

HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR  
HOUSE BILLS 21 & 100

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

DISCUSSION DRAFT

AN ACT

RELATING TO EDUCATION; LIMITING GRADE PROMOTIONS; MAKING  
EXCEPTIONS; PROVIDING FOR REMEDIATION AND INTENSIVE  
INTERVENTIONS; PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT  
IN READING AT THE END OF GRADE THREE MAY NOT BE PROMOTED TO  
GRADE FOUR; PROVIDING THAT A STUDENT MAY BE HELD BACK ONLY  
ONCE.

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Chapter 33, Section 7, as amended) is repealed and a new  
Section 22-2C-6 NMSA 1978 is enacted to read:

"22-2C-6. [NEW MATERIAL] GRADE PROMOTIONS--REMEDICATION  
PROGRAMS-- PROMOTION POLICIES--RESTRICTIONS.--

A. As used in this section:

(1) "academic improvement plan" means a

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1 (e) a student advocate chosen by the  
2 student or parent.

3 B. Remediation programs, academic improvement  
4 programs and promotion policies shall be aligned with the  
5 results from statewide standards-based assessments and school-  
6 district-determined assessments.

7 C. School districts shall use the statewide  
8 standards-based assessments in grades three through eight and  
9 school-district-determined assessments in kindergarten through  
10 grade two to assess and evaluate each student's reading ability  
11 and other academic achievement. The local school board shall  
12 approve school district-developed remediation programs and  
13 academic improvement programs to provide intensive  
14 instructional assistance to students in kindergarten through  
15 grade eight who do not demonstrate academic proficiency.  
16 Remediation programs and academic improvement programs shall be  
17 incorporated into the school district's educational plan for  
18 student success and submitted to and approved by the  
19 department.

20 D. In kindergarten through grade eight, the cost of  
21 remediation programs and academic improvement plans shall be  
22 borne by the school district. The cost of summer and extended  
23 day remediation programs and academic improvement plans offered  
24 in grades nine through twelve shall be borne by the parent;  
25 however, where parents are determined to be indigent according

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1 student is overcoming academic deficiencies. The parent shall  
2 be provided with specific strategies to use in helping the  
3 child achieve academic proficiency. Remediation programs and  
4 academic improvement plans include response to intervention as  
5 defined in Section 22-13-6 NMSA 1978 and further defined in  
6 department guidelines, tutoring, extended day or week programs,  
7 summer programs and other research-based interventions and  
8 models for student improvement. The academic improvement plan  
9 shall be implemented immediately.

10 G. In the 2010-2011 and 2011-2012 school years,  
11 each public school shall establish baseline assessment data on  
12 reading proficiency for students in grades three, five and  
13 eight. The baseline data shall include levels of performance  
14 in reading based on performance on statewide standards-based  
15 assessments below which a student must receive remediation or  
16 be retained in an intensive program that is different from the  
17 previous year's program.

18 H. At the beginning of and throughout the third  
19 grade, each student shall be evaluated to determine the extent  
20 of the student's reading ability. The evaluation shall measure  
21 phonemic awareness, phonics, fluency, vocabulary and  
22 comprehension. If the student is deemed deficient in reading,  
23 the student assistance team shall immediately develop an  
24 academic improvement plan for the student that clearly  
25 delineates the student's reading deficiencies and remediation

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1 shall enter the next higher grade;

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

4 Upon certification by the school district that the student is  
5 academically proficient, the student shall enter the next  
6 higher grade; or

7 (3) the student is not academically proficient  
8 after completion of the prescribed remediation program and,  
9 upon the recommendation of the teacher and school principal,  
10 shall either be:

11 (a) retained in the same grade for no  
12 more than one school year with an academic improvement plan  
13 developed by the student assistance team to assist the student  
14 in becoming academically proficient, at which time the student  
15 shall enter the next higher grade; or

16 (b) except as provided in Subsection I  
17 of this section, promoted to the next grade if the parent  
18 refuses to allow the child to be retained, in which case the  
19 parent shall sign a waiver indicating the parent's desire that  
20 the student be promoted to the next higher grade with an  
21 academic improvement plan designed to address specific academic  
22 deficiencies. The academic improvement plan shall be developed  
23 by the student assistance team outlining time lines and  
24 monitoring activities to ensure progress toward overcoming  
25 those academic deficiencies. Students who have been evaluated

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1 on an alternate reading assessment by scoring at least at the  
2 fiftieth percentile on a norm-referenced assessment or at the  
3 proficient level on a criterion-referenced assessment;

4 (2) demonstrates mastery on a  
5 teacher-developed portfolio that is equal to at least a  
6 proficient performance on the statewide standards-based  
7 assessments;

8 (3) is an English language learner who reads  
9 proficiently in a language other than English on a valid and  
10 reliable reading assessment in that language, who has had less  
11 than two years of instruction in English for speakers of other  
12 languages or who demonstrates English language proficiency on  
13 the New Mexico English language proficiency assessment;

14 (4) is a student with a disability, who shall  
15 be assessed, promoted or retained in accordance with the  
16 provisions of the student's individualized education program;  
17 or

18 (5) is a student who can demonstrate reading  
19 proficiency on an alternative measure established by the school  
20 district in its educational plan for student success."

21 SECTION 2. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2011. ?

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