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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/12  
 LAST UPDATED 02/13/12

SPONSOR SFC HB \_\_\_\_\_

SHORT TITLE Limit School Retentions Through Remediation SB CS/50/SFCS

ANALYST Gudgel

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See Fiscal Implications				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of Bill

The Senate Finance Committee substitute for the Senate Education Committee substitute as amended for Senate Bill 50 repeals Section 22-2C-6 NMSA 1978 – Remediation Programs; Promotion Policies; Restrictions – and enacts a new Section 22-2C-6 – Grade Promotions; Intervention and Remediation; Retention Policies; Accountability. Beginning with the 2012-2013 school year, the bill mandates that at the beginning of each school year kindergarten through eighth grade students are evaluated with a school-district-adopted, department-approved reading screening assessment and students in fourth through eighth grade are evaluated with a school-district-adopted, department-approved mathematics screening assessment annually. For students who are not proficient, the bill mandates implementation of intervention and remediation programs to begin immediately, the costs of which will be borne by the Public Education Department. The bill requires a parent to be notified that their child has not achieved grade-level proficiency in reading or math no later than the end of the first grading period. A student assistance team shall adopt an academic improvement plan, and present the parent with an explanation of the student’s deficiencies, and a plan for intervention and remediation, including parent involvement expectations and opportunities.

Students who do not achieve grade-level proficiency may either be retained in the same grade for no more than one year with the agreement of a parent or promoted to the next grade if the parent signs a refusal of retention notice. In both instances the student will be placed on an academic improvement plan. The bill mandates retention for students who do not demonstrate proficiency for two successive years so long as the student has not already been retained.

Exemptions from the mandatory retention policy specified by the bill are as follows for a student who: (1) demonstrates grade-level proficiency with a portfolio of the student's work compiled by the student's teacher or student assistance team; (2) shows sufficient progress toward grade-level proficiency as determined by the student assistance team; (3) scores at least at the fiftieth percentile on a school-district-approved norm-referenced assessment or at a proficient level on an alternative school-district-approved criterion-referenced assessment; or (4) is an English language learners who can establish proficiency in a language other than English on a reading assessment or who has less than 2 years of instruction in English. Special education students will be retained or promoted in accordance with the provisions of their individual educational plans.

## **FISCAL IMPLICATIONS**

House Bill 2 includes \$8.5 million for an early reading initiative that includes \$2 million for professional development to support training on effecting reading instruction and data driven decision making and to support reading and instructional coaches at the district level to support schools with the implementation of formative assessment tools and interventions. The remaining funding may be used by the department to support assessments, and interventions for struggling readers, and reading and instructional coaches. House Bill 2 also includes \$3.5 million for intervention in D and F schools contingent on the use of the funds to support reading coaches and instructional coaches.

The bill has a provision that requires the department to bear the cost of school district approved intervention and remediation that has demonstrated effectiveness to provide assistance to students in kindergarten through eighth grade who do not demonstrate grade level proficiency as outlined in the bill.

PED indicated a total need of \$12 million to support early identification of struggling readers in kindergarten through third grade and to provide interventions and remediation programs to students who are not proficient. The bill defines "grade-level proficiency as a score on a school-district-approved standards-based assessment that is comparable among school districts. Based on the 2011 administration of the New Mexico Standards Based Assessment to 3<sup>rd</sup> graders, 21.9 percent, or 5,644 students scored at beginning steps - the lowest level. PED anticipates a total of 24,000 students in kindergarten through third grade scoring at the beginning steps level will need additional reading support. The department estimates total district funding needed is \$9.1 million. Approximately \$120/student is needed for interventions with struggling students, for a total of \$2.8 million. The remaining \$6.3 million would be used to support reading coaches at the district level that will support schools with implementation of the formative assessment tool and interventions. PED proposes \$85 thousand per reading coach and estimates 1 reading coach will be needed for every 6 elementary schools.

Total department funding indicated is \$2.9 million. PED will approve and provide a short-cycle assessment tool for use with all kindergarten through third grade students. Current short-cycle assessments on the market range from \$1/student to upwards of \$50/student. PED anticipates spending approximately \$2 million annually to screen students in kindergarten through third grade. PED anticipates spending approximately \$800 thousand for district leadership with training on effective reading instruction and how to use short-cycle assessment data to support struggling readers. PED also indicates the department will need to hire 1 FTE to guide the work

at PED and support districts as they implement the screening tool and align interventions. The FTE would be funded at approximately \$88 thousand annually.

Funding included in House Bill two for the reading initiative specifically addresses kindergarten through third grade students who are struggling with reading. The funding does not address students who are not proficient in reading or math in grades four through eight.

House Bill 2 also includes \$10 million for prekindergarten and \$11 million for the kindergarten-three-plus (K-3 Plus) program. These programs are targeted to at-risk students and both have been shown to improve student outcomes. These programs are existing programs that fund primarily direct services, and minimize overhead and non-instructional costs. Both programs have the capacity to improve student reading proficiencies for participating students. For example, preliminary data from the first of a five year study on the effectiveness of the K-3 Plus indicates third grade students who participate in K-3 Plus for at least one year prior to the third grade gained 7.5 points in reading, 43.8 points in writing, and 12.4 points in math compared to third grade students who did not participate in K-3 Plus immediately prior to third grade. Participation in K-3 Plus is likely to save the state money by avoiding the need for more costly remediation programs and retention in the third grade.

Analysis earlier in FY12 also indicated that districts and charter schools receive large amounts of federal funds that can be reprioritized to address some of the funding needs of this bill – between \$149 million and \$230 million annually in Title I, Special Education (IDEA-B), Title II (to support professional development), Title III (to support English language learners), and School Improvement Grant funds. PED indicated districts and charter schools do not fully expend their allotment of federal dollars, particularly from Title I and IDEA-B, and that unexpended funds are carried forward to the next fiscal year and remain available for expenditure for approved purposes. The department indicates that costs to be borne by the districts for reading interventions are generally consistent with the approved uses for the early intervening services portion of IDEA-B and Title

### **School District Estimated Budget Impact**

During the 2011 special session, Las Cruces Public Schools and Albuquerque Public Schools (APS) provided estimates of operating budget impact related to Senate Bill 23, which had similar provisions to this bill. The estimates included are for similar provisions.

APS estimated Senate Bill 23 of the 2011 Special Session could potentially cost the district \$15 million to provide interventions, including instructional materials, training and interventionists to 6,900 kindergarten through third grade students who are not proficient. APS indicated it was difficult to address estimates for “alternative programs” because the bill does not include a definition of an “alternative program”.

Las Cruces Public Schools estimates were based on the same assumptions APS made. LCPS estimated it could cost the district approximately \$3.1 million to provide interventions, including instructional materials, training and interventionists to kindergarten through third grade students who are not proficient.

The above estimates are only for an early intervention and remediation policy directed to kindergarten through third grade students who are struggling with reading. The estimates provided by PED in the original bill did not address fourth through eighth grade reading

assessments and interventions, or fourth through eighth grade math assessments or interventions. Based on the 2011 New Mexico Standards Based Assessment Data, only 49.8 percent of students statewide scored proficient or above on reading, and only 41.8 percent on math. As PED stated, it is likely that an intervention and remediation policy targeted to kindergarten through eighth grade reading and math would cost substantially more to implement than a K-3 reading intervention and remediation policy.

It is reasonable to expect that school districts and charter schools will prioritize existing resources into strategies that are research-based and are proven to increase student achievement, including reading and math proficiency. However, it is unclear to what extent these funds can be reprioritized and how much of the funds can be reprioritized. PED has not provided an analysis of how these funds are currently being used and how and even if they can be reprioritized.

While districts are free to spend distributions from the state equalization distribution (SEG) as they choose, it is becoming critical that decisions become more strategic, focusing on highly effective programs with proven results. Districts need to become more flexible and willing to implement a coherent improvement strategy, targeting resources to achieve the maximum benefit to improve student achievement and reading proficiency. Given the current economic climate, now is the time to look closely at how districts and charters are spending current revenues, what programs are working and should be prioritized, and what programs have little success and should be terminated.

However, because school district budgets have been decreased over 8 percent over the last several years, it is likely further demands on school district and charter school operating budgets will be difficult for districts and charters to absorb. School districts also note that there are federal restrictions on reprioritizing federal funds that may limit school districts and charter schools from accessing those funds for expenditure to meet the funding needs of this bill.

## **SIGNIFICANT ISSUES**

The bill requires local school districts to approve intervention and remediation programs that have demonstrated effectiveness to provide special assistance to students in kindergarten through eighth grade who do not demonstrate grade-level proficiency in reading and students in fourth through eighth grade who do not demonstrate grade-level proficiency in math. Intervention and remediation programs and promotion policies shall be aligned with valid and reliable assessment results and aligned with state standards. Students in kindergarten through eighth grade will be evaluated with school-district-approved assessments to determine grade level proficiency.

### PED Analysis on the original bill indicated:

- Keeping a command focus on early reading is critical to the success of all New Mexico students. The SB 50 substitute removes that focus. Before we ask schools and districts to focus on multiple subject areas and grades, ensuring that aligned screening and intervention can be implemented with fidelity should be the primary focus. Administering screening assessments properly is time consuming. Further, developing and providing students with remediation is a precise exercise. PED feels strongly that supporting our schools as they first focus on K-3 reading will not only increase student achievement in all subjects, but will also ensure fidelity of implementation.
- The increased reporting requirements for schools and districts are of concern. PED is actively working to reduce the reporting burden. The SB 50 substitute directly conflicts

with the goal to reduce the reporting burden on districts. If there were to be a consistent screening tool used in K-3 reading, PED would already be able to report on the number of student struggling and the progress they make versus asking the districts to do so.

- Utilizing a consistent, statewide screening assessment is important as New Mexico students are often mobile and ensuring consistency across districts will be necessary to support young readers. If the screening tool varies district to district, there is risk that intervention support could “start” and “stop” as a student moves across districts as the identification of students may vary significantly. SB 50 allows for too much variability as each district will be able to choose and select a screening assessment without having to provide assurances to PED that the screening assessment is:
  - Aligned to the New Mexico content standards;
  - Comparable across multiple districts; and
  - Yields data that can be used to inform instruction.
- Parents shall be notified at the end of the K-8 years that the student will not be promoted to the next grade and a parental waiver will be allowed. This is the same as existing statute and is concerning as students will have had multiple opportunities to improve, and despite specific intervention, are still not on grade level. Further, there are reasonable exemptions in place for students who are not proficient but should be promoted. For example, a student who has an IEP will be promoted or retained in accordance with their IEP.
- Most students who are identified with a Specific Learning Disability are identified in grade 4. A report by the Fordham Foundation, *Shifting Trends in Special Education*, found [\(\[http://www.edexcellencemedia.net/publications/2011/20110525\\\_ShiftingTrendsInSpecialEducation/ShiftingTrendsInSpecialEducation.pdf\]\(http://www.edexcellencemedia.net/publications/2011/20110525\_ShiftingTrendsInSpecialEducation/ShiftingTrendsInSpecialEducation.pdf\)\):
  - The number of students identified as having “specific learning disabilities \(SLD\),” the most common of all disability types, declined through the decade, falling from 2.86 million to 2.43 million students, or from 6.1% to 4.9 % of all students; and
  - The more sophisticated Response to Intervention \(RTI\) process being used by districts and schools to screen and intervene with struggling students had an impact on the decrease in the number of students identified with a SLD.](http://www.edexcellencemedia.net/publications/2011/20110525_ShiftingTrendsInSpecialEducation/ShiftingTrendsInSpecialEducation.pdf)
- This underscores the need to focus on early intervention in reading specifically for students in grades K-3. Overtime, it may be sensible to include a focus on both reading and math, but initially, the focus should be reading only.
- A report by the Annie E Casey Foundation found that students who are not reading proficiently by the end of third grade are four times more likely to drop out of high school [\(<http://www.aecf.org/~media/Pubs/Topics/Education/Other/DoubleJeopardyHowThirdGradeReadingSkillsandPoverty/DoubleJeopardyReport040511FINAL.pdf>\). This further illustrates why the emphasis on any screening and intervention system in New Mexico must first be in grades K-3 and focused on reading exclusively.](http://www.aecf.org/~media/Pubs/Topics/Education/Other/DoubleJeopardyHowThirdGradeReadingSkillsandPoverty/DoubleJeopardyReport040511FINAL.pdf)
- 47% of New Mexico third graders are not reading proficiently (NM SBA Statistics and Data).
- According to the 2011 NAEP Reading results for New Mexico, the percentage of students in New Mexico who performed below the NAEP proficient level was 80%.

## **PERFORMANCE IMPLICATIONS**

The percent of third, fourth and eighth grade students, and charter school students, who achieve proficiency or above on the standards-based assessment on reading and math, percent of New Mexico high school graduates taking remedial courses in college, and the percent of students habitually truant could be affected by this bill.

## **ADMINISTRATIVE IMPLICATIONS**

Schools will be required to report to their districts, districts to the department, and the department to the Legislative Education Study Committee (LESC) by June 15 of each year the following: number of students who received interventions and remediation programs following both reading and math screening assessments, number of students receiving an academic improvement plan for reading, math, and reading and math, the number of students recommended for retention in each grade, the number of students retained in each grade, and other information requested by LESL.

School districts will also be required to approve standards-based assessments to establish grade-level proficiency, and adopt math and reading assessments that the department will have to approve.

## **CONFLICT**

Conflicts with House Bills 53, 54 and 69, and Senate Bill 96.

## **TECHNICAL ISSUES**

The bill does not include a definition of proficiency for either reading or math, though the bill references “proficiency” in relation to the reading and math screening assessments.

Page 5 and 6, Section C (4) requires a parent to be notified that their child has not achieved grade-level proficiency in reading or math by the end of the first grading period. The bill does not specify whether the district has the responsibility to notify the parent, or the child’s school.

## **OTHER SUBSTANTIVE ISSUES**

Traditionally, students learn to read in kindergarten through third grade so they can read to learn in the upper grades. Early reading proficiency is a leading indicator of future academic success. A child who cannot read by the fourth grade will continue to fall behind their peers, and without intervention and remediation, academic proficiency will continue to decline as reading improvement changes most dramatically in the early years. Long term effects include failing classes, dropping out, and the inability to compete in higher education and the workforce. Results of a longitudinal study of nearly 4,000 students found that students who don’t read proficiently by third grade are four times more likely to leave school without a diploma than proficient readers. For the worst readers, those couldn’t master even the basic skills by third grade, the rate is nearly six times greater. *Double Jeopardy How Third-Grade Reading Skills and Poverty Influence High School Graduation:* The Annie E. Casey Foundation. Ensuring students can read is critical to improving student achievement and closing the achievement gap.

Current law requires school board to approve district-developed remediation and academic improvement programs to provide special instructional assistance to students in first through eighth grade who do not demonstrate academic proficiency. Despite this statutory requirement, a large percentage of students fail to achieve proficiency on the New Mexico Standards Based Assessment (NMSBA). Based on FY11 assessment data, 50.2 percent of students score below proficiency in reading, 58.2 percent of students score below proficiency in math, and 58 percent of student score below proficiency in science. Research indicates, and common sense confirms, that passing students on to the next grade when they are under-or unprepared neither increases student achievement nor properly prepares students for college and future employment.

At the same time, research also shows that holding students back to repeat a grade may have negative effects. In some instances, retained students have been shown to have behavioral problems, to show lower levels of academic achievement, to be less likely to receive a high school diploma and to be more likely to drop out of high school. A 2006 National Center for Education Statistics grade retention study found, between 1995 and 2004, high school dropouts were more likely than high school completers to have been retained in a grade at some point in their school career. It is also important to note that minority students are more likely to be retained. Retention and promotion decisions, if not accompanied by effective interventions, fail to provide long-term benefits for low-performing students.

### **Florida**

Florida passed a similar law in 2002 that prohibited the promotion of third graders who did not score at a Level One, the lowest of five levels on the reading portion of the Florida Comprehensive Assessment Test (Florida's equivalent to the NMSBA). The Florida plan allowed five "good cause exemptions" in which third graders who were not reading above Level One could be promoted to the next grade. Florida has approximately 2.59 million total students.

Based on school year 2002-2003 data, the first year of implementation in Florida, 14 percent of Florida's third grade students were not promoted to fourth grade.

Florida appropriated \$107 million in FY07, \$134.7 million in FY08, \$123 million in FY09, \$106.5 million in FY10, and \$104.6 million in FY11 for the Just Read, Florida program and formula funds to school districts for comprehensive reading programs.

The Just Read, Florida program required the following:

- Establish statewide standards for P-12 school reading programs based on latest scientific research;
- Operate Reading Academies to train teachers and reading coaches in scientifically based reading instruction;
- Develop and monitor reading competencies that must be demonstrated for teacher licensure, reading endorsement and reading certification, including:
  - Elementary licensure (five competencies encompassing 61 indicators must be documented);
  - Secondary licensure (two competencies encompassing 26 indicators);
  - Reading endorsement for reading interventionists (six competencies encompassing 74 indicators); and

- Reading certification (30 graduate semester hours or a master degree or higher in reading and a passing score on the state K-12 Reading Subject Area test);
- Approve postsecondary teacher preparation programs based on proof that programs cover the required reading competencies;
- Develop screening, diagnostic and progress-monitoring assessments for instruction in reading;
- Support Florida Family Literacy Initiative; and
- Promote public-private partnerships, family involvement programs and volunteer initiatives to help children and adults to learn to read.

Legislation was passed in Florida in 2005 requiring districts to provide retained students with intensive interventions in reading to address the specific reading deficiency identified by a valid and reliable diagnostic assessment, including:

- A minimum of 90 minutes daily of intensive, uninterrupted scientifically based reading instruction;
- A summer reading camp;
- Appropriate teaching methodologies;
- A high performing teacher as determined by student performance data and above satisfactory performance appraisals; and
- Either supplemental tutoring; a Read at Home plan; or a mentor or tutor with specialized reading training.

While efforts to increase proficiency between FY03 and FY10 have successfully decreased the percentage of third graders scoring at Level One by 7 percent, 16 percent of Florida third graders were still scoring at the lowest proficiency level in FY10.

### **Texas**

From 1999 to 2002, Texas implemented a reading initiative that cost approximately \$75 million to train approximately 79,000 teachers in Grades K-3. Texas implemented a mandatory 4 day summer Teacher Reading Academy based on common curriculum. The training was research-based and very prescriptive, included video clips illustrating teachers working with students, and focused on individualized instruction based on each student's needs. Eventually, the state trained all K-8 teachers at an average cost of \$950 per teacher. The Texas initiative had several components, including:

- Developing a statewide consensus framework for reading instruction based on reading research;
- Creating assessments for student diagnosis and placement;
- Developing training curricula for all teachers who teach reading or language arts;
- Providing 4-day summer Teacher Reading Academies, face-to-face or on-line;
- Developing a reading curriculum scope and sequence (C-Scope), with suggested materials and exemplary lessons for use statewide;
- Providing ongoing teacher support and technical assistance;
- Evaluating all students on standardized instruments and providing mandated interventions for struggling students; and
- Enacting a bar on social promotion at grades 3, 5 and 8.

After teachers had been trained through third grade, the first group of third graders was subject to retention if they scored at the basic level on the third grade Texas standards-based assessment in reading. Students who test at basic or nearing proficiency are required to receive intensive interventions.

**New York**

School officials in New York have added \$2000 per student for remediation efforts, in a district whose average general education spending per pupil is about \$13,000 – and have seen positive gains.

**ALTERNATIVES**

- Focus on early literacy intervention in kindergarten through third grade.

RSG/ lj:svb