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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**53rd Legislature, 2nd Session, 2018**

<b>Bill Number</b>	<u>HB210</u>	<b>Sponsor</b>	<u>Youngblood</u>
<b>Tracking Number</b>	<u>.209486.3</u>	<b>Committee Referrals</b>	<u>HEC/HJC</u>
<b>Short Title</b>	<u>School Academic &amp; Reading Improvement Plans</u>		
<b>Analyst</b>	<u>McCorquodale</u>	<b>Original Date</b>	<u>2/8/18</u>
		<b>Last Updated</b>	<u></u>

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**BILL SUMMARY**

Synopsis of Bill

House Bill 210 (HB210) repeals and replaces current remediation and promotion provisions in the Assessment and Accountability Act in the Public School Code. Beginning with the 2018-2019 school year, the bill requires school districts and charter schools to administer a diagnostic assessment to students in kindergarten through third grade within the first three weeks of school or within the first three weeks of enrollment in a school district. The proposed changes would require school districts and charter schools to notify parents, in writing, of student proficiency. The bill requires an academic plan to be developed for students who are not proficient and for them to participate in the required targeted instruction, intervention, and remediation. HB210 establishes retention for students who are not academically proficient at the end of each grade in kindergarten through eighth grade. This excludes students who meet the enumerated exemptions. For students in ninth through 12th grade, the bill requires the cost of summer school and extended day intervention and remediation programs to be the responsibility of parents, unless parents are determined to be indigent as defined by the department, in which case the school district must bear those costs. In kindergarten through eighth grade, parents have the option to waive, in writing, the retention of their child.

**FISCAL IMPACT**

HB210 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 cost of remediation in ninth through 12th grade is borne by the parents.

The costs for school districts and charter schools to implement HB210 are unclear but could be significant. For example, in FY17, only 26 percent of third grade students were proficient in reading. Retaining students and creating new reading programs for the 74 percent of third grade students who are not proficient in reading would require additional staff time and resources.

The Public Education Department (PED) stated the costs associated with HB210 would be the responsibility of school districts and charter schools. PED's analysis noted both school districts and charter schools receive federal Title I and Title II funding and that funding could be reprioritized for reading initiatives or professional development to support the bill. PED will bear the cost of training school districts and charter schools to ensure that remediation programs are implemented with fidelity and that metrics are recorded and reported correctly.

## **SUBSTANTIVE ISSUES**

Currently, students in first through seventh grade are retained primarily 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 assistance 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 Response to Intervention 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.

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*, found 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. However, 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.

**Parental Waiver.** HB210 provides an option for parents to waive, in writing, the retention of their child. Current law provides the same option; however, it also provides that if the student promoted through parental waiver still fails to achieve grade-level proficiency at the end of that year, the student must be retained in the same grade for no more than one year in order to have additional time to achieve academic proficiency. In HB210, it appears a parent may waive the retention of their child who is not academically proficient each year.

**Department Approved Assessments.** HB210 defines "academic proficiency" as grade-level proficiency, as measured by department-approved assessments, in the subject-matter knowledge and skills specified in state academic content and performance standards. HB210 will determine academic proficiency using a department-approved assessment.

As part of its existing statewide assessment program, New Mexico uses a suite of assessments to track student proficiency with the goal that every student graduates college- or career-ready. The Partnership for Assessment of Readiness for College and Careers (PARCC) assessment is the most widely administered standardized assessment in New Mexico. PARCC is aligned with the more rigorous Common Core state standards. The test assesses English language arts in third through 11th grade. In math, third through eighth grade students take a grade-level PARCC assessment, and high school students take the PARCC assessment, as well as course-specific exams.

Istation was developed to assess reading fluency by providing continuous progress monitoring and reporting a student’s ability in critical domains of reading. Istation Promotional Materials indicate a correlation with Common Core state standards. For third grade, Istation assesses phonemic awareness, letter knowledge, alphabetic decoding, spelling, vocabulary, listening and reading, comprehension, and text fluency. New Mexico Common Core State Standards for third grade reading include: reading comprehension, determining meaning of words and phrases as they are used in the text, referencing text, comparing and contrasting themes, and range of reading and text complexity. PED indicates all school districts and charter schools will be required to use Istation for benchmarking three times a year for all students in kindergarten through third grade and for progress monitoring between benchmark windows for students at risk of not reading on grade level by the end of the school year. In FY17, more students were on benchmark on Istation in kindergarten (60 percent), first grade (57 percent), and second grade (66 percent), than were proficient on the PARCC assessment for reading in third grade (26 percent), raising questions about Istation’s alignment with third grade reading standards.

**Student Proficiency on State Assessments.** The tables below indicate that under HB210 approximately 70 percent of students could be retained in third grade through 11th grade. PED considers Level 4 and Level 5 proficient in reading and math.

FY15 - FY17 Third Grade PARCC Proficiency										
Fiscal Year	Reading					Math				
	L-1	L-2	L-3	L-4	L-5	L-1	L-2	L-3	L-4	L-5
FY15	27.5%	24.0%	23.6%	23.6%	1.3%	17.5%	28.3%	28.8%	22.6%	2.6%
FY16	28.0%	23.6%	24.2%	23.0%	1.2%	17.6%	25.3%	27.1%	25.9%	4.0%
FY17	27.0%	22.0%	25.0%	25.0%	1.0%	18.0%	24.0%	28.0%	26.0%	4.0%

PED considers Levels 4 and 5 proficient.

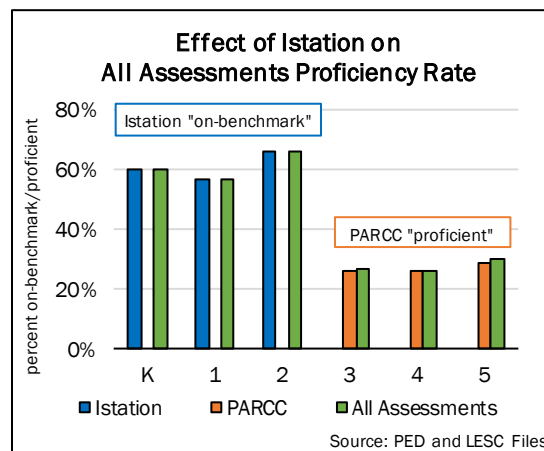
**Percent of Students Proficient in 2017  
on New Mexico's State Assessments**

Subject	Third through 12th Grade <sup>1</sup> All Assessments	PARCC	SBA Spanish	SBA Science	NMAPA
		Reading	29%	27%	28%
Math	20%	19% <sup>2</sup>			38%
Science	40%			40%	22%

<sup>1</sup> The relatively high Istation results in kindergarten through second grade affect the reported statewide average reading proficiency rate. Removing Istation from the results decreases the statewide reading proficiency rate by 8 percentage points to 29 percent.

<sup>2</sup> PED data does not report the exact percentage of proficient students, listing 18 percent of students taking the PARCC math assessment proficient at level 4 and less than 1 percent at level 5.

Source: PED and LESC Files



**Promoting School Readiness.** The Pew Charitable Trusts, a nonprofit, nonpartisan organization providing analysis to improve public policy, indicated high-quality prekindergarten increases a child’s chances of succeeding in school and in life. The foundation stated children who attend high-quality early learning programs are less likely to be retained, need special education services, and more likely to graduate from high school. Additionally, children who participate in a high-quality prekindergarten program have higher earning opportunities as adults and are less likely to become dependent on welfare or be incarcerated.

While New Mexico has significantly heightened its focus on early childhood programs, the state is among one of the lowest-ranked states in the Annie E. Casey Foundation’s annual Kids Count Data Book, which ranks states according to 16 child well-being measures. Ranked 49th in 2017, New Mexico is challenged more than most states by the consequences of poverty on its children.

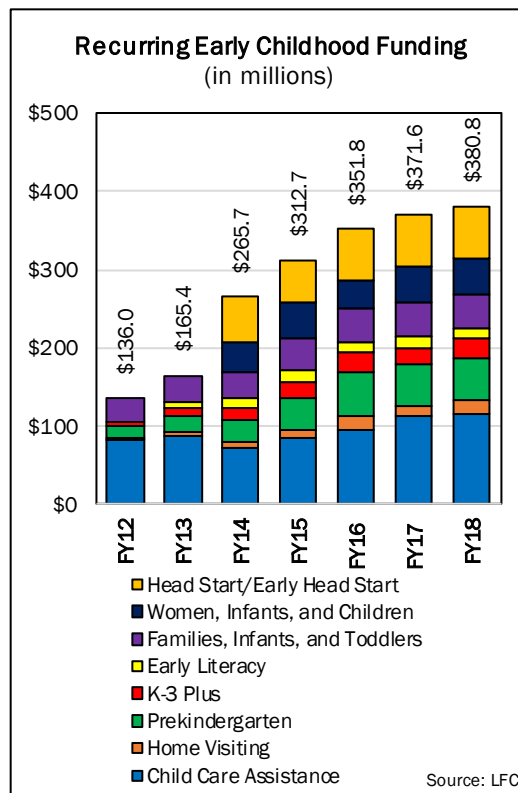
Children who experience toxic stress – whether it is the result of poverty, instability, abuse or neglect, or other adverse childhood experiences – can experience impaired brain development, especially in the areas of the brain dedicated to higher-order skills. High-quality early childhood education can reduce the toxic developmental effects of poverty and childhood trauma by providing children with rich social experiences needed to succeed in school.

The National Conference of State Legislatures’ international study of successful school systems found strong programs for early childhood, with extra support for struggling students. According to the Center on International Education Benchmarking (CIEB), a program of the National Center on Education and the Economy (NCEE) that conducts research on the world’s most successful education systems, high-performing countries offer low-income families subsidized care for infants. Most countries offer ongoing publicly funded parent support, with a special focus on disadvantaged and immigrant families. They all provide social and health services for all families. They all have prekindergarten programs, many free and universal. Finally, most offer subsidized training and education for those working with young children.

NCEE indicated policies in top-performing countries are focused on providing intensive support for students well before age 8. This ensures that there are fewer students who fall behind so there is less attention to grade retention and more emphasis on extra, intensive supports for students who are struggling.

**Legislative Appropriations for Early Childhood Services.** Since FY12, the Legislature has appropriated more than \$762 million in general fund revenue for early childhood programs in

addition to \$1.3 billion in federal funding to support programs that include subsidized child care for families with incomes at or below 200 percent of the federal poverty level, or \$24,600 for a family of four; Early Head Start and Head Start, a federally funded program that supports school readiness for low-income families; Family, Infants, and Toddlers (FIT), a federally funded program that provides early intervention services to families with infants and toddlers with developmental delays, an established medical condition, or are at risk of developmental delays; paraprofessional home visits for new families to improve parenting skills and child health and well-being from birth to age 4; and Women, Infants, and Children (WIC), a federally funded program providing supplemental food, healthcare referrals, and nutrition education for pregnant, breastfeeding, and postpartum women, and as children up to five years of age who may be at nutritional risk. These programs are targeted for at-risk youth to prepare students for kindergarten and to close the achievement gap before third grade.



The House Appropriations and Finance Committee Substitute for HB 2 and 3, which was adopted by the House, appropriates \$9.1 million for early literacy, \$30.2 million for K-3 Plus, an extended school year program for students in kindergarten through third grade, and \$29 million for public prekindergarten.

The Legislative Finance Committee’s (LFC) 2017 Early Childhood Accountability Report indicates prekindergarten programs have a positive impact on student literacy. Third-grade reading and math scores on the PARCC assessment were higher for students who participated in prekindergarten than their peers who did not. LFC found the effect persisted through fifth grade. Additionally, LFC found the achievement gap was nearly eliminated by kindergarten for low-income students who participated in prekindergarten and K-3 Plus, compared with students who did not participate.

**ADMINISTRATIVE IMPLICATIONS**

PED would have to determine cut scores for “academic proficiency.” It is unclear if “academic proficiency” applies to subjects other than reading for fourth through eighth grade.

**TECHNICAL ISSUES**

HB210 requires school districts and charter schools to refer students who have not been academically proficient for two successive years to be placed in “an alternative program that is designed by the school district or charter school.” It is unclear what an alternative program is.

**SOURCES OF INFORMATION**

- LESC Files
- Public Education Department

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