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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

Bill Number	<u>SB403</u>	Sponsor	<u>Kernan & Ingle</u>
Tracking Number	<u>.206972.1</u>	Committee Referrals	<u>SEC/SFC</u>
Short Title	<u>Student Literacy & Interventions</u>		
Analyst	<u>McCorquodale</u>	Original Date	<u>2/17/17</u>
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BILL SUMMARY

Synopsis of Bill

Senate Bill 403 (SB403) repeals and replaces current remediation and promotion provisions in the Assessment and Accountability Act in the Public School Code. SB403 requires the Public Education Department (PED) to establish a common standard screening assessment for student literacy administered three times annually but requires PED to approve an alternative assessment if school districts and charter schools choose, provided that the measurement for student literacy includes phonemic awareness, letter knowledge, alphabetic decoding, vocabulary, spelling, comprehension, and fluency.

SB403 requires local school boards to approve school district-developed remediation programs and academic improvement programs to provide interventions for students in kindergarten through fourth grade who do not demonstrate academic proficiency. SB403 delineates the following options for promotion decisions based on academic proficiency as determined by the statewide standards-based assessment or alternative assessment in reading for students in kindergarten through fourth grade: the student is academically proficient and would enter the next grade; the student is not academically proficient in reading and would be required to participate in a remediation program; or the student is not academically proficient and would be retained in the same grade for no more than one year or promoted to the next grade with a parental waiver.

New language in SB403, requires a student assistant team (SAT) that includes a student's teacher, school counselor, school administrator, teacher assigned to the student for the next grade level, certified reading specialist (if available), parent or guardian, and student advocate chosen by the student or parent, to determine promotion and retention decisions. However, students in kindergarten and first grade who are at the "lowest level of academic proficiency in reading as determined by results from the state-wide standards-based assessment or an alternative assessment" are required to be retained in the same grade or participate in a transition program. The SAT can unanimously decide whether or not the student would be able to make reading progress at the next grade level but would have to submit the decision in writing to the superintendent who would ultimately decide if the student would move to the next grade level or

be retained. The parent is required to be notified in writing within two weeks of the SAT's recommendation.

SB403 requires students in fourth through eighth grade who are not academically proficient to participate in the required level of remediation. SB403 allows school districts to establish transition programs for students in first grade who need intensive reading remediation before moving on to second grade.

Finally, SB403 requires school districts to provide specific, additional data in the school district's annual accountability including: a school district's percentage of academically proficient students, including reading levels, listed by school; the number of students scoring in the lowest proficiency categories on either the statewide standards-based assessment or department-approved alternative assessment; the number of students whose parents received and returned signed written notification of the student's non-proficient status and who were retained; and the number of students who did not achieve academic proficiency and that were promoted because of a parental waiver.

FISCAL IMPACT

SB403 does not have an appropriation.

In current statute, the cost of remediation (summer school, extended-day or -week, tutoring, etc.) is borne by the school district for first through eighth grade students. The bill extends remediation requirements to kindergarten students but does not include an appropriation to cover these additional costs. The costs for districts to implement SB403 are unclear but would likely be significant.

The House Appropriations and Finance Committee substitute for House Bill 2 for FY18 include \$23.7 million for the extended school-year program K-3 Plus, \$6 million in "below-the-line" funding for the Early Reading Initiative (Reads to Lead), and \$6.5 million in additional formula funding for early literacy initiatives.

Funding has not specifically been appropriated by the Legislature for programs associated with remediation; however, early childhood services received \$259.9 million in FY17, including \$6.2 million from the federal Race to the Top. According to Volume I of the LFC Report for FY18, New Mexico has demonstrated leadership in increased investment in early care and education. Since FY12, the Legislature invested \$100 million in early childhood programs administered by the Children, Youth and Families Department (CYFD), the Department of Health (DOH), and PED. CYFD provides child care assistance, home visiting, prekindergarten for 3- and 4-year-olds, early childhood professional development, and high-quality early childhood development centers. In FY17, the Legislature appropriated \$146.8 million to CYFD for these programs. PED provides prekindergarten for 4-year-olds, K-3 Plus, and early literacy (Reads to Lead). In FY17, the Legislature appropriated \$63.2 million to PED for these programs. DOH provides the Infant and Toddler Program for children birth to 3-years-old. In FY17, the Legislature appropriated \$43.7 million to DOH for these programs. These programs are targeted for at-risk youth to prepare students for kindergarten and to close the achievement by third grade.

SUBSTANTIVE ISSUES

Current law defines “academic proficiency” as the mastery of the subject-matter, knowledge, and skills specified in state academic content and performance standards for a student’s grade-level. Currently, common core state standards (CCSS) for reading and math are available for grades kindergarten through 12th grade. In SB403, academic proficiency is determined by results from the statewide standards-based assessment, the Partnership for Assessment of Readiness for College and Careers (PARCC) assessment or an alternative assessment. It is unclear if the alternative assessment will be aligned with CCSS.

Student Proficiency in Reading and Math. Third grade is the first year students are tested using the standards-based assessment. Overall, New Mexico PARCC assessment results for FY16 show only 24.2 percent of 24,268 third-graders who took the assessment achieved proficiency in reading and 30 percent in math.

FY15 and FY16 3rd Grade PARCC Proficiency										
	Reading					Math				
Fiscal Year	L-1	L-2	L-3	L-4	L-5	L-1	L-2	L-3	L-4	L-5
FY15	27.5%	24%	23.6%	23.6%	1.3%	17.5%	28.3%	28.8%	22.6%	2.6%
FY16	28%	23.6%	24.2%	23%	1.2%	17.6%	25.3%	27.1%	25.9%	4%

Levels 4 and 5 are considered proficient by the department.

Source: PED

In FY16, the PED approved short-cycle assessment for reading was Dynamic Indicators of Basic Early Literacy Skills (DIBELS Next) showed 64.3 percent of third-grade students scored at or above the benchmark in reading compared to 24.2 percent on the PARCC assessment. When comparing these results, it appears there is disconnect between PARCC data and DIBELS Next data for reading. PED selected a new reading short-cycle assessment called Istation in FY17. Presuming Istation is the department-approved screening assessment indicated in SB403, it will be conducted three times annually. DIBELS and Istation are department-approved interim assessments developed to assess reading fluency by providing continuous progress monitoring, frequently assessing students, and reporting student ability in critical domains of reading throughout the academic year. The results from these assessments are supposed to inform teacher practice to ensure students reach the benchmark for grade-level reading proficiency. It is unclear if Istation is better aligned to state content standards – and, therefore, with PARCC – than the DIBELS Next assessment. It is also unclear if Istation provides a short-cycle assessment for math.

The long-term effects of student retention are unclear. A report from the National Bureau of Economic Research, *The Effects of Test-Based Retention on Student Outcomes Over Time: Regression Discontinuity Evidence from Florida*, confirms students retained in third grade under Florida’s test-based promotion policy experience short-term gains in both math and reading achievement. On average, over the first three years after being held back, retained students outperform their same-age peers who were promoted by 0.31 standard deviations in reading and 0.23 standard deviations in math. While positive, these effects fade out over time, becoming statistically insignificant in both subjects within five years. The study also concluded that test-based retention in third grade reduced retention in each of the four subsequent years and also appears to have no effect on a student’s probability of graduating.

However, in a 2016 PED analysis of similar legislation included data from *An Evaluation of Florida’s Program to End Social Promotion* that provided an analysis of initial effects of

Florida's policy requiring students to reach a minimum threshold on the reading portion of the Florida Comprehensive Assessment Test (FCAT) to be promoted to the fourth grade. The report states:

- low-performing students who were actually retained made gains in reading greater than those of similar students who were promoted by 4.1 percentile points on the FCAT and 3.05 percentile points on the Stanford-9, a nationally respected standardized test that is administered to all Florida's students, with no stakes tied to the results; and
- after one year, the report indicated that retained students outperformed their non-retained peers by about 0.05 standard deviations. The reading benefit of retention after two years was a 0.04 standard deviation.

SB403 provides school districts and charter schools an option to develop a transition program for students in first grade who need intensive reading remediation before moving on to second grade. This would allow first grade students to remain with their peers while developing the reading skills needed for content attainment.

SB403 provides promotion decisions for students enrolled in special education; school districts and charter schools are required to base their decisions on the provisions of the student's individualized education program (IEP). The bill does not provide promotion decisions for English learners.

Section 22-2C-11 NMSA 1978 requires PED to collect data from school districts regarding student proficiency rates, graduation and drop-out rates, school safety, and data from parent surveys in an annual accountability report. SB403 requires school districts to provide specific, additional data in the school district's annual accountability as noted in the synopsis of the bill.

TECHNICAL ISSUES

On page 6, line 25; the Legislature may want to strike kindergarten because this section only pertains to students in first grade.

OTHER SIGNIFICANT ISSUES

PED Promotion and Retention Practices Guide. In a promotion practices guidance document dated May 2016, PED required school districts collect the following 2015-2016 promotion and retention data for first through third grade: number of students not proficient in reading; number of SAT meetings convened for non-proficient students; number of retention letters sent to parents; number of waivers signed by parents; and number of non-proficient students promoted to the next grade. At a June 2016 LESC meeting, it was noted these data will better inform promotion and retention decisions made in New Mexico. Based on results from the promotion and retention practices guide, PED reported more than 96 percent of the state's third-grade students who could not read on grade level in the 2015-2016 school year were promoted to fourth grade but only 5 percent of parents were notified of their child's reading deficiencies in FY16. However, third grade is the first grade level assessed by PARCC and the 2015-2016 school year PARCC results were not released until August 2016, just before the next school year began for most schools, making it difficult to notify parents in a timely manner about student proficiency based on PARCC assessment results.

Percent of Students Retained by Grade		
FY13		
Grade	Carlsbad	State
1	8%	3%
2	4%	2%
3	2%	1%
1-3	5%	2%
FY14		
Grade	Carlsbad	State
1	6%	3%
2	4%	2%
3	2%	1%
1-3	4%	2%
FY15		
Grade	Carlsbad	State
1	5%	3%
2	5%	2%
3	1%	1%
1-3	4%	2%

Source: LESC

School districts, however, have indicated parents are informed of student proficiency multiple times during a school year. Parents are informed about reading proficiency three times a year through DIBELS Next and as part of the response to intervention (RtI) framework; parents are informed of student reading performance through academic improvement plans, IEPs, SAT meetings, and parent teacher conferences.

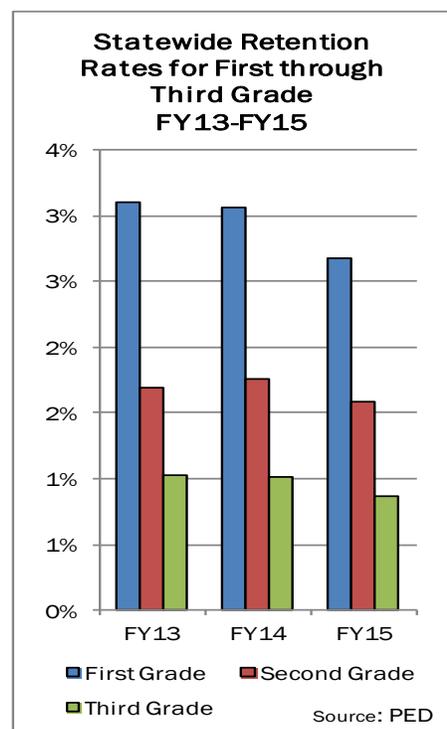
Retention Policies. As part of the executive’s early reading initiative, legislation mandating the retention of third-graders who do not read on grade level has been a priority for the past six years. However, this effort has been a contentious debate that has failed to gather bipartisan support. Much of the criticism is around the use of a single test score to make retention decisions.

Currently, students in first through seventh grade are primarily retained based on teacher and principal recommendation. Even though New Mexico’s retention policy does not specifically focus on kindergarten through third grade, its provisions include alignment with district-determined assessment results and an academic improvement plan designed by a SAT consisting of a student’s teacher, school counselor, school administrator, and parent. The SAT is responsible for

addressing the needs of students referred for tier-two level RtI support that systematically reviews and discusses all relevant data pertaining to a student’s academic progress. The SAT is part of the response to intervention framework, a student intervention system that all school districts and charter schools are required to follow.

Statewide Retention History. New Mexico retained 1,373 students in FY15 in first through third grade with first grade having the highest rate of 2.7 percent. Data shows more students are retained in the earlier grades. In first grade, 725 students were retained out of 27,043 first-graders enrolled. In second grade, 425 students were retained out of 26,787 second-graders enrolled. In third grade, 262 were retained out of 25,815 third-graders enrolled. The rate for retention for first through third grade remained consistent between FY13 and FY15.

Retention policies and procedures vary among school districts and charter schools. For example, Carlsbad Municipal Schools (CMS) implemented a triangular data approach in the 2014-2015 school year to drive intervention, retention, and promotion decisions for students in kindergarten through third grade. To measure proficiency, the triangular data set uses the RtI framework together with classroom grades in reading, language arts, and math; data from the state-approved reading interim assessment DIBELS Next and now Istation; and



Renaissance Learning STAR short-cycle assessment for early literature and math. While CMS retains students in kindergarten through third grade at a higher rate than the state, it is unclear how their triangular data approach will affect future retention rates.

National Retention Policies. The National Conference of State Legislatures and the Education Commission of the States released a report comparing the quality of kindergarten through third-grade programs in the United States. The 50-state comparison was conducted around multiple indicators, including third-grade retention policies. Third-grade retention is required with good cause exemptions in 17 states and is required without good cause exemptions in Georgia only. Retention is an option or determined to be a local decision in nine states and retention is not required in 12 states. The report also examined parental input requirements for states with third-grade retention, and 21 states require parental input or notification.

Over the past few years, many states emphasized third-grade retention as a consequence for not achieving proficiency in reading by the end of the school year. This has resulted in legislative mandates focused on literacy and high-stakes assessment practices. As state and local policies require retention of students in kindergarten through third grade, the research cited to support retention has been questioned, resulting in difficulty achieving consensus. However, what seems to be the common thread among states are early interventions and a strong core instructional component for students in prekindergarten through third grade to address the needs of struggling readers.

While the focus nationally seems to be on test-based retention, many states have also implemented early literacy initiatives that include statewide reading plans emphasizing identification and prompt strategic interventions for students reading below grade level. For example, even though Florida's policy requires retention if a third grade student scores below a level two on the Florida Comprehensive Achievement Test, provisions also require targeted instructional support in reading for kindergarten through third-grade students. Iowa requires third-grade retention but also provides for conditional promotion with progress monitoring and intensive interventions in primary grades. These conditions include district-selected assessments approved by the Iowa Department of Education and other measures such as overall intellectual, physical, emotional, and social development. Iowa also requires parental involvement in the promotion and retention decision process.

RELATED BILLS

SB209, Additional Student Data Reporting, enacts a new section of the Public School Code requiring school districts to provide specific, additional data in the school district's annual accountability including student interventions; remediation; and professional development on effective instructional methodologies and strategies to improve students' reading and English language skills.

HB114, Reading Improvement Plans & Interventions, requires reading improvement plans; remediation for students who are not proficient at the end of kindergarten, first, second, or third grade; and allows students who are not proficient to be retained with certain exceptions.

SOURCES OF INFORMATION

- Legislative Education Study Committee Files