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Senate Bill 265 (Substitute S-1)
Senate Bill 268 (Substitute S-2)
Sponsor: Senator Jon C. Bumstead (S.B. 265)
 Senator Michael D. MacDonald (S.B. 268)
Committee: Education and Career Readiness

Date Completed: 5-26-21

CONTENT

Senate Bill 265 (S-1) would amend the Revised School Code to do the following:

- Require a school district or public school academy (PSA) to submit a retention report to the Center for Educational Performance and Information (CEPI) beginning in 2022 and no later than September 1 of each year.
- Prescribe the information that would have to be included in the 2022 retention report.
- Prescribe the conditions that would have to be met by a pupil enrolled in grade 3 or 4 in order for that pupil to be enrolled in grade 4 or 5, as applicable, during the 2021-2022 school year.
- Require the Department of Education (MDE) to provide CEPI with the finalized scoring for the grade 3 and 4 State assessments for 2021-2022 by May 23, 2022, or no later than 14 after the scores were finalized.
- Require CEPI, by June 1, 2022, or no later than 14 days after receiving the grade 3 and 4 State assessment results, to identify each pupil who had completed grade 3 or 4 during the 2021-2022 school year who was subject not to being advanced to grade 4 or 5, as applicable, as a result of not meeting the reading proficiency requirements required under the Code.
- Require CEPI to notify the parent or legal guardian and the school district or PSA of each pupil who was subject to being retained in grade 3 or 4.
- Prescribe the information that would have to be included in the notice provided by CEPI, including ways in which a pupil could be promoted to the next grade despite reading deficiencies.
- Require a parent or guardian of a pupil who was subject to being retained in grade 3 or 4 to request a good cause exemption from a district or PSA within 30 days after the date of the notification by CEPI.
- Require a school district or PSA to provide written notification to the parent or guardian of a pupil that he or she could be promoted to grade 4 or 5 if the pupil were not enrolled in grade 4 or 5 at the beginning of the school year but met specified conditions for promotion.
- Require a district or PSA to provide a reading intervention program for eligible pupils and prescribe requirements an intervention program would have to meet.
- Prescribe the procedures that a superintendent of a school district or chief administrator of a PSA, or a designee, would have to follow in order to grant a good cause exemption.

- **Require a pupil enrolled in grade 3 during the 2020-2021 school year who was determined to be one or more grade levels behind in reading to be provided a reading intervention program beginning in the 2021-2022 school year until the pupil was determined to be less than one grade level behind in reading.**

Senate Bill 268 (S-2) would amend the Revised School Code to do the following:

- **Require a school district, intermediate school district (ISD), or PSA, beginning with the 2021-2022 school year, to ensure that a parent or legal guardian could cause a pupil to be enrolled in the grade level in which he had been enrolled in for the immediately preceding school year.**
- **Require the board of each school district and ISD, and board of directors of each PSA, by no later than June 14, 2021, and by no later than June 14 of each year thereafter, to ensure that a statement explaining the parent's or legal guardian's rights was provided to parents and guardians of pupils enrolled in that district.**

The bills are tie-barred to each other and to Senate Bill 448 (which would appropriate \$55.0 million in Federal funding awarded to Michigan from the Elementary and Secondary Emergency Relief Fund to Grand Valley State University to address learning loss among students.)

Senate Bill 265 (S-1)

CEPI; Reporting

Under the Code, beginning in 2020, and no later than September 1 of each year, a school district or PSA must submit a retention report to CEPI in a manner and form prescribed by CEPI. The report must contain at least all of the following information for the most recent school year:

- The number of pupils retained in grade 3 because of the operation of the Code's reading retention standards.
- The number of pupils promoted to grade 4 because of a good cause exemption, disaggregated by each of the specific exemptions listed under the Code.

Under the bill, the retention report would have to be provided to CEPI beginning in 2022. The retention report for 2022 would have to include the following information:

- The number of pupils retained in grades 3 or 4 because of the operation of the Code's reading retention standards.
- The number of pupils promoted to grades 4 or 5 because of a good cause exemption, disaggregated by each of the specific exemptions provided for under the bill.

Retention of Pupils; 2021-2022 School Year

Currently, a pupil who does not achieve a reading score or cannot demonstrate sufficient reading performance to be promoted to grade 4 generally must be retained in grade 3. The Code also generally requires a pupil who is not promoted to grade 4 for these reasons to be provided a reading intervention program or an exemption if certain conditions are met. Some pupils may not be retained if they demonstrate proficiency in other subject areas or are granted a good cause exemption. Under the bill, these reading or English language arts requirements and procedures for retaining pupils in grade 3 would not apply to pupils enrolled in grade 3 in the 2020-2021 and in the 2021-2022 school year. The bill specifies procedures for pupils enrolled in grades 3 and 4 in the 2021-2022 school year.

The superintendent of the school district or chief administrator of the PSA in which a pupil was enrolled would have to ensure that a pupil whose parent or guardian had been provided with notification that a pupil would not be enrolled in grade 4 or grade 5 in the 2021-2022 school year, as applicable, if the pupil were enrolled in the grade below in the 2020-2021 school year until one of the following occurred, as applicable:

- The pupil achieved a reading score that was less than one grade level behind as determined by MDE based on the grade 3 or grade 4 State English language assessment.
- The pupil demonstrated a grade 3 or grade 4 reading level, as applicable, through performance on an alternative standardized reading assessment approved by the SPI.
- The pupil demonstrated a grade 3 or grade 4 reading level, as applicable, through a pupil portfolio, as evidenced by demonstrating competency in all grade 3 or grade 4 English standards through multiple work samples.

If a child younger than 10 years of age sought to enroll for the first time in a school district or PSA in grade 4, the superintendent of the school district or the chief administrator of the PSA could not allow the child to enroll in grade 4 unless the child met one of the above conditions with respect to grade 3 reading level. If a child younger than 11 years of age sought to enroll for the first time in a school district or PSA in grade 5, the superintendent or the chief administrator could not allow the child to enroll in grade 5 unless the child met one of the above conditions with respect to grade 4 reading level.

No later than May 23, 2022, or 14 days after the MDE finalized the scoring for the grade 3 and grade 4 State assessments for 2021-2022, whichever was earliest, the MDE would have to provide CEPI with the assessment scores for every pupil enrolled in those grades in a public school who was administered one or more of those assessments.

No later than June 1, 2022, or 14 days after CEPI received the grade 3 and 4 State assessment results from the MDE, whichever was earlier, using those results, CEPI would have to identify each pupil who completed grade 3 and 4 that year who was subject not to be advanced to grade 4 or 5, as applicable, because he or she did not meet the reading proficiency requirements to advance to the next grade and who was not eligible to enroll in those grades. In addition, CEPI would have to notify the parent or legal guardian and the district or PSA of each of those pupils that the pupil was subject to retention in grade 3 or 4. A district or PSA also could make its own notification to a parent or guardian in addition to that provided by CEPI. The notification by CEPI would have to be by certified mail. The notification also would have to clearly state at least all the following:

- That, based on standardized testing, the State had determined that the pupil could have to be retained in grade 3 or 4 as provided under State law, with reference to the Section proposed by the bill along with an explanation that even if the pupil were not eligible to enroll in the next grade, he or she could still be allowed to enroll in the next grade if he or she demonstrated the appropriate reading level through performance on an alternative standardized reading assessment or through a pupil portfolio.
- That the parent or legal guardian would have the right to request a good cause exemption that, if granted, would allow the pupil to enroll in grade 4 or 5, as applicable, in the next school year.
- That the parent or guardian would have to request the good cause exemption within 30 days after the date of CEPI's notification and would have to direct the request to the district or PSA in which the parent or guardian intended to enroll the pupil for grade 4 or 5.
- That the parent or legal guardian would have the right to request a meeting with school officials to discuss the retention requirement under State law and the standards and processes for a good cause exemption from that requirement.

If a parent or legal guardian received a notification from CEPI, he or she could request a meeting with school officials to discuss the retention requirement under State law and the standards and processes for a good cause exemption from that requirement. If a parent or guardian requested a meeting, the school official to whom the request was made would have to ensure that an appropriate school official was made available to the parent or legal guardian for the meeting.

If a pupil were not enrolled in grade 4 or 5 at the beginning of a school year but met conditions that would allow that pupil to be promoted to grade 4 or 5, then before placing the child in grade 4 or 5 during the school year, an appropriate school official would have to provide written notification to the pupil's parent or guardian of the proposed placement.

Reading Intervention Program

Subject to a requirement for a school district or PSA to provide intensive reading intervention for a pupil until he or she no longer had a reading deficiency, if a pupil demonstrated either of the following, as applicable, then the retention requirements would not apply and the pupil could be enrolled in grade 4 or 5, as applicable:

- If a pupil or child demonstrated that he or she was proficient in all subject areas assessed on the grade 3 State assessment other than English, as evidenced by his or her scores, or that he or she was proficient in science and social studies as shown through a pupil portfolio and as was determined by the teacher who provided the Grade 3 instruction to the pupil in science or social studies, as applicable.
- If a pupil or child demonstrated that he or she was proficient in all subject areas assessed on the grade 4 State assessment other than English, as evidenced by his or her scores, or that he or she was proficient in science and social studies as shown through a pupil portfolio and as was determined by the teacher who provided the Grade 4 instruction to the pupil in science or social studies, as applicable.

For a pupil who was not promoted to grade 4 or 5, or a child who was not enrolled in grade 4 or 5 because of a reading deficiency, and for a pupil or child who demonstrated proficiency in social studies and science but not in English language arts, or was granted a good cause exemption who was enrolled in grade 3 or 4 in the 2021-2022 school year, a school district or PSA would have to provide a reading intervention program that is intended to correct the pupil's specific reading deficiency, as identified by a valid and reliable assessment. The program would have to include effective instructional strategies necessary to assist the pupil in becoming a successful reader, and all the following features, as appropriate for the needs of the individual pupil:

- Assigning to a pupil a highly effective teacher of reading as determined by the teacher evaluation system, the highest evaluated grade 3 or 4 teacher, as applicable, in the school as determined by the evaluation system, or a reading specialist, or a combination of these.
- Reading programs that were evidence-based and had proven results in accelerating pupil reading achievement within the same school year.
- Reading instruction and intervention for the majority of pupil contact time each day that incorporated opportunities to master the grade 4 or 5 State standard in other core academic areas, if applicable.
- Fairly targeted small group or one-on-one reading intervention that was based on pupil needs, determined by assessment data, and on identified reading deficiencies and that included explicit and systematic instruction with more detailed and varied explanations, more extensive opportunities for guided practice, and more opportunities for error correction and feedback.

- Administration of ongoing progress monitoring assessments to frequently monitor pupil progress toward a growth target.
- Supplemental evidence-based reading intervention delivered by a teacher or tutor with specialized reading training that was provided before, after, or during regular school hours but outside of regular English classroom time, or any combination of these.
- Providing parents, guardians, or other providers of care for the pupil with a "Read at Home" plan, including parent, guardian, or care provider training workshops and regular home reading.

Granting Good Cause Exemptions

If the superintendent or chief administrator of the pupil's district or PSA, as applicable, or his or her designee, granted a good cause exemption for a pupil, then the pupil could be promoted to grade 4 or 5, as applicable, without meeting those requirements. A good cause exemption could be granted only according to the prescribed procedures and only for one of the following:

- The pupil was a student with an individualized education program (IEP) or with a Section 504 plan and the pupil's IEP or Section 504 coordinator, as applicable, made the decision to exempt the pupil from those requirements based upon the team's or coordinator's knowledge of the pupil.
- The pupil was a limited English proficient student who had less than three years of instruction in an English language learner program.
- For a pupil enrolled in grade 3 in the 2021-2022 school year, the pupil had received intensive reading intervention for two or more years but still demonstrated a reading deficiency and was previously retained in kindergarten, or in grade 1, 2, or 3.
- For a pupil enrolled in Grade 4 in the 2021-2022 school year, the pupil had received intensive reading intervention for two or more years but still demonstrated a reading deficiency and was previously retained in kindergarten, or in grade 1, 2, 3, or 4.
- The pupil had been continuously enrolled in his or her current district or PSA for less than two years and there was evidence that the pupil was not provided with an appropriate individual reading improvement plan by the district or PSA in which the pupil was previously enrolled.
- The pupil's parent or legal guardian had requested a good cause exemption within the provided 30-day time period and the superintendent or chief administrator, or his or her designee, determined that the exemption was in the best interest of the pupil.

If a pupil were promoted to grade 4 or 5 because of a good cause exemption and he or she remained eligible for reading intervention services, then the services for that pupil would have to be similar to those provide to a pupil in grade 3 to ensure the student achieved proficiency in the State model English language arts standards applicable to the grade level to which the student was promoted. However, subject to the Code, a school district or a PSA would not be required to supplant State funds with Federal funds for implementing or supporting these activities and does not prohibit a district or PSA from continuing to use Federal funds for any of the purposes or activities described in Section 1280f or those that would be proposed by the bill.

The superintendent or chief administrator, or a designee, would have to grant a good cause exemption at the request of that pupil's parent or guardian or upon the teacher's own initiative, the pupil's grade 3 teacher, if the pupil were enrolled in grade 3 in the 2021-2022 school year, or grade 4 teacher, if the pupil were enrolled in grade 4 during that school year, submitted to the superintendent or chief administrator, or his or her designee, a recommendation for an along with documentation that indicated that a good cause exemption applied to the student.

In order to grant a good cause exemption for a pupil enrolled in a school operated by a school district or PSA, the superintendent, chief administrator, or his or her designee, would have to review and discuss the recommendation with the pupil's grade 3 or 4 teacher, as applicable to whichever of the grade the pupil was enrolled during the 2021-2022 school year, and, if the pupil had an IEP, with the pupil's IEP team. After this discussion, the superintendent, chief administrator, or designee would have to make a determination in writing as to whether or not to grant the good cause exemption for the pupil. The decision would be final.

In order to grant a good cause exemption for a pupil for whom a request had been received from the pupil's parent or guardian, if the request were received within 30 days after the notification by CEPI, the superintendent of the district or chief administrator of the PSA, as applicable, or his or her designee, would have to review the request and any supporting information and would have to consider whether or not the exemption was in the pupil's best interests. After this consideration, he or she would have to make a determination in writing of whether to grant the exemption. This determination would have to be made and communicated to the parent or legal guardian at least 30 days before the first day of school for the school year. The decision of the superintendent or chief administrator, or designee, would be final.

The superintendent, chief administrator, or designee, would have to notify the pupil's parent or guardian of the determination and decision made in regard to the exemption, as applicable.

For a pupil or child who was proficient in all subject area assessed on the grade 3 State assessment other than English and was proficient in science and social studies, or a pupil who had been granted a good cause exemption, the district or PSA would have to provide intensive reading intervention for the pupil until he or she no longer had a reading deficiency.

A pupil enrolled in grade 3 in the 2020-2021 school year who was determined by the district in which he or she was enrolled on the first day of the 2021-2022 school year to be one or more grade level behind in reading would have to be provided with a reading intervention program beginning in the 2021-2022 school year and would have to continue to be provided that program until the pupil was determined to be less than one grade level behind in reading.

Senate Bill 268 (S-2)

The Code specifies that, in recognition of the rights of parents and legal guardians, the board of a school district, university school, or ISD, or the board of directors of a PSA must ensure that a parent or guardian responsible for the care and custody of a pupil enrolled in the district, university school, ISD, or PSA may do all of the following:

- Review the curriculum, textbooks, and teaching materials of the school in which the pupil is enrolled at a reasonable time and place and in a reasonable manner.
- Be present, to a reasonable degree, and at reasonable times and subject to reasonable restrictions, controls, and limits, to observe instructional activity in a class or course in which the pupil is enrolled and present ("instructional activity" does not include testing).

Under the bill, those educational institutions, beginning with the 2021-2022 school year, also would have to ensure that that a parent or legal guardian could cause the pupil to be enrolled in the grade level that the pupil had been enrolled in for the immediately preceding school year. By no later than July 1, 2021, for enrollment for the 2021-2022 school year, and by no later than July 1 each year thereafter for enrollment for the school year following that July 1, in order exercise this right, the parent or guardian would be required to submit a written request to the district, ISD, or PSA in which the pupil was enrolled.

If a request were received by a school district, ISD, or PSA by no later than July 1, the board of the school district or ISD or board of directors of a PSA would have to ensure that, for the school year following that July 1, the pupil was enrolled in the grade level in which he or she had been enrolled in the school year immediately preceding that July 1. If a request were received by a district, ISD, or PSA after July 1, but before the first day of the school year following that July 1, the board of the school district, ISD, or PSA, for the school year following that July 1, could enroll the pupil in the grade level in which he or she had been enrolled in the school year immediately preceding that July 1.

By no later than June 14, 2021, and by no later than June 14 each year thereafter, the board of each school district and ISD and the board of directors of each PSA would have to ensure that a statement explaining the parent's or guardian's rights, including notice of applicable deadlines, was provided to parents and guardians of pupils enrolled in that district.

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Legislative Analyst: Dana Adams

FISCAL IMPACT

Senate Bill 265 (S-1)

The bill would have a fiscal impact on CEPI and local ISDs, school districts, and PSAs. The bill would require new reporting requirements for CEPI to identify grade 4 pupils who were not subject to advance to grade 5 and to notify the parent or legal guardian of those pupils. Currently, CPEI is required to identify only grade 3 pupils who are not subject to advance to grade 4. This could double administrative, staffing, and communication costs devoted to identifying pupils who are not subject to advance to the next grade.

Intermediate school districts, school districts, and PSAs would experience additional costs to process good cause exemptions and to provide additional resources to grade 3, 4, and 5 pupils who were retained in grade 3 or 4 or who were allowed to advance to grades 4 or 5 under good cause exemptions. This likely would double a local school's resources devoted to providing additional reading resources to pupils because of the inclusion of another grade level subject to the reading requirements and the additional pupils who could be subject to retention due to learning loss as a result of the COVID-19 pandemic.

Senate Bill 268 (S-2)

The bill would have no fiscal impact on the State, but would have a negative fiscal impact on local ISDs, school districts, and PSAs. Local ISDs, school districts, and PSAs could experience additional administrative costs to determine the retention of pupils by July 1.

Fiscal Analyst: Cory Savino

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.