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

Bill Number	<u>HB114</u>	Sponsor	<u>Youngblood</u>
Tracking Number	<u>.205813.1</u>	Committee Referrals	<u>HEC/HSIVC/HJC</u>
Short Title	<u>Reading Improvement Plans & Interventions</u>		
Analyst	<u>McCorquodale</u>	Original Date	<u>2/12/17</u>
		Last Updated	<u>2/28/17</u>

BILL SUMMARY

Synopsis of Bill

House Bill 114 (HB114) repeals and replaces current remediation and promotion provisions in the Assessment and Accountability Act in the Public School Code. Beginning with the 2017-2018 school year, the bill requires targeted instruction to be provided to a student who is not proficient in reading at the end of kindergarten, first grade, second grade, or third grade, and establishes mandatory retention for students who are not proficient in reading at the end of third grade who do not meet certain enumerated exemptions. The bill requires students who are not academically proficient at the end of fourth through eighth grade to participate in required remediation. It eliminates existing requirements to provide remediation for first through third grade students who are not academically proficient and eliminates existing provisions related to retaining first through third grade students who are not academically proficient.

FISCAL IMPACT

HB114 does not have an appropriation.

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.

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.

SUBSTANTIVE ISSUES

If enacted, HB114 will remove the provisions in current law that allows a parent to sign a waiver indicating the parent’s desire that a non-proficient student be promoted to the next higher grade.

HB114 provides exemptions for students if a student scores at least at the 50th percentile on a department-approved norm-referenced assessment; or is an English learner who is proficient in reading in a language other than English on a valid and reliable reading assessment, or who has had less than two years of instruction in English for speakers of other languages. Promotion and retention decisions for students with an identified learning disability will be determined with the provisions of their individualized education program (IEP).

Student Proficiency in Reading

HB114 defines “reading proficiency” as a score on the statewide standards-based assessment or screening assessment that is higher than the lowest level established by the Public Education Department (PED). Third grade is the first year students are tested using the standards-based assessment. Overall, New Mexico Partnership for Assessment of Readiness for College and Careers (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

Even though 64.3 percent of third-grade students scored at or above the benchmark in reading on the DIBELS Next assessment, only 24.2 percent of those same third-grade students scored at proficient or above on the PARCC assessment in FY16. When comparing these results, it appears there is disconnect between PARCC data and DIBELS Next data. PED selected a new reading short-cycle assessment, Istation in FY17 and presuming it is the screening assessment indicated in HB114. DIBELS and Istation are a department-approved interim assessment 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.

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.

In a 2016 PED analysis included data from *An Evaluation of Florida’s Program to End Social Promotion* that provided the assessment 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.

It is unclear if the PARCC assessment has been peer reviewed and validated. At a 2015 LESC meeting, it was asked if PARCC had been validated and PED indicated it is working to conduct a validity study of the PARCC assessment. According to PED, PARCC tests are aligned to common core state standards (CCSS) and should provide valid and reliable data to measure a student’s college and career readiness. PED has engaged postsecondary institutions to conduct judgment studies, including considering whether students scoring at levels four and five will be successful in college; however, higher education stakeholders indicated needing data from several cohorts of students before providing feedback.

TECHNICAL ISSUES

HB114 defines “valid and reliable assessments,” in part, as being thoroughly tested, peer-reviewed and accepted by authorities and practitioners (page 4, line 15). However, the term is not used again throughout HB114 and therefore does not need to be included in the bill.

Paragraph J indicates the assessment used for student growth in reading and other academic subjects; for kindergarten through second grade, school districts shall use the screening assessment; for third grade through eighth grade, the statewide standards-based assessment. However, “student growth” is not used anywhere else in the bill and remediation and retention decisions are not based on growth but proficiency. The Legislature may want to consider changing “growth” to “proficiency” on page 9, line 7.

OTHER SIGNIFICANT ISSUES

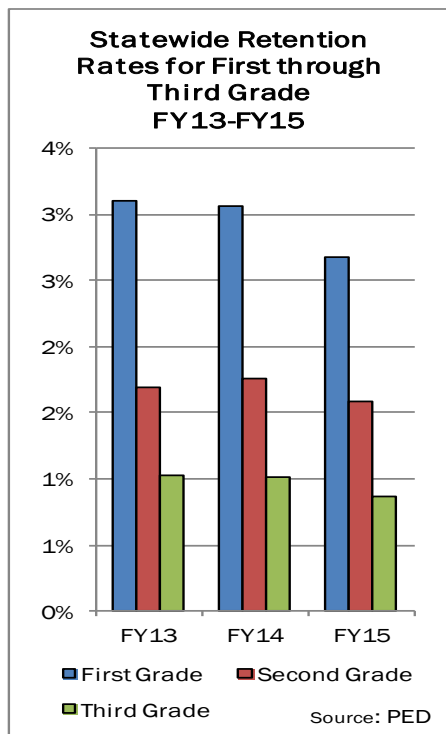
PED Promotion and Retention Practices Guide. In a promotion practices guidance document dated May 2016, PED required school districts collect the following 2015-2016 promotion and retention data for first through third grade: number of students not proficient in reading; number of SAT meetings convened 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 2015-2016 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 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.

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, individualized education plans, student assistant team 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 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 student assistant team (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



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

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/aSEC, 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.

SOURCES OF INFORMATION

- LESC Files

CMC/rsg