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HOUSE BILL 428

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Daniel R. Foley

AN ACT

RELATING TO EDUCATION; AMENDING A SECTION OF THE PUBLIC SCHOOL
CODE PERTAINING TO ESSENTIAL COMPETENCIES, REMEDIATION
PROGRAMS AND PROMOTION POLICIES.

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

Section 1. Section 22-2-8.6 NMSA 1978 (being Laws 1986,
Chapter 33, Section 7, as amended) is amended to read:

"22-2-8.6. ESSENTIAL COMPETENCIES- - REMEDIATION
PROGRAMS- - PROMOTION POLICIES- - EXCEPTION. - -

A. The state board shall identify measurable
essential competencies and determine the criteria for mastery
of the essential competencies as established in the state
educational standards.

B. Local school boards shall develop remediation
programs to provide special instructional assistance to

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1 students in grades one through eight who fail to master the
2 essential competencies as established by the state board and
3 shall provide early notification of such failure to parents of
4 those students. Remediation programs may include but not be
5 limited to tutoring or summer programs. The cost of school
6 district-approved remediation programs shall be borne by the
7 school district. Remediation plans shall be filed with the
8 state board.

9 C. The cost of summer and after-school remediation
10 programs offered in grades nine through twelve shall be borne
11 by the parent or guardian; however, where parents are
12 determined to be indigent according to guidelines established
13 by the state board, the local school board shall bear those
14 costs.

15 D. Diagnosis of weaknesses identified by the
16 reading assessment instrument administered pursuant to Section
17 22-2-8.5 NMSA 1978 shall serve as a criterion in assessing the
18 need for remedial programs or retention.

19 E. At the end of grades one through eight, there
20 are three options available, dependent on a student's mastery
21 of essential competencies:

22 (1) the student has mastered the essential
23 competencies and shall enter the next higher grade;

24 (2) the student has not mastered the
25 essential competencies and may participate in remediation.

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1 Upon certification by the school district that the student has
2 successfully mastered his areas of deficiency, he shall enter
3 the next higher grade; or

4 (3) the student has not mastered the
5 essential competencies and upon the recommendation of the
6 certified school instructor and school principal shall be
7 retained in the same grade for no more than one school year in
8 order to have an additional opportunity to master the
9 essential competencies, at which time the student shall enter
10 the next higher grade.

11 F. Any student who has participated in remediation
12 programs pursuant to Paragraph (2) of Subsection E of this
13 section and for whom retention is recommended shall be
14 afforded an opportunity for a parent-teacher conference for
15 the purpose of outlining the options available for the student
16 and explaining the grounds for the recommendation of
17 retention. [~~A parent or guardian who refuses to allow his
18 child to be retained pursuant to Paragraph (3) of Subsection E
19 of this section shall sign a waiver indicating that the
20 child's promotion is against the specific advice and
21 recommendation of the certified school instructor and the
22 school principal.~~]

23 G. Any student who fails to master the essential
24 competencies for two successive school years shall be referred
25 to an alternative program designed by the school district.

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1 Alternative program plans shall be filed with the state
2 board. "

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HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 475 & 428

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

AN ACT

RELATING TO EDUCATION; AMENDING A SECTION OF THE PUBLIC SCHOOL
CODE PERTAINING TO ESSENTIAL COMPETENCIES AND REMEDIATION.

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

Section 1. Section 22-2-8.6 NMSA 1978 (being Laws 1986,
Chapter 33, Section 7, as amended) is amended to read:

"22-2-8.6. [~~ESSENTIAL COMPETENCIES~~] EDUCATIONAL
STANDARDS-- REMEDIATION PROGRAMS-- ACADEMIC IMPROVEMENT
PROGRAMS-- PROMOTION POLICIES-- EXCEPTION. --

A. The state board shall identify [~~measurable
essential competencies and determine the criteria for mastery
of the essential competencies as established in the state
educational standards~~] standards as measured by the state
assessment program and establish performance levels for
proficiency. Remediation programs, academic improvement

1 programs and promotion policies shall be based on the
2 following:

3 (1) statewide assessment results;

4 (2) alternative, school-district-determined
5 assessment results; and

6 (3) student performance in school.

7 B. Local school boards shall [~~develop~~] approve
8 district-developed remediation programs and academic
9 improvement programs to provide special instructional
10 assistance to students in grades one through eight who fail to
11 [~~master the essential competencies as established by the state-~~
12 ~~board~~] attain proficiency of standards. A parent or guardian
13 shall be notified that his child is failing to attain
14 appropriate grade level educational standards, no later than
15 the end of the second grading period, and a conference
16 consisting of the parent or guardian and the teacher shall
17 discuss possible remediation programs available to improve the
18 student's attainment of educational standards. Remediation
19 programs may include [~~but not be limited to tutoring or summer~~
20 ~~programs~~] parent notification and early parental involvement.
21 Specific academic deficiencies and remediation strategies must
22 be agreed upon by the student's parent or guardian and a
23 written plan developed containing timelines, academic
24 expectations and the measurements used to verify that a
25 student has met the academic deficiencies. Remediation

1 programs and academic improvement programs must include
 2 tutoring, extended day programs, summer programs or other
 3 research based models. The cost of [~~school district approved~~]
 4 remediation programs and academic improvement programs shall
 5 be borne by the school district. [~~Remediation plans shall be~~
 6 ~~filed with the state board~~] 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 of education.

10 C. The cost of summer and [~~after-school~~] extended
 11 day remediation programs and academic improvement programs
 12 offered in grades nine through twelve shall be borne by the
 13 parent or guardian; however, where parents are determined to
 14 be indigent according to guidelines established by the state
 15 board, the local school board shall bear those costs.

16 [~~D.—Diagnosis of weaknesses identified by the~~
 17 ~~reading assessment instrument administered pursuant to Section~~
 18 ~~22-2-8.5 NMSA 1978 shall serve as a criterion in assessing the~~
 19 ~~need for remedial programs or retention.~~

20 E.] D. At the end of grades one through [~~eight~~]
 21 seven, there are three options available, dependent on a
 22 student's [~~mastery~~] attainment of [~~essential competencies~~] the
 23 following standards:

24 (1) the student has [~~mastered the essential~~
 25 ~~competencies~~] attained proficiency of standards and shall

1 enter the next higher grade;

2 (2) the student has not [~~mastered the~~
3 ~~essential competencies and may~~] attained proficiency of
4 standards and shall participate in a remediation program.

5 Upon certification by the school district that the student has
6 successfully mastered his areas of deficiency, he shall enter
7 the next higher grade; or

8 (3) the student has not [~~mastered the~~
9 ~~essential competencies and~~] attained proficiency of standards
10 upon completion of a prescribed remediation program and upon
11 the recommendation of the certified school instructor,
12 school's student assistance team, parent and school principal
13 shall either be [~~retained in the same grade for no more than~~
14 ~~one school year in order to have an additional opportunity to~~
15 ~~master the essential competencies, at which time the student~~
16 ~~shall enter the next higher grade~~

17 F. ~~Any student who has participated in remediation~~
18 ~~programs pursuant to Paragraph (2) of Subsection E of this~~
19 ~~section and for whom retention is recommended shall be~~
20 ~~afforded an opportunity for a parent-teacher conference for~~
21 ~~the purpose of outlining the options available for the student~~
22 ~~and explaining the grounds for the recommendation of~~
23 ~~retention. A parent or guardian who refuses to allow his~~
24 ~~child to be retained pursuant to Paragraph (3) of Subsection E~~
25 ~~of this section shall sign a waiver indicating that the~~

1 ~~child's promotion is against the specific advice and~~
2 ~~recommendation of the certified school instructor and the~~
3 ~~school principal]:~~

4 (a) retained in the same grade for no
5 more than one school year with an academic improvement plan
6 developed by the school's student assistance team and the
7 student's parent or guardian in order to attain proficiency of
8 standards, at which time the student shall enter the next
9 higher grade; or

10 (b) a parent or guardian who refuses to
11 allow his child to be retained pursuant to Subparagraph (a) of
12 Paragraph (3) of this subsection shall sign a waiver
13 indicating his desire that the student be promoted to the next
14 higher grade with a written academic improvement plan,
15 designed to address specific academic deficiencies. The
16 academic improvement plan shall be developed by the school's
17 student assistance team and the student's parent or guardian
18 outlining timelines and monitoring activities to ensure
19 progress toward the attainment of those academic deficiencies.
20 Students failing to achieve mastery of educational standards
21 at the end of the year shall be retained in the same grade for
22 no more than one year in order to have additional time to
23 master the required standards.

24 E. At the end of the eighth grade any student who
25 fails to attain educational standards as determined and

1 measured in Subsection A of this section shall be retained in
2 the eighth grade for no more than one school year in order to
3 attain proficiency of standards. A specific academic
4 improvement plan must be developed by the school's student
5 assistance team and the student's parent or guardian that
6 clearly delineates the student's academic deficiencies and
7 prescribes a specific remediation plan to address those
8 academic deficiencies.

9 ~~[G.]~~ F. Any student who fails to ~~[master the~~
10 ~~essential competencies]~~ attain proficiency of standards for
11 two successive school years shall be referred to the school's
12 student assistance team, which shall include parental
13 involvement for placement in an alternative program designed
14 by the school district. Alternative program plans shall be
15 filed with the ~~[state board]~~ department of education.

16 G. For the purposes of this section:

17 (1) "academic improvement plan" means a
18 written document developed by the student assistance team that
19 describes the specific academic standards that a student has
20 not achieved to be at a certain grade level and that
21 prescribes specific remediation programs that include summer
22 school, extended day school and tutoring;

23 (2) "alternative district-determined
24 assessment" means student assessments determined by a local
25 school board to be conducted at any elementary grade level or

1 middle school level;

2 (3) "educational plan for student success"
3 means a tool developed to define the role of the academic
4 improvement plan within the district that addresses methods to
5 improve a student's learning and success in school that is
6 student centered and identifies specific measures of a
7 student's progress;

8 (4) "statewide assessment results" means the
9 results obtained from the New Mexico achievement assessment
10 that is administered annually to grades four, six and eight
11 pursuant to state board rule; and

12 (5) "student assistance team" includes a
13 student's:
14 (a) teacher;
15 (b) school counselor;
16 (c) school administrator;
17 (d) parent or legal guardian; and
18 (e) in the case of a student enrolled
19 in special education, his special education teacher and
20 appropriate specialists. "

1
2 **HEC/HB 475 & 428**

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4 **FORTY- FOURTH LEGISLATURE**
5 **FIRST SESSION, 1999**
6

7
8
9 **March 10, 1999**

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12 **Mr. Speaker:**

13 **Your EDUCATION COMMITTEE, to whom has been referred**

14
15 **HOUSE BILLS 475 AND 428**

16
17 **has had them under consideration and reports same with**
18 **recommendation that they DO NOT PASS, but that**

19 **HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR**
20 **HOUSE BILLS 475 AND 428**

21
22 **DO PASS, and thence referred to the JUDICIARY**
23 **COMMITTEE.**

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HEC/HB 475 & 428

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Respectfully submitted,

Rick Miera, Chairman

Adopted _____

(Chief Clerk)

Not Adopted _____

(Chief Clerk)

Date _____

The roll call vote was 15 For 0 Against

Yes: 15

Excused: None

Absent: Williams

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