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SENATE BILL 89

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,  
2000**

INTRODUCED BY  
Mary Jane Garcia

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO EDUCATIONAL STANDARDS; REQUIRING STUDENTS TO  
ATTAIN PROFICIENCY OF STANDARDS; PROVIDING FOR REMEDIATION  
AND ACADEMIC IMPROVEMENT PROGRAMS; REPLACING THE MEASURE OF  
MASTERY OF ESSENTIAL COMPETENCIES; PROVIDING FOR STUDENT  
ASSISTANCE TEAMS; RESTRICTING PROMOTIONS.

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--REMEDICATION 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 as measured by the state assessment

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1 program and establish performance levels for proficiency.  
2 Remediation programs, academic improvement programs and  
3 promotion policies shall be based on the following:  
4 (1) statewide assessment results;  
5 (2) alternative school-district-determined  
6 assessment results; and  
7 (3) student performance in school.  
8 B. Local school boards shall ~~[develop]~~ approve  
9 district-developed remediation programs and academic  
10 improvement programs to provide special instructional  
11 assistance to students in grades one through eight who fail  
12 to ~~[master the essential competencies as established by the~~  
13 ~~state board. Remediation programs may include but not be~~  
14 ~~limited to tutoring or summer programs]~~ attain proficiency of  
15 standards. The cost of ~~[school district-approved]~~  
16 remediation programs and academic improvement programs shall  
17 be borne by the school district. Remediation ~~[plans shall be~~  
18 ~~filed with the state board]~~ programs and academic improvement  
19 programs shall be incorporated into the school district's  
20 educational plan for student success and filed with the  
21 department of education.  
22 C. The cost of summer and ~~[after-school]~~ extended  
23 day remediation programs and academic improvement programs  
24 offered in grades nine through twelve shall be borne by the  
25 parent or guardian; however, where parents are determined to  
be indigent according to guidelines established by the state  
board, the local school board shall bear those costs.

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1                   ~~[D. Diagnosis of weaknesses identified by the~~  
2 ~~reading assessment instrument administered pursuant to~~  
3 ~~Section~~  
4 ~~22-2-8.5 NMSA 1978 shall serve as a criterion in assessing~~  
5 ~~the need for remedial programs or retention.]~~

6                   D. A parent or guardian shall be notified no later  
7 than the end of the first grading period that his child is  
8 failing to attain appropriate grade level proficiency of  
9 standards. The teacher shall discuss with the parent or  
10 guardian possible remediation programs available to improve  
11 the student's attainment of proficiency of standards.  
12 Specific academic deficiencies and remediation strategies  
13 must be agreed upon by the student's parent or guardian and a  
14 written plan developed containing timelines, academic  
15 expectations and the measurements used to verify that a  
16 student has overcome his academic deficiencies. Remediation  
17 programs and academic improvement programs include tutoring,  
18 extended day programs, summer programs and other research-  
19 based models for student improvement.

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

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

(2) the student has not ~~[mastered the~~

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1 ~~essential competencies and may~~ attained proficiency of  
2 standards and shall participate in remediation. Upon  
3 certification by the school district that the student has  
4 successfully ~~[mastered]~~ overcome his areas of deficiency, he  
5 shall enter the next higher grade; or

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

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

(a) retained in the same grade for no

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1 more than one school year with an academic improvement plan  
2 developed by the student assistance team in order to attain  
3 proficiency of standards, at which time the student shall  
4 enter the next higher grade; or

5 (b) promoted to the next grade if the  
6 parent or guardian refuses to allow his child to be retained  
7 pursuant to Subparagraph (a) of this paragraph. In this  
8 case, the parent or guardian shall sign a waiver indicating  
9 his desire that the student be promoted to the next higher  
10 grade with an academic improvement plan designed to address  
11 specific academic deficiencies. The academic improvement  
12 plan shall be developed by the student assistance team  
13 outlining timelines and monitoring activities to ensure  
14 progress toward overcoming those academic deficiencies.  
15 Students failing to attain proficiency of standards at the  
16 end of the school year shall be retained in the same grade  
17 for no more than one school year in order to have additional  
18 time to master the required standards.

19 F. At the end of the eighth grade, a student who  
20 fails to attain proficiency of standards shall be retained in  
21 the eighth grade for no more than one school year in order to  
22 attain proficiency of standards. The student assistance team  
23 shall develop a specific academic improvement plan that  
24 clearly delineates the student's academic deficiencies and  
25 prescribes a specific remediation plan to address those  
academic deficiencies.

G. ~~[Any]~~ A student who fails to ~~[master the~~

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1 ~~essential competencies~~ attain proficiency of standards for  
2 two successive school years shall be referred to the student  
3 assistance team for placement in an alternative program  
4 designed by the school district. Alternative program plans  
5 shall be filed with the ~~[state board]~~ department of  
6 education.

7 H. Promotion and retention decisions affecting a  
8 student enrolled in special education shall be made in  
9 accordance with the provisions of the individual educational  
10 plan established for that student.

11 I. For the purposes of this section:

12 (1) "academic improvement plan" means a  
13 written document developed by the student assistance team  
14 that describes the specific academic standards that a student  
15 has not achieved to be at a certain grade level and that  
16 prescribes specific remediation programs such as summer  
17 school, extended day school and tutoring;

18 (2) "alternative school-district-determined  
19 assessment results" means the results of student assessments  
20 determined by a local school board to be conducted at any  
21 elementary grade level or middle school level;

22 (3) "educational plan for student success"  
23 means a student-centered tool developed to define the role of  
24 the academic improvement plan within the district that  
25 addresses methods to improve a student's learning and success  
in school and that identifies specific measures of a  
student's progress;

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1                   (4) "statewide assessment results" means the  
2 results obtained from the New Mexico achievement assessment  
3 that is administered annually to grades three through nine  
4 pursuant to state board rule; and

5                   (5) "student assistance team" means a group  
6 consisting of a student's:

7                               (a) teacher;

8                               (b) school counselor;

9                               (c) school administrator; and

10                              (d) parent or legal guardian."

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