a student who is an English Learner, an explanation or demonstration of strategies that can be used at home if the student is an English learner, provide the information in a language (to the extent practicable) that the parent or guardian can understand, an explanation of the plan to monitor the growth of the student and that the school will provide notice of the status of the growth, and how the services and programs will be adjusted. Will be enacted July 1, 2028.</p> <p>AB 289 (2019) Section 5 and Section 6</p> <p>Parents must be notified in writing within 30 days after the reading deficiency has been identified. The notification must include: the programs and services the student will receive, an explanation that the intervention services and intensive instruction will continue each year until no longer necessary, an explanation or demonstration of the strategies that can be used at home, an explanation that the criterion-referenced exam was not the only factor used to determine if the student qualified for RBG3 services, the policies and criteria adopted by the Board of Trustees of the school district or governing body of a charter school regarding intervention services and intensive instruction, information on the English literacy development of a student who is an English Learner, an explanation or demonstration of strategies that can be used at home if the student is an English learner, provide the information in a language (to the extent practicable) that the parent or guardian can understand, an explanation of the plan to monitor the growth of the student and that the school will provide notice of the status of the growth, that the services and programs will be adjusted. Enacted July 1, 2019.</p>



<p>Intervention Services and Intensive Instruction</p>	<p>AB 400 (2023) Section 77</p> <p>Intervention services and intensive instruction must be provided to students, regardless of if they have been retained, for as long as it is determined necessary. Instruction must include evidence-based research that will improve proficiency in reading. Each designated literacy specialist and any teacher or person with knowledge and expertise, in addition to other duties and responsibilities, will provide intervention services and intensive instruction directly to students. Public schools shall offer summer school to students in grades 2 and 3 who do not obtain the passing score on the uniform examination. Section 77 will amend NRS 392.760, notably removing criterion-referenced examination with uniform examination. Will be enacted July 1, 2028.</p> <p>AB 289 (2019) Section 7 and Section 8</p> <p>Intervention services and intensive instruction must be provided to the student enrolled in the school if the student does not obtain the passing score in only the subject area of reading on the criterion-referenced examination. The principal of a school, in consultation with the designated literacy specialist, and any teacher or other person with knowledge and expertise in providing intervention and intensive instruction to the student shall ensure that intervention services and intensive instruction continue for as long as it is determined necessary. Instruction must include evidence-based research that will improve proficiency in reading. Intervention services and intensive instruction must include programs and services to improve the literacy of students that have been approved by NDE and instruction for at least 90 minutes each day in evidence-based reading instruction. The board of trustees for each school district or governing body of a charter school must review the plans for monitoring the growth of students which may include, without limitation, small group instruction, classes with reduced student-teacher ratios, timeline for monitoring student progress, tutoring and mentoring, classes designed to increase the ability to transition from grade 3 to 4 and each subsequent grade level, programs offered during the summer to improve students’ reading proficiency, or any combination of the services pursuant to NRS 392.765. Intensive instruction in reading must be provided to the student by a teacher who is different than the teacher who provided instructional services in the immediate preceding school year (unless it is not reasonably available, if the student has an individualized education program (IEP), or if the population in the school district is less than 100,000) and who is highly effective as determined by student data and performance evaluations. If a student is to be provided intervention services and intensive instruction, the principal must: provide written notification to the parent or legal guardian, develop a plan to monitor the growth of the student in reading, require the teacher to develop a portfolio in reading, which should be updated regularly to show growth, and ensure that the student receives intervention services and intensive instruction designed to improve reading proficiency in accordance to AB 289 (2019). Enacted July 1, 2019.</p>
<p>Instructional Options</p>	<p>AB 400 (2023)</p> <p>AB 400 (2023) does not contain any additional instructional options in addition to the intervention services and intensive instruction.</p>



<p>Instructional Options (continued)</p>	<p>AB 289 (2019) Section 9</p> <p>In addition to the intervention services and intensive instruction, the principal must offer the parent or legal guardian of a student who is deficient in reading at least one of the following instructional options: supplemental tutoring based on evidence-based research for reading instruction, a plan for reading with the student at home and participation in any workshops that may be available in the school district to support the parent or legal guardian with reading at home as set forth in an agreement with the parent or legal guardian, or provide the student with a mentor or tutor with specialized training in teaching students how to read. Enacted July 1, 2019.</p>
<p>RBG3 Student Retention</p>	<p>AB 400 (2023) Section 40, Section 71, and Section 74</p> <p>Students will be retained in 3rd grade if they do not achieve a passing score on the uniform examination that meets the passing score determined by the State Board of Education. The principal of a school must provide written notification to the parent or legal guardian. The Board of Trustees of each school district and the governing body of a charter school must create policies surrounding the criteria by which a student may be promoted to the 4th grade at any time during the preceding school year. If a student is promoted after November 1st during the preceding school year, he or she must demonstrate reading proficiency at a level determined by the State Board. The teacher and principal have final authority to retain a student. Will be enacted July 1, 2028.</p> <p>AB 289 (2019) Section 7</p> <p>The principal of a school, working with the literacy specialist and any other teacher or person with knowledge or expertise in providing intervention services and intensive instruction to a student, may retain the student in grade 3. Enacted July 1, 2019.</p>
<p>Good-Cause Exemptions</p>	<p>AB 400 (2023) Section 72</p> <p>Good-cause exemptions must be approved for any student previously retained and for: students who demonstrate proficiency on the alternative assessment, demonstrates mastery beyond 3rd grade reading standards in a portfolio, is an English Learner who has received not less than 2 years of instruction in a program that teaches English as a second language, received remediation in reading for 2 or more years but is still deficient in reading and was previously retained in kindergarten or grades 1, or 2 for a total of 2 years, students with Individualized Education Program (IEP) who do not qualify to take the uniform examination, and students with an IEP or a 504 plan who take the uniform examination, received intensive remediation in reading for more than 2 years, and have been previously retained. If a student qualifies for a good-cause exemption, the principal must submit a written recommendation to the superintendent of schools or the governing body of the charter school. Approval or denial of the request will be given to the principal, who must notify the parents or guardians of the decision in writing. Will be enacted July 1, 2028.</p> <p>AB 289 (2019)</p> <p>Good-cause exemptions are not found in AB 289 (2019).</p>



<p>Literacy Specialists and Professional Learning</p>	<p>AB 400 (2023) Section 23 and Section 77</p> <p>The licensed teacher designated to serve as the literacy specialist pursuant to NRS 388.159 is mentioned in both Section 23 and Section 77. There is not a comprehensive description within AB 400 (2023) of literacy specialists and/or professional learning. Section 23 is enacted July 1, 2023, and Section 77 will be enacted July 1, 2028.</p> <p>AB 289 (2019) Section 2</p> <p>The principal of a public elementary school shall designate a licensed teacher employed by the school to serve as the literacy specialist. A licensed teacher designated as a Literacy Specialist must have the following qualifications: demonstrate the ability to improve reading proficiency of students, demonstrate competency in effective reading instruction and administering assessments, demonstrate the ability to build relationships with teachers and adults, collaborate with the principal to develop a schedule of professional learning and assist in providing such professional learning, and assist teachers by implementing a system of support which includes various methods to provide intervention services and intensive instruction. A school district or charter school may provide additional compensation to a licensed teacher who is employed to teach at an elementary school and provides instruction in reading. Every licensed teacher at an elementary school who provides instruction in reading must complete professional learning developed by a licensed teacher designated as a literacy specialist. The State Board prescribed the regulations for the training or professional learning for the designated literacy specialists in NAC 388.662, the professional learning required for a teacher employed at an elementary school in NAC 388.664, and the duties and responsibilities of a literacy specialist in NAC 388.666. Enacted July 1, 2019. (Note: updates to regulations cited in this section of the law have been made as of 2023.)</p>
<p>October 15th Report</p>	<p>AB 400 (2023) Section 40 and Section 78</p> <p>On or before October 15th of each year, districts and charter organizations must submit a report including the number and percentage of students at each school who were designated to receive RBG3 services and if those services were previously received. The report must also include the number and percentage of students who: received RBG3 services at each grade level and whose proficiency rate did not improve at a rate prescribed by the Board of Trustees of the school district or governing body of a charter organization, were retained in grade 3 or previously retained, and were not retained because of a good-cause exemption. This report must be submitted to NDE and the legislature. It must be posted on the website maintained by the district or charter school and made publicly available. Will be enacted July 1, 2028.</p> <p>AB 289 (2019) Section 4 and Section 10</p> <p>On or before October 15th of each year, districts and charter organizations must submit a report including the number and percentage of students at each school who were designated to receive RBG3 services and if those services were previously received. The report must also include the number and percentage of students who: received RBG3 services at each grade level and whose proficiency rate did not improve at a rate prescribed by the Board of Trustees of the school district or governing body of a charter organization. This report must be submitted to NDE and the legislature. It must be posted on the website maintained by the district or charter school and made publicly available. Enacted July 1, 2019.</p>



<p>Local Literacy Plans</p>	<p>AB 400 (2023) Section 40 and Section 76</p> <p>AB 400 (2023) does not outline the specifics of any plan within the law, however, the plan (also known as the local literacy plan) is referenced several times in sections 40 and 76 with reference to NRS 388.157. The governing body of a charter school must prescribe the programs and instructions which will be provided to a student who is deficient in reading according to the plan established by NRS 388.157. The parent notification must include the programs and services included in the plan to improve the reading proficiency of students that has been approved by NDE. Will be enacted July 1, 2028.</p> <p>AB 289 (2019) Section 1</p> <p>AB 289 (2019) comprehensively outlines what should be included in the plan submitted to NDE. The board of trustees of each school district or governing body of a charter school shall create a plan to improve the literacy of students enrolled in an elementary school. The plan must include, without limitation: A program to provide intervention services and intensive instruction to students who have been identified as deficient in the subject area of reading to ensure that the students achieve adequate proficiency in the requisite reading skills and comprehension needed to perform to the level that the State Board has determined on the statewide assessment. The program must include, without limitation, regularly scheduled small group reading sessions and specific instruction designed to target any area of reading in which there is a deficiency including, without limitation, phonological and phonemic awareness, decoding skills, reading fluency, vocabulary, and reading comprehension. The plan must include procedures for assessing students' reading proficiency using valid and reliable standards-based assessments that are approved by the State Board within the first 30 days of kindergarten or upon enrollment in the elementary school, and during each grade level of the elementary school as determined necessary. The plan must include a program to improve the reading proficiency of English learners and procedures for collaboration between designated literacy specialists and classroom teachers. This plan (also known as the Local Literacy Plan) must be submitted to NDE and the plan must be revised if NDE determines it is necessary. The same language can be found in NRS 388.157. Enacted July 1, 2019.</p>
<p>Grants</p>	<p>AB 400 (2023) Section 11, Section 12, Section 13, and Section 14</p> <p>The Early Childhood Literacy and Readiness Account is created in the State General Fund and administered by NDE. Interest and income earned on the account, including unexpended appropriations must be credited to the account. Funds not committed for expenditure by June 30 of each fiscal year revert to the State General Fund. NDE may accept (and separately account for) gifts and grants, which do not revert to the State General Fund and must be carried over to the next fiscal year. Funds are used exclusively for grants supporting early childhood literacy and readiness programs. Grants may be awarded to school districts, charter schools, and nonprofits which must: serve children under 6 years old, be evidence-based, accommodate children with disabilities, include a performance reporting and accountability plan. Funds must be expended within 2 years. Priority will be given to programs that receive private or federal funding, demonstrate sustained success in improving literacy and readiness, and serve areas with high proportions of children with early learning deficits. By November 1 of each year, NDE must prepare a report which must include the number of grant applications received, number of grants awarded, the total cost of awarded grants, and information demonstrating the effectiveness of funded programs in improving literacy and readiness for children under 6 years old. Enacted July 1, 2023.</p>



Grants (continued)	<p>AB 289 (2019) Section 11</p> <p>NDE will distribute any money that is appropriated to Other State Education Programs Account in the State General Fund through a noncompetitive grants program. Grant awards must be based on a weighted formula consisting of need and student population of the school district. This would include any school district schools or charter schools. The goal is to improve the literacy of students and funds awarded must be used to improve the literacy of students and to support school-based efforts to ensure all students read proficiently. Such efforts may include hiring and training literacy specialists, purchasing evidence-based reading assessments, textbooks, computer software, or other materials, professional learning, providing evidence-based programs before or after school or during summer, and other evidence-based literacy initiatives. Grant recipients must set measurable objectives based on student achievement data, report on program usage, and student participation. These funds cannot supplant other budgets in the school. A report must be submitted by July 1, 2020, to NDE. An independent consultant will be hired by NDE to evaluate the programs and services, program effectiveness, and legislative recommendations. By August 31, 2020, NDE must submit a preliminary report to the State Board of Education and the Legislative Committee on Education. On or before November 15, 2020, NDE shall submit a final report and any recommendations to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the 81st Session of the Nevada Legislature.</p> <p>Additionally, any funds awarded to a school district or charter school from the appropriated money must be separately accounted for and used exclusively for the specified purposes. These funds cannot be used to settle disputes between employee organizations and the school district, nor can they be used to adjust district-wide salary and benefit schedules. Enacted July 1, 2019.</p>
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