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[Veto of R295, H.3428]

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State of South Carolina Office of the Governor

NIKKI R. HALEY
GOVERNOR

1205 PENDLETON STREET
COLUMBIA 29201

June 11, 2014

The Honorable Robert W. Harrell, Jr.
Speaker of the House of Representatives
Statehouse, Second Floor
Columbia, South Carolina 29201

Dear Mr. Speaker and Members of the House of Representatives,

I am vetoing and returning without my signature R295, H.3428, a bill to reauthorize the First Steps to School Readiness Initiative.

Let me begin by making the impact of my veto of this bill perfectly clear – even if you sustain my veto, the state Office of First Steps and the local First Steps partnerships will continue to exist in the coming year, providing educational and therapeutic services to South Carolina’s children. **This is because Proviso 117.108 of the Fiscal Year 2014-15 budget becomes law today, which reauthorizes First Steps in its current form for another year.** No child will be denied services and no child will be placed at risk as a result of this veto.

Inadequate Reforms

I have vetoed this bill for three reasons. First, the reforms proposed in this bill are inadequate, and in some cases, aren’t even constructive changes.

During the 2013 session, when an earlier draft of a reauthorization bill was advancing, I recommended that we defer action until the Legislative Audit Council (LAC) had an opportunity to complete an audit that was then underway. I felt then as I do now that we should make a decision about reauthorization armed with the fullest range of available information about the cost and effectiveness of these programs.

The LAC report was released in June 2013 – months later than expected – and validated my concerns about moving too quickly to reauthorize these programs. The LAC’s findings included the following, which are taken directly from the 2013 report:

- *The percentages of children at-risk for not being ready to succeed in school have not decreased since 2000.*
- *State law does not define “school readiness” and does not give the Department of Education the authority to establish a uniform school readiness test.*
- *First Steps has reported questionable statistics to the public by stating that the implementation of early childhood development and education programs has coincided with a 48% decrease in the percentage of students who repeat first grade and is saving \$21 million per year. For these statistics, First Steps did not report the retention rate of students who had participated in early childhood programs versus the retention rate of students who had not. In addition, because there are no statewide criteria for retaining students, the criteria can vary from location to location and across time.*

Put simply, the LAC found that after more than a decade of operation there was no compelling evidence that First Steps was working, and that the absence of a statewide definition and assessment of school readiness was a major obstacle to reliably evaluating the program’s effectiveness.

The solution to this problem is simple, which is why my Executive Budget this year insisted that a new statewide kindergarten assessment be adopted in the coming fiscal year. I am pleased to report that the budget that becomes law today includes Proviso 1A.76, which implements this recommendation.

First Steps has relied heavily on the argument that the effectiveness of its programs may be inferred based upon the fact that the percentage of students repeating the first grade has fallen by 48 percent since 2000. I agree with the LAC that this argument does not withstand scrutiny because students repeat grades for a variety of reasons that vary from one district, school, teacher, or parent to the next. Furthermore, this statistic does not distinguish between students that received First Steps’ services, students that attended an alternate pre-kindergarten program, and those that received no intervention at all. Without the ability to make that comparison, it is impossible to assert that First Steps is responsible for the reduction in first grade retention, even if you ignore the LAC’s observation that this still “may not be a valid or reliable metric” anyway.

In the wake of the LAC’s 42 recommendations, First Steps advocates essentially shelved the 2013 reauthorization draft and began anew in 2014 with revised language that responded to some of the issues that had been raised, but not others. Although progress has been made in removing some barriers to multi-county partnerships and in making greater efforts to support evidence-based programs, this bill is a step backwards in other respects.

For instance, **First Steps has had serious and persistent problems honoring its legal requirement to undergo a performance audit every three years.** The report that was due in January 2009 did not materialize until November 2010, and at the time that the LAC completed its research in May 2013, First Steps had not even issued a solicitation to choose an external

evaluator to begin the review that had been due back in January 2012. This bill would grant First Steps a further extension until November 2014, which means they will have essentially skipped an entire three-year cycle. Instead of demanding accountability, the bill that I have vetoed today throws in the towel and makes future performance audits due once every five years. That's not reform.

Furthermore, this bill seeks to codify the specific Executive Order that placed BabyNet at First Steps in 2009. This is a risky action, since it ostensibly removes our ability to move the program in order to address performance issues (which has proven necessary in the past) and also appears to violate federal law, which states that each Governor retains the authority to designate (or re-designate) a state agency to administer programs under the Individuals with Disabilities Education Act (IDEA). In a 1991 Act (No.41) that addressed these programs, the General Assembly took great care in referencing the designated agency in a way that avoided these problems. Unfortunately, H.3428 did not adopt the same approach.

Late Changes, Questionable Process

This bill sat on the Senate calendar for a month before it was suddenly amended on the Senate floor on June 4, given a second reading, and granted an automatic third reading on the next day, which was to be the final day of this year's regular session. On June 5, the House of Representatives concurred in the Senate's amendments – more than an hour before the Senate actually reached this bill on its calendar and formally administered the third reading that would allow the bill to be returned to the House.

The changes inserted on June 4 substantially affected many sections of the bill and created “the Office of First Steps Study Committee to review the structure, responsibilities, governance by an organization exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, and administration of the Office of First Steps.” In short, this study committee's mandate is to look at every aspect of First Steps and produce a report by March 15, 2015. The Senate amendments also converted this reauthorization from a permanent one to a two-year extension.

If the General Assembly still feels that the fundamental questions about First Steps' structure, responsibilities, governance, and administration are unresolved, then why are we passing a two-year reauthorization bill at all? Why make some changes, launch an exhaustive study that will presumably make a series of substantive recommendations, and then come right back to pass even more changes into law? **I would rather that we do the job once and get it right.**

None of the adjustments contained in this bill are so crucial or time-sensitive that they cannot wait to be introduced as part of a more thoughtful and deliberative reauthorization process that incorporates the findings and recommendations of a new study group. The benefits of acting now are minimal, while the disruption associated with introducing these changes and then further amending (and in some cases, rescinding) them in a year or two would be significant.

The Bigger Picture

Finally, I have vetoed this bill because looking at First Steps on its own, outside of the context of other pre-kindergarten and child-supporting programs, doesn't make sense. The Senate's study committee language hints at this point but doesn't openly make it.

We should be looking at the cost, quality, governance, and effectiveness of all of our pre-kindergarten programs, and we should be doing so as part of a holistic, coordinated effort that puts the child first, instead of obsessing over whether 4K's advocates or First Steps' supporters are "getting more out of the deal." After all, Georgia and other states have shown that public and private providers of early childhood education can peacefully co-exist in an environment that gives parents choices and students an education in a setting that is right for them.

In the meantime, with so many unresolved questions, passing a very short-term reauthorization of First Steps – when the budget ensures that the program will continue anyway – feels like getting in a car and driving without having first decided where you want to go.

Conclusion

I appreciate the efforts of those who have worked on this bill; that work may be incomplete, but it is not wasted.

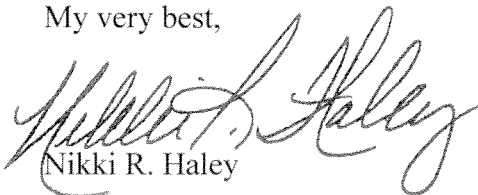
I commit to you that if my veto is sustained, eliminating the proposed study committee, then I will immediately issue an Executive Order that calls for a similar study, but for all of our pre-kindergarten programs at once.

The 2014 legislative session has now drawn to a close, and together, we have made real progress in improving education in South Carolina. Our children will have access to more reading coaches, better technology, and a more personalized education experience for those who need it. Just this morning, I was proud to sign the *Read to Succeed* bill into law, which further builds on these reforms.

My veto of this bill may appear at first glance to be an unusual closing to this year's session, but in many respects, I see this instead as the kick-off of our common effort to continue making meaningful reforms in education in the coming year.

I ask that you sustain this veto so that we can get the job done right.

My very best,



Nikki R. Haley