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HOUSE BILL 100

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

INTRODUCED BY

Nora Espinoza and Mary Jane M. Garcia

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

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; PROVIDING THAT A STUDENT MAY BE HELD BACK ONLY TWICE.

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, three options
11 are available, dependent on a student's academic proficiency:

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

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

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

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

23 (a) retained in the same grade for no
24 more than one school year with an academic improvement plan
25 developed by the student assistance team in order to become

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1 academically proficient, at which time the student shall enter
2 the next higher grade; or

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

18 G. If a student is not academically proficient in
19 reading by the end of grade three, based on objective standards
20 of reading proficiency established by each school district or
21 charter school, the student shall not be promoted to grade four
22 unless the student meets proficiency before the start of the
23 fourth grade school year. Parents shall be notified at the end
24 of the grade three school year that the student will not be
25 promoted to grade four and a parental waiver shall not be

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1 allowed for the student. The student assistance team shall
2 immediately develop an academic improvement plan for the
3 student that outlines time lines and monitoring activities to
4 ensure progress toward overcoming the student's academic
5 deficiencies. A student may be held back only twice in the
6 third grade.

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

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

25 ~~[I.]~~ J. Promotion and retention decisions affecting

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1 a student enrolled in special education shall be made in
2 accordance with the provisions of the individual educational
3 plan established for that student.

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

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

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

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

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

- 23 (a) teacher;
- 24 (b) school counselor;
- 25 (c) school administrator; and

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(d) parent."

SECTION 2. APPLICABILITY.--The provisions of this act are applicable to the 2011-2012 and subsequent school years.