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FISCAL IMPACT REPORT

ORIGINAL DATE 02/26/13
 LAST UPDATED 02/27/13

SPONSOR SEC _____ HB _____

SHORT TITLE Reading Proficiency Act SB 640/SECS

ANALYST Gudgel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	\$11,000.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$11,000.0				State Equalization Guarantee

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Bill

Senate Education Committee Substitute for Senate Bill 640 enacts a new section of the Public School Code to establish the Reading Proficiency Act (Act) to ensure that students who experience difficulties with reading proficiency are provided multiple opportunities for early intervention and remediation. The Act creates a framework for identifying students who are not proficient in reading and provision of intervention and differentiated remediation for kindergarten through third graders, and fourth through eight graders. The bill eliminates provisions in Section 22-2C-6 NMSA 1978 related to intervention and promotion policies for students who are not academically proficient and limits promotion and retention policies to students based on reading proficiency.

FISCAL IMPLICATIONS

The appropriation of \$11 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY14 shall revert to the general fund. The funds are appropriated to the state equalization guarantee for expenditure in FY14 for interventions and differentiated remediation for students pursuant to the Reading Proficiency Act and professional development for teachers' adoption of effective instructional methodologies and strategies in the areas of reading, English language development or English as a second language. Any unexpended or unencumbered balances remaining at the end of fiscal year 2014 shall revert to the general fund.

Ending social promotion is one of the Governor's priorities. The Public Education Department (PED) has not provided any estimate of potential costs, or savings of this bill. The department estimates that up to 41,973 kindergarten through eighth grade students will require intervention in reading. The PED's analysis includes information pertaining to their request for \$13.5 million for the New Mexico Reads to Lead early reading initiative. For FY13, the Legislature appropriated \$8.5 million to the Department for the early reading initiative. However, these funds were not distributed statewide. A number of school districts and charter schools received funding for early literacy intervention, though the funds do not appear to be targeted to the state's lowest performing students nor the state's most at-risk students.

If the Legislature continues the Reads to Lead funding, it will continue to provide the formative assessment tool for use with all kindergarten through third grade students at a cost of \$12 per student for approximately 106,000 students. Additionally, a portion of the funds will be used to support professional development for school administrators, teachers, reading coaches, and parents on the following:

- Evidence-based reading instruction and intervention aligned with Common Core State Standards;
- Using formative assessment data to drive instruction; and
- Strategies for parents to support students' reading acquisition at home.

House Bill 2 currently includes \$11 million for an early reading initiative.

Additionally, the PED estimates total district funding needs to be \$9.7 million to intervene with students who struggle the most. Districts will use the funds to support reading coaches and interventionists at the district and school level who will support schools with implementation of the formative assessment tool and interventions. In additions, districts will use the funds to support interventions and provide professional development for teachers on evidence-based reading instructional strategies.

The PED has worked collaboratively with superintendents to reshape how the \$9,700.0 will be distributed. Under the agreement, all districts will receive funds to hire at least one coach or interventionist.

The bill defines "reading proficiency" as a score on the statewide standards-based assessments that is higher than the lowest level defined by the PED. In New Mexico, during the 2011-2012 school year there were approximately 25,252 third graders. Only 25,176, or 99.7 percent of those third graders were tested using the NMSBA in reading. Of those students, approximately

5,589, or 22 percent are reading at “beginning steps” and at risk of being held back. Per student funding received by districts is approximately \$7,044 per student. For every child that is held back, without additional legislative appropriations to cover the student, the school district will have to absorb the costs of an additional year of school.

During previous legislative sessions, the PED has indicated that the cost of implementing intervention and remediation will be absorbed by school districts and charter schools. Department testimony indicated districts receive \$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 equalization guarantee (SEG) distribution includes \$10.5 million for professional development. 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 the 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.

School district and charter schools can be expected to have increased costs associated with remediation programs, including summer and after school remediation programs, professional development for underperforming teachers, assessments, curriculum, student assistance teams. While existing funds may be able to be reprioritized, 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.

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 approximately \$1,100 per student. It would cost approximately \$25.9 million dollars to provide K-3 Plus to the bottom 20 percent of students in kindergarten through third grade, little more than \$5.8 million per grade. 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 \$25 to \$30 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, and future college remediation costs.

It is expected that an effective third grade retention policy would have the effect of increasing early student success, resulting in positive fiscal effects in the future. 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 will not immediately be realized, they are important to consider.

SIGNIFICANT ISSUES

Senate Bill 640 enacts a new Reading Proficiency Act (Act). The purpose of the Act is to ensure that students who experience difficulties learning to read are provided multiple opportunities for early intervention and remediation from kindergarten through eighth grade. The Act includes a definition of “proficient in reading” that appears to decrease the level of proficiency a student must show to trigger remediation under current statute, triggering reading improvement plans for students who score at the “beginning steps” on the standards-based assessment or another PED approved assessment. Current law defines “academic proficiency” as mastery of the subject-matter knowledge and skills specified in state academic content and performance standards for a student's grade level, and appears to apply to students who score at “beginning steps” and “nearing proficiency”.

Kindergarten Through Third Grade Students

The Act requires kindergarten through third grade students to be screened for reading proficiency at the beginning of each school year using a PED approved assessment. The screening assessment may be administered in a language other than English. Beginning with the 2013-2014 school year, school districts and charter schools shall approve intervention and differentiated remediation programs and differentiated academic improvement programs that have demonstrated effectiveness in providing special instructional assistance to kindergarten through third grades students who are not proficient in reading.

If the screening results indicate a student is not proficient in reading, the student assistance team will be required to develop a reading improvement plan for the student by the 80th day of the school year that contains initial identification of areas of need and recommendations for differentiated remediation. The reading improvement plan will also include specific strategies

for a parent to implement. Students who have a reading improvement plan will immediately receive differentiated intensive targeted instruction unless a parent refuses to allow the student to participate.

Fourth Through Eighth Grade Students

The Act also establishes procedures for fourth through eighth grade students, requiring school districts will to use a valid and reliable assessment to assess reading proficiency of fourth through eighth grade students. A parent of a student that is not proficient must be notified by the end of the first grading period and a conference with the student assistance team will be held to discuss strategies and intervention and remediation. An academic improvement plan will be developed at this conference and the school will be required to immediately implement intervention and differentiated remediation programs for the remainder of the school year. The school will be required to maintain a student intervention file for each fourth through eighth grade student who does not demonstrate academic proficiency. This student intervention file will become part of the student's permanent record.

Reporting

The Act requires each school district to provide a professional development plan to the PED that includes proposals for teachers to receive professional development to adopt effecting reading instructional strategies. By May 15 of each year, each school district must include the following information in the annual accountability report:

- The number and percentage of:
 - Students requiring intervention
 - Students who receive intervention and remediation and achieved reading proficiency; did not achieve reading proficiency and were retained or were not retained due to a parental waiver.
- Reading proficiency data for students who did not achieve reading proficiency and were promoted to the next higher grade due to a parental waiver.
- Student assistance team promotion and retention decisions for students who previously were promoted to the next higher grade due to a parental waiver.

PED will be required to report to the Legislative Education Study Committee every other month during the interim about accountability reports, programs adopted and implemented, data maintained and goals established pursuant to the Act.

Section 22-2C-6 Changes

Changes proposed to Section 22-2C-6 including limiting the promotion and retention provisions only to first through seventh grade students depending on their reading proficiency. Proficient students will be promoted to the next grade. Students who have not achieved reading proficiency prior to the next school year may be retained in the same grade for one year with the recommendation of the teacher and school principal with an academic improvement plan or promoted to the next grade if the parent refuses to allow retention and signs a waiver. The bill mandates retention for a student who is promoted because a parent refuses to allow retention, after the student is placed on an academic improvement plan and fails to achieve reading proficiency for a second year in a row.

Eighth grade students who have not achieved reading proficiency shall be retained for one year (current law requires eighth grade students who are not academically proficient to be retained).

The bill also requires only student who do not achieve reading proficiency for two successive school years to be placed in an alternative program designed by the school district (current law requires this for all students who do not demonstrate academic proficiency). Both of these provisions limit the instances of mandatory retention and the requirement to place a student in an alternative program from what is currently in law.

The bill defines reading proficiency as a score on a valid and reliable assessment that is higher than the lowest level established by the PED. In New Mexico, during the 2011-2012 school year 25,176 third graders, or 99.7 percent of all third graders, were tested using the NMSBA in reading. Of those students, approximately 5,589, or 22 percent are reading at “beginning steps” and at risk of being held back. Per student funding received by districts is approximately \$7,044 per student. For every child that is held back, without additional legislative appropriations to cover the student, the school district will have to absorb the costs of an additional year of school.

PERFORMANCE IMPLICATIONS

The provisions in the bill align to the PED’s Strategic Lever #3 Ready for Success Initiative. The bill could increase reading proficiency statewide.

ADMINISTRATIVE IMPLICATIONS

The PED analysis indicates the department will maintain the contract with the selected provider of the universal screening assessment for reading procured through the request for proposal process in fall 2012.

- PED will need to provide statewide training on use of the universal screening assessment tool to districts and schools across New Mexico. Training will focus on:
 - How to administer the screening assessment; and
 - How to interpret the data to drive instructional practice.
- PED will need to develop a process to approve use of screening assessments not adopted by the state, but in use across districts.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 260, SB 474, and HB 257 conflict.

TECHNICAL ISSUES

Section 6 enacts a new section related to fourth through eighth grade students. The bill requires school districts and charter schools to use a valid and reliable assessment, though it does not specify when the assessment is to be administered.

Additionally, the bill contains parental notification provisions; however it does not specify who is responsible for carrying out the notification provisions (the teacher, principal, school, or district).

Changes to Section 22-2C-6 eliminate reference to “school-district-determined assessment results” and “educational plan for student success” though definitions for these terms are still included in Section F. These definitions should be eliminated.

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.

ALTERNATIVES

The Legislature may want to consider reading deficiencies as triggering the need for reading improvement plans, rather than proficiency as defined by the bill because it does not capture all students that are not proficient in reading.

RSG/blm