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SENATE BILL 250

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

INTRODUCED BY

Joseph J. Carroro

AN ACT

RELATING TO EDUCATION; AMENDING AND ENACTING CERTAIN SECTIONS  
OF THE PUBLIC SCHOOL CODE TO PROVIDE FOR NECESSARY  
IMPROVEMENTS AND REFORMS; PROVIDING PENALTIES; MAKING  
APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1. A new section of the Public School Code is  
enacted to read:

"NEW MATERIAL MERIT AWARDS. --

A. The department of education shall design a  
merit award program for elementary, middle and junior high  
schools. The department may promulgate rules to carry out  
the provisions of this section.

B. Each year a merit award of ten thousand dollars

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1 (\$10,000) shall be awarded to one elementary, middle and  
2 junior high school. The merit award shall be distributed to  
3 the school that has achieved the greatest improvement in  
4 student achievement.

5 C. Each year a merit award of two thousand dollars  
6 (\$2,000) shall be awarded to the top two percent of  
7 elementary, middle and junior high school teachers. The  
8 merit award shall be distributed to the teachers whose  
9 classes have achieved the greatest improvement in student  
10 achievement.

11 D. For purposes of this section, student  
12 achievement shall be measured by nationally standardized test  
13 scores and other criteria adopted by the department of  
14 education. "

15 Section 2. A new section of the Public School Code is  
16 enacted to read:

17 " [NEW MATERIAL] PARENTAL SUPERVISION--STUDENT EXPULSION--  
18 -STUDENT SUSPENSION. --

19 A. If a student is expelled or suspended from a  
20 public school, the student's parent or legal guardian shall  
21 personally supervise that student until the student returns  
22 to school.

23 B. A parent or legal guardian who fails to  
24 maintain personal supervision pursuant to Subsection A of  
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1 this section is guilty of a misdemeanor. "

2 Section 3. A new section of the Public School Code is  
3 enacted to read:

4 "[NEW MATERIAL] STUDENT READING REQUIREMENT. -- A student  
5 who fails to read independently by the end of the third grade  
6 shall not be promoted to the fourth grade until the student  
7 reads independently. "

8 Section 4. Section 22-2-8.2 NMSA 1978 (being Laws 1986,  
9 Chapter 33, Section 3, as amended) is amended to read:

10 "22-2-8.2. STAFFING PATTERNS-- CLASS LOAD-- TEACHING  
11 LOAD. --

12 A. The individual class load for elementary school  
13 teachers shall not exceed twenty students for kindergarten  
14 through grade two; provided that any teacher in  
15 [~~kindergarten~~] grade one or two with a class load of fifteen  
16 to twenty students shall be entitled to the assistance of an  
17 instructional assistant. The average class load for an  
18 elementary school teacher at an individual school shall not  
19 exceed twenty-two students for grades three through six.

20 [~~B. The average class load for elementary school~~  
21 ~~teachers at an individual school shall not exceed twenty-two~~  
22 ~~students when averaged among grades one, two and three;~~  
23 ~~provided that any teacher in grade one with a class load of~~  
24 ~~twenty one or more shall be entitled to the full-time~~  
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1 ~~assistance of an instructional assistant.~~

2 ~~C. Effective with the 1994-95 school year, the~~  
3 ~~average class load for an elementary school teacher at an~~  
4 ~~individual school shall not exceed twenty-four students when~~  
5 ~~averaged among grades four, five and six.~~

6 ~~D.]~~ B. The daily teaching load per teacher for  
7 grades seven through twelve shall not exceed one hundred  
8 ~~[sixty]~~ twenty students ~~[except the daily teaching load for~~  
9 ~~teachers of required English courses in grades seven and~~  
10 ~~eight shall not exceed one hundred thirty-five]~~ with a  
11 maximum of ~~[twenty-seven]~~ twenty-five students per class in  
12 required English courses in grades seven and eight and the  
13 daily teaching load for teachers of required English courses  
14 in grades nine through twelve shall not exceed one hundred  
15 ~~[fifty]~~ thirty-five students with a maximum of ~~[thirty]~~  
16 twenty-seven students per class.

17 ~~[E.]~~ C. Students receiving special education  
18 services integrated into a regular classroom for any part of  
19 the day shall be counted in the calculation of class load  
20 averages. Students receiving special education services not  
21 integrated into the regular classroom shall not be counted in  
22 the calculation of class load averages. Only classroom  
23 teachers charged with responsibility for the regular  
24 classroom instructional program shall be counted in  
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1 determining average class loads. In elementary schools  
2 offering only one grade level, average class loads may be  
3 calculated by averaging appropriate grade levels between  
4 schools in the school district.

5 ~~[F.]~~ D. The state superintendent may waive the  
6 individual school class load requirements established in this  
7 section. Waivers shall be applied for annually and a waiver  
8 shall not be granted for more than two consecutive years.  
9 Waivers may only be granted if a school district  
10 demonstrates:

- 11 (1) no portable classrooms are available;
- 12 (2) no other available sources of funding  
13 exist to meet its need for additional classrooms;
- 14 (3) the district is planning alternatives to  
15 increase building capacity for implementation within one  
16 year; and
- 17 (4) the parents of all children affected by  
18 the waiver have been notified in writing:
  - 19 (a) of the statutory class load  
20 requirements;
  - 21 (b) that the school district has made a  
22 decision to deviate from these class load requirements; and
  - 23 (c) of the school district plan to  
24 achieve compliance with the class load requirements.  
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1           ~~[G.]~~ E. If a waiver is granted pursuant to  
2 Subsection ~~[F]~~ D of this section to an individual school, the  
3 average class load for elementary school teachers at that  
4 school shall not exceed twenty students in grade one or two  
5 and shall not exceed ~~[twenty-five]~~ twenty-two students when  
6 averaged among grades ~~[two]~~ three, four, five and six.

7           ~~[H.]~~ F. Each school district shall report to the  
8 department of education the size and composition of classes  
9 subsequent to the fortieth day and the December 1 count.  
10 Failure to meet class load requirements within two years  
11 shall be justification for the disapproval of the school  
12 district's budget by the state superintendent.

13           ~~[I.]~~ G. The department of education shall report  
14 to the legislative education study committee by November 30  
15 of each year regarding each school district's ability to meet  
16 class load requirements imposed by law.

17           ~~[J.]~~ H. Notwithstanding the provisions of  
18 Subsection ~~[F]~~ D of this section, the state board may waive  
19 the individual class load and teaching load requirements  
20 established in this section upon a demonstration of a viable  
21 alternative curricular plan and a finding by the state board  
22 that the plan is in the best interest of the school district  
23 and that, on an annual basis, the plan has been presented to  
24 and is supported by the affected teaching staff. The  
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1 department of education shall evaluate the impact of each  
2 alternative curricular plan annually. Annual reports shall  
3 be made to the legislative education study committee.

4 [~~K. Effective with the 1987-88 school year~~]

5 I. Certified school instructors shall not be  
6 required to perform noninstructional duties except in  
7 emergency situations as defined by the state board. For  
8 purposes of this subsection, "noninstructional duties" means  
9 noon hall duty, noon ground duty and noon cafeteria duty."

10 Section 5. Section 22-2-8.7 NMSA 1978 (being Laws 1986,  
11 Chapter 33, Section 8, as amended) is amended to read:

12 "22-2-8.7. CERTIFICATION REQUIREMENTS. --

13 A. Except as otherwise provided in this section,  
14 the state board shall require [~~any~~] a person seeking  
15 certification in elementary and secondary education to  
16 complete the following minimum requirements in the college of  
17 arts and sciences:

- 18 (1) twelve hours in English;
- 19 (2) twelve hours in history, including  
20 American history and western civilization;
- 21 (3) six hours in mathematics;
- 22 (4) six hours in government, economics or  
23 sociology;
- 24 (5) twelve hours in science, including  
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1 biology, chemistry, physics, geology, zoology and botany; and

2 (6) six hours in fine arts.

3 B. The state board shall require, prior to  
4 certification, no less than fourteen weeks of student  
5 teaching, a portion of which shall occur in the first thirty  
6 credit hours taken in the college of education and shall be  
7 under the direct supervision of a certified school instructor  
8 and a portion of which shall occur in the student's senior  
9 year with the student teacher being directly responsible for  
10 the classroom.

11 C. Nothing in this section shall preclude the  
12 state board from establishing or accepting equivalent  
13 requirements for purposes of reciprocal certification or  
14 minimum requirements for alternative certification. The  
15 state board may waive the requirements of Subsections A and B  
16 of this section if it determines that an applicant is  
17 otherwise qualified by reason of his education or training.

18 D. The requirements in Subsections A and B of this  
19 section shall apply to students first entering a college or  
20 university beginning in the fall of 1986.

21 E. Vocational teacher preparatory programs may be  
22 exempt from Subsections A and B of this section upon a  
23 determination by the state board that other certification  
24 requirements are more appropriate for vocational teacher  
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1 preparatory programs. "

2 Section 6. Section 22-10-14 NMSA 1978 (being Laws 1986,  
3 Chapter 33, Section 22, as amended) is amended to read:

4 "22-10-14. TERMINATION DECISIONS--LOCAL SCHOOL  
5 BOARD--GOVERNING AUTHORITY OF A STATE AGENCY--PROCEDURES.--

6 A. A local school board or governing authority of  
7 a state agency may terminate an employee with fewer than  
8 three years of consecutive service for any reason it deems  
9 sufficient. Upon request of the employee, the local  
10 superintendent or state agency administrator shall provide  
11 written reasons for the decision to terminate. The reasons  
12 shall be provided within ten working days of the request.  
13 The reasons shall not be publicly disclosed by the  
14 superintendent, administrator, local school board or  
15 governing authority. The reasons shall not provide a basis  
16 for contesting the decision under the School Personnel Act.

17 B. Before terminating a non-certified school  
18 employee, the local school board or governing authority shall  
19 serve the employee with a written notice of termination.

20 C. An employee who has been employed by a school  
21 district or state agency for three consecutive years and who  
22 receives a notice of termination pursuant to either Section  
23 22-10-12 NMSA 1978 or this section may request an opportunity  
24 to make a statement to the local school board or governing  
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1 authority on the decision to terminate him by submitting a  
2 written request to the local superintendent or state agency  
3 administrator within five working days from the date written  
4 notice of termination is served upon him. The employee may  
5 also request in writing the reasons for the action to  
6 terminate him. The local superintendent or state agency  
7 administrator shall provide written reasons for the notice of  
8 termination to the employee within five working days from the  
9 date the written request for a meeting and the written  
10 request for the reasons were received by the local  
11 superintendent or administrator. Neither the local  
12 superintendent or state agency administrator nor the local  
13 school board or governing authority shall publicly disclose  
14 its reasons for termination.

15 ~~[D. A local school board or governing authority~~  
16 ~~may not terminate an employee who has been employed by a~~  
17 ~~school district or state agency for three consecutive years~~  
18 ~~without just cause.~~

19 E.] D. The employee's request pursuant to  
20 Subsection C of this section shall be granted if he responds  
21 to the local superintendent's or state agency administrator's  
22 written reasons as provided in Subsection C of this section  
23 by submitting in writing to the local superintendent or state  
24 agency administrator a contention that the decision to  
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1 terminate him was made without just cause. The written  
2 contention shall specify the grounds on which it is contended  
3 that the decision was without just cause and shall include a  
4 statement of the facts that the employee believes support his  
5 contention. This written statement shall be submitted within  
6 ten working days from the date the employee receives the  
7 written reasons from the local superintendent or state agency  
8 administrator. The submission of this statement constitutes  
9 a representation on the part of the employee that he can  
10 support his contentions and an acknowledgment that the local  
11 school board or governing authority may offer the causes for  
12 its decision and any relevant data in its possession in  
13 rebuttal of his contentions.

14 [F.] E. A local school board or governing  
15 authority shall meet to hear the employee's statement in no  
16 less than five or more than fifteen working days after the  
17 local school board or governing authority receives the  
18 statement. The hearing shall be conducted informally in  
19 accordance with the provisions of the Open Meetings Act. The  
20 employee and the local superintendent or state agency  
21 administrator may each be accompanied by a person of his  
22 choice. First, the superintendent shall present the factual  
23 basis for his determination that just cause exists for the  
24 termination of the employee, limited to those reasons  
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1 provided to the employee pursuant to Subsection C of this  
2 section. Then, the employee shall present his contentions,  
3 limited to those grounds specified in Subsection [E] D of  
4 this section. The local school board or governing authority  
5 may offer such rebuttal testimony as it deems relevant. All  
6 witnesses may be questioned by the local school board or  
7 governing authority, the employee or his representative and  
8 the local superintendent or state agency administrator or his  
9 representative. The local school board or governing  
10 authority may consider only such evidence as is presented at  
11 the hearing and need consider only such evidence as it  
12 considers reliable. No record shall be made of the  
13 proceeding. The local school board or governing authority  
14 shall notify the employee and the local superintendent or  
15 state agency administrator of its decision in writing within  
16 five working days from the conclusion of the meeting."

17 Section 7. APPROPRIATION.--Eight hundred fifty thousand  
18 dollars (\$850,000) is appropriated from the general fund to  
19 the state department of public education for expenditure in  
20 fiscal year 2001 to design and fund a merit award program for  
21 teachers and elementary, middle and junior high schools. Any  
22 unexpended or unencumbered balance remaining at the end of  
23 fiscal year 2001 shall revert to the general fund.

24 Section 8. APPROPRIATION.--  
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1           A. It is the intent of the legislature to increase  
2 the compensation level of teachers in grades one through  
3 twelve, special education teachers, early childhood  
4 development teachers and preschool teachers by two thousand  
5 five hundred dollars (\$2,500) over the 2000-2001 compensation  
6 level. For purposes of this section, "compensation level"  
7 means the sum total of the remuneration received by a teacher  
8 in grades one through twelve, special education teachers,  
9 early childhood development teachers and preschool teachers  
10 inclusive of all benefits and any increments provided for  
11 additional experience and education.

12           B. Forty-eight million one hundred thirty thousand  
13 dollars (\$48,130,000) is appropriated from the general fund  
14 to the state department of public education for expenditure  
15 in fiscal year 2001 for the purpose of increasing the  
16 compensation level of each teacher in grades one through  
17 twelve, special education teachers, early childhood  
18 development teachers and preschool teachers by two thousand  
19 five hundred dollars (\$2,500), inclusive of the teachers'  
20 contribution to social security pursuant to the Federal  
21 Insurance Contribution Act, the required contribution  
22 pursuant to the Educational Retirement Act and any salary  
23 increments for teachers in grades one through twelve, special  
24 education teachers, early childhood development teachers and  
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1 preschool teachers.

2 C. Salary increases funded pursuant to Subsection  
3 B of this section shall become a part of the base salary for  
4 teachers in grades one through twelve, special education  
5 teachers, early childhood development teachers and preschool  
6 teachers and be incorporated into the public school  
7 equalization distribution in subsequent years.

8 D. Any unexpended or unencumbered balance  
9 remaining at the end of fiscal year 2001 shall revert to the  
10 general fund.

11 Section 9. EMERGENCY. --It is necessary for the public  
12 peace, health and safety that this act take effect  
13 immediately.