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 Section 22-2C-6 NMSA 1978 (being Laws 1986, Chapter 33, Section 7, as amended) is repealed and a new Section 22-2C-6 NMSA 1978 is enacted to read: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--REMEDIATION
PROGRAMS-- PROMOTION POLICIES--RESTRICTIONS.--

- A. As used in this section:
 - (1) "academic improvement plan" means a

.185726.1

- (e) a student advocate chosen by the student or parent.
- B. Remediation programs, academic improvement programs and promotion policies shall be aligned with the results from statewide standards-based assessments and school-district-determined assessments.
- C. School districts shall use the statewide standards-based assessments in grades three through eight and school-district-determined assessments in kindergarten through grade two to assess and evaluate each student's reading ability and other academic achievement. The local school board shall approve school district-developed remediation programs and academic improvement programs to provide intensive instructional assistance to students in kindergarten through grade eight who do not demonstrate academic proficiency. Remediation programs and academic improvement programs shall be incorporated into the school district's educational plan for student success and submitted to and approved by the department.
- D. In kindergarten through grade eight, the cost of remediation programs and academic improvement plans shall be borne by the school district. The cost of summer and extended day remediation programs and academic improvement plans offered in grades nine through twelve shall be borne by the parent; however, where parents are determined to be indigent according .185726.1

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

each public school shall establish baseline assessment data on reading proficiency for students in grades three, five and eight. The baseline data shall include levels of performance in reading based on performance on statewide standards-based assessments below which a student must receive remediation or be retained in an intensive program that is different from the previous year's program.

H. At the beginning of and throughout the third grade, each student shall be evaluated to determine the extent of the student's reading ability. The evaluation shall measure phonemic awareness, phonics, fluency, vocabulary and comprehension. If the student is deemed deficient in reading, the student assistance team shall immediately develop an academic improvement plan for the student that clearly delineates the student's reading deficiencies and remediation .185726.1

shall enter the next higher grade;

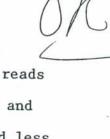
(2) the student is not academically proficient and shall participate in the required level of remediation.

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

- (3) the student is not academically proficient after completion of the prescribed remediation program and, upon the recommendation of the teacher and school principal, shall either be:
- (a) retained in the same grade for no more than one school year with an academic improvement plan developed by the student assistance team to assist the student in becoming academically proficient, at which time the student shall enter the next higher grade; or
- of this section, promoted to the next grade if the parent refuses to allow the child to be retained, in which case the parent shall sign a waiver indicating the parent's desire that the student be promoted to the next higher grade with an academic improvement plan designed to address specific academic deficiencies. The academic improvement plan shall be developed by the student assistance team outlining time lines and monitoring activities to ensure progress toward overcoming those academic deficiencies. Students who have been evaluated .185726.1

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

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



- (3) is an English language learner who reads proficiently in a language other than English on a valid and reliable reading assessment in that language, who has had less than two years of instruction in English for speakers of other languages or who demonstrates English language proficiency on the New Mexico English language proficiency assessment;
- (4) is a student with a disability, who shall be assessed, promoted or retained in accordance with the provisions of the student's individualized education program; or
- (5) is a student who can demonstrate reading proficiency on an alternative measure established by the school district in its educational plan for student success."

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