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HOUSE BILL 21

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Mary Helen Garcia

AN ACT

RELATING TO EDUCATION; LIMITING GRADE PROMOTIONS; PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT IN READING AT THE END OF GRADE THREE SHALL NOT BE PROMOTED TO GRADE FOUR; LIMITING PROMOTION TO EIGHTH GRADE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 22-2C-6 NMSA 1978 (being Laws 1986, Chapter 33, Section 7, as amended) is amended to read:

"22-2C-6. REMEDIATION PROGRAMS--PROMOTION POLICIES-- RESTRICTIONS.--

A. Remediation programs, academic improvement programs and promotion policies shall be aligned with school-district-determined assessment results and requirements of the state assessment and accountability program.

B. Local school boards shall approve school-

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1 district-developed remediation programs and academic  
2 improvement programs to provide special instructional  
3 assistance to students in grades one through eight who do not  
4 demonstrate academic proficiency. The cost of remediation  
5 programs and academic improvement programs shall be borne by  
6 the school district. Remediation programs and academic  
7 improvement programs shall be incorporated into the school  
8 district's educational plan for student success and filed with  
9 the department.

10 C. The cost of summer and extended day remediation  
11 programs and academic improvement programs offered in grades  
12 nine through twelve shall be borne by the parent; however,  
13 where parents are determined to be indigent according to  
14 guidelines established by the department, the school district  
15 shall bear those costs.

16 D. Diagnosis of weaknesses identified by a  
17 student's academic achievement may serve as [~~criteria~~] a  
18 criterion in assessing the need for remedial programs or  
19 retention.

20 E. A parent shall be notified no later than the end  
21 of the second grading period that the parent's child is not  
22 academically proficient, and a conference consisting of the  
23 parent and the teacher shall be held to discuss possible  
24 remediation programs available to assist the student in  
25 becoming academically proficient. Specific academic

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1 deficiencies and remediation strategies shall be explained to  
2 the student's parent and a written intervention plan developed  
3 containing time lines, academic expectations and the  
4 measurements to be used to verify that a student has overcome  
5 academic deficiencies. Remediation programs and academic  
6 improvement programs include tutoring, extended day or week  
7 programs, summer programs and other research-based  
8 interventions and models for student improvement.

9 F. Except as provided in Subsection G of this  
10 section, at the end of grades one through [~~seven~~] six, three  
11 options are available, dependent on a student's academic  
12 proficiency:

13 (1) the student is academically proficient and  
14 shall enter the next higher grade;

15 (2) the student is not academically proficient  
16 and shall participate in the required level of remediation.

17 Upon certification by the school district that the student is  
18 academically proficient, the student shall enter the next  
19 higher grade; or

20 (3) the student is not academically proficient  
21 after completion of the prescribed remediation program and upon  
22 the recommendation of the teacher and school principal shall  
23 either be:

24 (a) retained in the same grade for no  
25 more than one school year with an academic improvement plan

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1 developed by the student assistance team in order to become  
2 academically proficient, at which time the student shall enter  
3 the next higher grade; or

4 (b) promoted to the next grade if the  
5 parent refuses to allow the child to be retained pursuant to  
6 Subparagraph (a) of this paragraph. In this case, the parent  
7 shall sign a waiver indicating the parent's desire that the  
8 student be promoted to the next higher grade with an academic  
9 improvement plan designed to address specific academic  
10 deficiencies. The academic improvement plan shall be developed  
11 by the student assistance team outlining time lines and  
12 monitoring activities to ensure progress toward overcoming  
13 those academic deficiencies. Students failing to become  
14 academically proficient at the end of that year as measured by  
15 grades, performance on school district assessments and other  
16 measures identified by the school district shall be retained in  
17 the same grade for no more than one year in order to have  
18 additional time to achieve academic proficiency.

19 G. If a student is not academically proficient in  
20 reading by the end of grade three, the student shall not be  
21 promoted to grade four unless the student meets proficiency  
22 before the start of the fourth grade school year. Parents  
23 shall be notified at the end of the grade three school year  
24 that the student will not be promoted to grade four and a  
25 parental waiver shall not be allowed for the student. The

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1 student assistance team shall immediately develop an academic  
2 improvement plan for the student that outlines time lines and  
3 monitoring activities to ensure progress toward overcoming the  
4 student's academic deficiencies.

5 [G.] H. At the end of the [~~eight~~] seventh grade, a  
6 student who is not academically proficient shall be retained in  
7 the [~~eight~~] seventh grade for no more than one school year to  
8 become academically proficient, or if the student assistance  
9 team determines that retention of the student in the [~~eight~~]  
10 seventh grade will not assist the student to become  
11 academically proficient, the team shall design a high school  
12 graduation plan to meet the student's needs for entry into the  
13 work force or a post-secondary educational institution. If a  
14 student is retained in the [~~eight~~] seventh grade, the student  
15 assistance team shall develop a specific academic improvement  
16 plan that clearly delineates the student's academic  
17 deficiencies and prescribes a specific remediation plan to  
18 address those academic deficiencies.

19 [H.] I. A student who does not demonstrate academic  
20 proficiency for two successive school years shall be referred  
21 to the student assistance team for placement in an alternative  
22 program designed by the school district. Alternative program  
23 plans shall be filed with the department.

24 [~~F.~~] J. Promotion and retention decisions affecting  
25 a student enrolled in special education shall be made in

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1 accordance with the provisions of the individual educational  
2 plan established for that student.

3 [~~J-~~] K. For the purposes of this section:

4 (1) "academic improvement plan" means a  
5 written document developed by the student assistance team that  
6 describes the specific content standards required for a certain  
7 grade level that a student has not achieved and that prescribes  
8 specific remediation programs such as summer school, extended  
9 day or week school and tutoring;

10 (2) "school-district-determined assessment  
11 results" means the results obtained from student assessments  
12 developed or adopted by a local school board and conducted at  
13 an elementary grade level or middle school level;

14 (3) "educational plan for student success"  
15 means a student-centered tool developed to define the role of  
16 the academic improvement plan within the public school and the  
17 school district that addresses methods to improve student  
18 learning and success in school and that identifies specific  
19 measures of a student's progress; and

20 (4) "student assistance team" means a group  
21 consisting of a student's:

- 22 (a) teacher;
- 23 (b) school counselor;
- 24 (c) school administrator; and
- 25 (d) parent."

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SECTION 2. APPLICABILITY.--This act is applicable to the  
2011-2012 and subsequent school years.