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FISCAL IMPACT REPORT

ORIGINAL DATE 02/28/11

SPONSOR HEC LAST UPDATED _____ HB 21 & 100/HECS

SHORT TITLE Limit Certain School Grade Promotions SB _____

ANALYST Gudgel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Indeterminate See Fiscal Implications				

(Parenthesis () Indicate Expenditure Decreases)

Relates to \$2.5 million nonrecurring appropriation to PED in Section 5 of the General Appropriation Act.

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Education Department (PED)

Responses Not Received On Committee Substitute
Public Education Department (PED)

SUMMARY

Synopsis of Bill

House Education Committee Substitute for House Bills 21 and 100 repeals Section 22-2C-6 – remediation programs; promotion policies; restrictions – and enacts a new section changing the statutory requirements of retaining students up to 8th grade, including kindergarten students. Many portions of the new section are similar to the repealed section. Key differences include:

- The mandatory retention of 3rd grade students who are not reading proficiently at the end of the 3rd grade, as measured by the New Mexico Standards-Based Assessment (NMSBA) beginning with the 2012-2013 school year. Students may only be retained for one year and parental waivers will not be granted. The bill establishes 5 exemptions from the mandatory retention policy that are outlined below in Significant Issues.
- Academic improvement plans shall be immediately developed for students in K-3 who are evaluated and determined to be deficient in reading. Students evaluated and found to have a substantial deficiency that would preclude progress in academic achievement shall be provided with remedial and intensive instruction at each grade level until the student achieves proficiency or graduates.
- The bill requires data from the 2010-2011 and 2011-2012 school years to serve as baseline assessment data on reading proficiency for students in grades 3, 5 and 8, including levels of performance in reading on the NMSBA below which a student must receive remediation or be retained in an intensive program that is different from the previous year's program.
- Beginning with the 2013-2014 school year, depending on availability of funds, responsibility will be shifted to the school district or charter school for the cost of summer and extended day remediation programs in grades 9 through 12.

FISCAL IMPLICATIONS

Ending social promotion is one of the Governor's priorities. PED has not provided any estimate of potential costs, or savings, including the number of children that could potentially be affected by the changes in this bill or estimates of fiscal impact to school districts to implement effective interventions and remediation.

In response to PED requests for funding "flexibility" and the transfer of several non-reverting fund balances to the department to support initiatives, HAFC included a \$2.5 million appropriation in Section 5 of House Bill 2 for the department. PED outlined numerous initiatives they would use these funds for, including 3rd grade retention. The department has not indicated how much of these funds will be used to end social promotion. Language in House Bill 2 requires the department to provide a detailed action plan to LESC and LFC no later than May 1, 2011, and continued quarterly reporting on expenditure of funds and progress and results of reforms and initiatives.

PED has indicated that the cost of implementing this bill will be absorbed by school districts and charter schools. Department testimony indicates districts are receiving \$225 million in federal funds that can be reprioritized for reading initiatives to support this bill, \$20 million in federal Title II funds for professional development, and that the state allocates \$10.5 million through the SEG for professional development between FY99 and FY02. It is reasonable to expect that districts should prioritize existing resources into strategies that are scientifically based and have proven success to increase reading achievement.

While districts are free to spend distributions from 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.

The committee substitute defines “reading proficiency” as a score on the NMSBA higher than the lowest level established by PED. In New Mexico, during the 2009-2010 school year there were over 25,744 third graders in New Mexico. Only 25,674, or 99.7 percent of those third graders were tested using the NMSBA in reading. It is a fair assumption that the 4,068 students that are reading at “beginning steps” will be at risk of being held back for one year if not provided intensive remediation programs. This assumption tracks with experiences from other states, including Florida.

Utilizing unweighted per student funding, if all of the 15.8 percent of students scoring at beginning steps are retained, there will be a cost of \$27.2 million dollars for an additional year of school. The bill does not implement the 3rd grade retention policy until the 2012-2013 school year. It is reasonable to assume that, with the extra year before implementation, the number of students retained will decrease due to targeted interventions and remediation, and reasonable to assume that over time the number of third graders retained would continue to decrease as remediation and interventions are implemented in lower grades. It is also reasonable to assume that the exemptions provided for in the bill will reduce the number of third graders retained, and therefore costs associated with an additional year of school would be decreased accordingly.

In addition to the cost of educating a student for an additional year, districts and charter schools can be expected to have increased costs associated with summer and after school remediation programs, professional development for underperforming teachers, assessments, curriculum, student assistance teams, and additional third grade classrooms and teachers needed. While existing funds may be able to be reprioritized, districts are not currently required to provide mediation and intervention programs for kindergarten students. There will be actual increased costs to districts to implement and pay for the costs of remediation programs in kindergarten – districts are not statutorily required to do this currently. These costs are not easily estimated, as data on kindergarten student proficiency is not readily available.

Additionally, beginning with the 2013-2014 school year, depending on availability of funds, responsibility will be shifted to the school district or charter school for the cost of summer and extended day remediation programs in grades 9 through 12. It is unclear what the use of “depending on availability of funds” means in this bill, and whether districts will be responsible for these costs only if an appropriation is made.

There are a number of programs and interventions that could be used to address reading proficiency and reading interventions, including:

- Kindergarten-Three Plus (K-3 Plus) has shown success in increasing reading skills of non-proficient students;
- Programs to increase parental involvement;
- Elementary Breakfast;
- Prekindergarten;
- Extended learning opportunities, including after school reading programs and the 21st Century After School Programs;
- Principal and School Leadership programs; and
- The use of Title 1 funds for district wide reading programs, including programs that extend the school year like K-3 Plus.

The state may want to be more prescriptive in requiring research based remediation measures such as extended learning opportunities, and increased time-on-task, like K-3 Plus. To establish a range of costs of addressing remedial requirements, the LFC analysis looks at the K-3 Plus program, which has several years history in New Mexico and preliminary evidence of success. Further, the K-3 Plus program may be a relatively inexpensive remediation program because it builds on existing infrastructure.

The average annual cost of the K-3 plus program is \$992 per student. If approximately 16 percent of students per grade were to participate in the K-3 Plus program, there would be an additional cost little more \$4.0 million dollars to the state or school districts for per grade – a total of \$16.0 million for all 4 grades. Additionally, the Legislature may want to consider implementing a mandatory statewide K-3 Plus program in all high poverty schools. This would cost an additional \$35 to \$40 million annually. However, the expectation would be to see fewer students held back in the third grade because they are not proficient in reading. This would decrease the funding required to educate these students for an additional year.

It is difficult during this 60 day session to invest substantial resources in FY12 in new education initiatives or any other initiatives. However, FY13 revenues are projected to grow about 4 percent, or \$200 million. Some funding will be needed for replacing cash balances and one-time cost savings measures. It could be feasible in FY13 to prioritize educational initiatives with incremental costs such as K-3 Plus.

It is expected that an effective 3rd grade retention policy would have the effect of increasing early student success, resulting in positive fiscal effects down the road. Costs associated with increased professional development, targeted remediation and interventions, and retention could be offset by this increased student achievement. It would be expected that some of the costs associated with retention would be offset by reduced identification of special education students, increased graduation rates and increased career and college readiness, including decreased postsecondary remediation rates. Other costs, such as costs associated with juvenile and adult criminal activity would also be expected to decrease. While these are cost savings that won't immediately be realized, they are important to consider.

SIGNIFICANT ISSUES

The bill defines “reading proficiency” as a score on the New Mexico Standards-Based Assessment (NMSBA) higher than the lowest level established by PED.

The 5 exemptions from the mandatory retention policy are for students who:

- Score at least at the fiftieth percentile on an alternative department-approved norm-referenced assessment or at the proficient level on an alternative department –approved criterion-referenced assessment;
- Demonstrates mastery on a teacher-developed portfolio that is equal to at least a proficient performance on the statewide standards-based assessments;
- Shows sufficient academic growth by meeting acceptable levels of reading and literacy performance specified by the department;
- Is an English language learner who reads proficiently in another language on a valid and reliable reading assessment or who has had less than 2 years of instruction in English for speakers of other languages; or

- Is a student with a disability, who shall be assessed, promoted or retained in accordance with the student's individualized education program.

PERFORMANCE IMPLICATIONS

The number of 4th and 8th graders scoring proficient or above on the NMSBA, the percentage of students who graduate, and the number needing remediation in college could be affected.

ADMINISTRATIVE IMPLICATIONS

The bill will increase both PED duties, district and school duties. PED will need to ensure department rules conform to the changes proposed in this bill, and will be required to approve norm-referenced assessments and criterion-referenced assessments that may be used in place of the NMSBA.

While school districts are already required to identify and provide remediation to 1st through 8th grade students who are not proficient, districts and charter schools will be required to develop remediation for kindergarten students.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to SB502 and SB503, which both relate to teacher evaluation systems.

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 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. Ensuring students can read is critical to improving student achievement and closing the achievement gap.

Current law requires school boards 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. Research indicates, and common sense confirms, that passing students on to the next grade when they are 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 without changing instructional strategies may be ineffective. Retention and social promotion, if not accompanied by effective programmatic intervention, fail to provide long-term benefits for low-performing students.

Districts must have academic improvement programs that are effective and provide targeted remediation. While a retention policy is intended to increase student achievement and ultimately lead to better outcomes, reports indicate some negative effects of retention if not coupled with effective interventions. In some instances where targeted remediation programs were lacking, 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.

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 (the Florida standards-based assessment). The Florida plan allowed five “good cause exemptions” in which third graders who were not reading at 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 third grade students were not promoted to fourth grade.

Florida appropriated \$107 million in FY07, \$134.7 million in FY08, \$123.3 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.

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 3rd grade, the first group of 3rd graders were subject to retention if they scored at the basic level on the 3rd 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

Implement effective strategies to improve literacy scores, including better preparation of elementary teachers. The Public Education Department outlines numerous strategies to improve literacy scores and help students achieve proficiency or above on standard-based assessments in reading, including remediation programs and providing struggling students with high performing teachers.

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