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## FISCAL IMPACT REPORT

SPONSOR Youngblood ORIGINAL DATE 2/6/18  
 LAST UPDATED \_\_\_\_\_ HB 210

SHORT TITLE School Academic and Reading Improvement Plans SB \_\_\_\_\_

ANALYST Liu/Dinces

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See Fiscal Implications				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Children, Youth and Families Department (CYFD)  
 Regional Education Cooperatives Association (RECA)  
 Public Education Department (PED)

### SUMMARY

#### Synopsis of Bill

House Bill 210 repeals Section 22-2C-6 NMSA 1978 of the Public School Code – Remediation programs; promotion policies; restrictions – and enacts a new Section 22-2C-6 NMSA 1978 – Parental notification; improvement plans; grade promotions; additional year of instruction – that outlines diagnosis, intervention, notification, remediation, promotion, and placement policies for students between grades kindergarten through eight. The bill provides the following procedures based on grade level:

For all students in kindergarten through third grade:

1. *Diagnosis*. The school shall administer a PED-approved diagnostic, within the first three weeks of the student enrolling, to measure each student’s acquisition of reading skills.
  - a. For English language learners (ELL), the diagnostic will be in the student’s first and second languages.
2. *Notification and Intervention*. If the student is not proficient in reading (in English or another language) by the end of the grading period, the school shall:
  - a. Notify the parents in writing about the diagnostic results,
  - b. Explain intervention and remediation methods available to the student to address deficiencies, and

- c. Ensure the student assistance team develops and implements a reading improvement plan for the student.
3. *Promotion Decision.* At the end of each grade, K-3, students will be promoted based on proficiency in reading. Students not proficient in reading will be required to participate in a remediation program, defined as “summer school, extended-day or-week programs, and tutoring or another research-based method for student improvement that takes place outside the regular school day or year and includes progress monitoring.”
  - a. If the student, after remediation, reaches reading proficiency before the beginning of the next school year, the student shall be promoted.
  - b. If the student, after remediation, is still not proficient in reading, the parent shall decide if the student will receive an additional year of instruction in the same grade with a different reading plan. If the parent decides against the additional year of instruction in the same grade, they must waive this option in writing.
4. *Exceptions.* The grade promotion decision criteria do not apply to a K-3 student who:
  - a. Scores at the 50<sup>th</sup> percentile or higher on a PED-approved assessment,
  - b. Is an ELL proficient in reading in another language,
  - c. Is an ELL with less than two years of instruction in English for speakers of other languages, or
  - d. Has a disability and will instead be assessed, promoted, and offered additional instruction in accordance with the student’s individualized education program.

For all students in fourth through eighth grade:

1. *Promotion Decision.* At the end of each grade, 4-8, students will be promoted based on academic proficiency determinations, academic proficiency plans, and promotion policies aligned with school district- or charter school-approved assessments and state standards. Students deemed not proficient will be required to participate in a remediation program.
  - a. If the student, after remediation, reaches academic proficiency before the beginning of the next school year, the student shall be promoted.
  - b. If the student, after remediation, is still not academically proficient, the parent shall decide if the student will receive an additional year of instruction in the same grade with a different academic proficiency plan. If the parent decides against the additional year of instruction in the same grade, they must waive this option in writing.
  - c. School districts and charter schools must provide an alternative academic program for each student that is not academically proficient, as measured by grades, performance on PED-approved assessments, and other school district or charter school measures, for more than two successive school years.

The bill further requires parents to cover the costs of remediation for a student in grades 9-12, unless PED determines the parent is indigent, in which case the school district or charter school will bear the costs. All school districts and charter schools will report the percentage of academically-proficient students in the annual report required in Section 22-2C-11 NMSA 1978.

## FISCAL IMPLICATIONS

This bill does not contain an appropriation. RECA notes the current percentage of students not identified as proficient on the Partnership for Assessment of Readiness for Colleges and Careers (PARCC) test administered statewide to students in third through 11th grade is considerable and may impose additional costs to school districts and charter schools providing remediation. PED

notes the costs associated with this bill can be fulfilled by districts and charter schools through federal funds that can be reprioritized for reading initiatives in the early grade levels. According to the U.S. Department of Education and Congressional Research Service, New Mexico school districts are estimated to receive \$119 million in Title I-A grants and about \$17 million in Title II-A grants for federal fiscal year 2017. These federal funds can be used to support professional development above the state equalization guarantee (SEG) distribution to districts and charters. According to PED, districts and charter schools can use existing resources for strategies that are evidence-based and have proven success to increase reading achievement. PED will bear the cost of training districts to ensure that remediation programs are implemented with fidelity and that metrics are recorded and reported correctly. The bill requires cost of remediation programs in grades 9-12 to be borne by the parent. However, in cases where parents are determined to be indigent, according to PED guidelines, the school district or charter school shall bear those costs.

In addition to the cost of educating a student for an additional year, school districts 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, and needed additional third grade classrooms and teachers. 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.

New Mexico's K-3 Plus extended school year program adds 25 instructional days to the regular school year for at-risk students in struggling schools. The average annual cost of K-3 Plus is approximately \$1,250 per student and is based on the funding formula unit value. If the state mandated K-3 Plus for the lowest scoring students, it is likely almost 26 thousand kindergarten through third grade students would need reading intervention. At the \$1,250 per-student estimated cost, about \$32.5 million will be needed to fund such a proposal. The House Appropriations and Finance Committee (HAFC) substitute for House Bill 2 and House Bill 3 includes a \$30.2 million appropriation for K-3 Plus for FY19.

## **SIGNIFICANT ISSUES**

According to PED, the provisions in this bill provide districts and charter schools support and guidance as related to New Mexico's Literacy Framework to provide coordinated and systematic opportunities for students to access curriculum and be successful in school. From kindergarten to grade three, children learn to read. From fourth grade on, children read to learn. The goal for all students to acquire critically-needed early literacy skills by the end of third grade is paramount to reaching long-term academic goals for all New Mexico students.

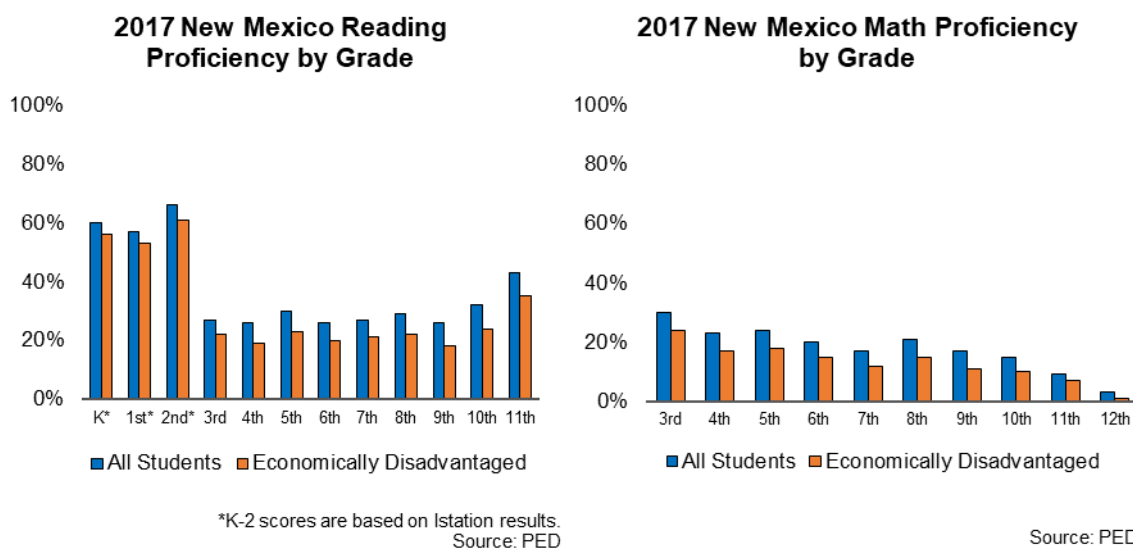
A 2011 report by the Annie E. Casey Foundation found that students who were not proficient readers by the end of grade three were four times more likely to drop out before graduation. Additional findings of the 2011 report by the Annie E. Casey Foundation included:

- About 16 percent of children who are not reading proficiently by the end of third grade do not graduate from high school on time; a rate four times greater than that for proficient readers.
- For children who are poor for at least a year and are not reading proficiently in third grade, the proportion of students who don't graduate rises to 26 percent. That's more than six times the rate for all proficient readers.
- Graduation rates for Black and Hispanic students who are not proficient readers in third grade lag far behind those for White students with the same reading skills.

Sociologist Donald Hernandez found that children who do not read proficiently by the end of third grade are four times more likely to leave school without a diploma than proficient readers. Black and Hispanic children who are not reading proficiently in third grade are twice as likely as similar White children not to graduate from high school (about 25 vs. 13 percent). Hernandez found that 22 percent of children who have lived in poverty do not graduate from high school, a figure about three times greater than the rate for children with no family poverty experience.

The National Assessment of Educational Progress (NAEP) is the largest nationally representative and continuing assessment of America’s academic achievement. Every two years, grade four and grade eight students across the U.S. take the NAEP reading assessment, which provides an opportunity to examine how well New Mexico students perform when compared to other students across the nation. The 2015 NAEP reading results indicate that only 27 percent of New Mexico fourth grade students scored at or above proficient in reading. Similarly, only 21 percent of New Mexico eighth grade students scored at or above proficient in reading. In 2015, the average score of fourth-grade students in New Mexico was 207, which is not significantly different from their average score in 2013 (206) and in 1998 (205). The score of 207 earned by New Mexico students (NAEP 2015) was lower than the average score of 221 for public school students in the nation.

Results from New Mexico’s 2017 PARCC assessment show similar proficiency rates. RECA notes school districts currently use iStation to assess and diagnose reading deficiencies in students grades K-3, with PARCC assessments for reading beginning in third grade. It is unclear if iStation is aligned to PARCC and will provide schools with similar data on student reading proficiencies. The following charts show PARCC proficiency scores for reading and math by grade level and economically disadvantaged status. Reading proficiency rates for K-2 scores are based on iStation results.



PED notes the bill addresses significant issues to close the achievement gap for students struggling in reading. Some of the requirements will serve to provide districts and charter schools with tools and methods to remedy these gaps, such as:

- Use of a diagnostic assessment for all districts to assess K-3 students’ reading skills, including, but not limited to, phonological awareness, phonics, spelling, reading fluency, vocabulary, and comprehension.

- Use of a screening assessment available in the student’s first and second language for English Language Learners. Most assessments, including PED’s adopted reading tool for kindergarten through grade three, are available only in English and Spanish. Districts and charters will utilize prior year data to establish baseline data on students reading performance in kindergarten through third grade. The screening assessment tool shall be used to establish levels of performance to determine if a student will be provided with a reading improvement plan.
- Parent notification procedures that require districts and charter schools to notify parents of fourth through eighth grade students’ if their child is not academically proficient. This shall occur no later than the end of the first grading period. Districts and charter schools additionally will report to PED promotion and retention data and provide documentation of all parent notification practices and letters to parents.
- Remediation practices and tools that enlist evidence based practices to individualize support for students and provide opportunities for districts and charter schools to use tools that inform best practices and serve to organize for reporting.

The bill defines “academic proficiency” as grade-level proficiency, as measured by PED-approved assessments, in the subject-matter knowledge and skills specified in the state academic content and performance standards. PED notes situations may occur for students in grades ninth through 12<sup>th</sup> grade where a student is not academically proficient in one or more content areas, but is academically proficient in other subjects.

## **PERFORMANCE IMPLICATIONS**

Provisions of this bill may affect performance measures pertaining to proficiency rates of third, fourth, and eighth graders on standards-based assessments. Additionally, effects on graduation rates, juvenile delinquency rates, and college remediation rates may be realized in future years.

## **ADMINISTRATIVE IMPLICATIONS**

PED will need to align the current screening and diagnostic tools to match provisions of the bill and provide statewide training on use of the universal screening assessment tool to districts and charters. PED indicates the training will focus on how to administer the assessment and how to interpret the data to drive instructional practice. Training on parent notification procedures will be provided by PED to districts and charter schools on reporting requirements and tools to use to complete this process.

School districts are already required to identify and provide remediation to students in first through eighth grade who are not proficient; however, districts and charter schools will need to develop remediation plans and tools for kindergarten students under provisions of this bill. PED will need to coordinate and provide guidance on remediation practices and reading improvement plans and monitor reporting requirements to assure the bill is enacted as intended.

## **OTHER SUBSTANTIVE ISSUES**

PED notes 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 state’s standards-based assessment each year. During the 2016-2017 school year, only 25 percent of third graders

scored proficient or above on the English language arts assessment for the PARCC test. Research indicates 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 students repeating a grade without changing instructional strategies may be ineffective. An additional year of instruction must be accompanied by effective programmatic intervention in order to provide long-term benefits for low-performing students, as articulated in this bill.

The 2016 National Conference of State Legislatures report, *No Time to Lose*, found that nations faring well on international academic comparisons shared four common elements: strong programs for early childhood readiness, especially for disadvantaged children; highly selective teacher preparation programs concentrated in prestigious research universities; rigorous licensure systems with career paths that allow for teacher advancement; rigorous systems of career and technical education; and carefully aligned education reforms. The report also found high-performing countries rarely administer standardized tests annually like the United States. Instead, these countries assess key transition points in a student's career, with tests that usually emphasized essays over multiple-choice questions to engage students' complex thinking skills. High-performing countries focus resources to serve economically disadvantaged students and make efforts to narrow the achievement gap between low- and high-performing students. Investments are made in early childhood programs to improve the quality of education during critical developmental stages before the achievement gap widens. More teachers are typically allocated to struggling schools, with the best teachers serving in the most challenging schools.

Studies focused on retention show some mixed effects, however the majority of the research does not find positive outcomes for retaining students. One study in 2000 from the American Education Research Journal found that holding students back before they enter kindergarten may have positive effects on student performance in school, which could imply early retention may also have some positive benefits. Students whose entry into kindergarten was delayed a year show similar achievement levels as students who entered on time. However, the research study did not recommend delaying entry into kindergarten as a widespread practice until more information was collected. Additional research in 2006 from the School Psychology Review has shown retention in grades kindergarten through second has similar negative long term outcomes to those who are retained between third through sixth grades. However, it should be noted this study did not specify whether these retentions were voluntary or automatic, therefore, it is unknown what the specific effect of voluntary retention would be.

Other early interventions for students kindergarten through third grade have shown to lead to more positive outcomes for children. A 2010 study published by the Council for Exceptional Children found first graders at risk of reading difficulties receiving a research intervention (responsive reading instruction) were better able to read fluently out loud than their peers who received the typical school practices. In addition, a 2011 study in the Elementary School Journal found those students in kindergarten and first grade who received a technology based intervention in the classroom performed better than their peers who did not receive the intervention. These studies highlight that if evidence based interventions are used within the classroom, students gain more than they would otherwise. Rather than retaining students in the same grade for another year, implementing evidence based practices for these students may lead to more positive outcomes.