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**SENATE BILL 8**

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

**INTRODUCED BY**

**Joseph J. Carraro**

**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 SALARY ADJUSTMENT. --**

**A. The department of education shall provide a  
one-time salary adjustment to the top two and one-half percent  
of teachers who exceed expected instructional performance and  
who perform outstanding meritorious work. The one-time salary  
adjustment shall not become part of the employees' wage base  
for future salary increment purposes.**

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1           B. Each school district shall provide the  
2 department of education with the names and profiles of  
3 outstanding teachers who meet the requirements for the salary  
4 adjustment as set forth by the department of education.

5           C. Upon receipt of the names and profiles of  
6 outstanding teachers in each school district, the department  
7 of education shall select a minimum of one teacher per local  
8 school district to receive a one-time salary adjustment.  
9 After one teacher is chosen from each school district, the  
10 remaining teachers who meet the department of education  
11 requirements shall be selected according to district size  
12 until two and one-half percent of outstanding teachers receive  
13 a fifteen percent one-time salary adjustment. "

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

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

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

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

25           Section 3. A new section of the Public School Code is

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1 enacted to read:

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

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

8 "22-2-8.2. STAFFING PATTERNS-- CLASS LOAD-- TEACHING  
9 LOAD. --

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

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

23 C. ~~Effective with the 1994-95 school year, the~~  
24 ~~average class load for an elementary school teacher at an~~  
25 ~~individual school shall not exceed twenty-four students when~~

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1 ~~averaged among grades four, five and six.~~

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

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

24           ~~F.~~ D. The state superintendent may waive the  
25 individual school class load requirements established in this

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1 section. Waivers shall be applied for annually, and a waiver  
2 shall not be granted for more than two consecutive years.

3 Waivers may only be granted if a school district demonstrates:

4 (1) no portable classrooms are available;

5 (2) no other available sources of funding  
6 exist to meet its need for additional classrooms;

7 (3) the district is planning alternatives to  
8 increase building capacity for implementation within one year;  
9 and

10 (4) the parents of all children affected by  
11 the waiver have been notified in writing:

12 (a) of the statutory class load  
13 requirements;

14 (b) that the school district has made a  
15 decision to deviate from these class load requirements; and

16 (c) of the school district plan to  
17 achieve compliance with the class load requirements.

18 ~~[G.]~~ E. If a waiver is granted pursuant to  
19 Subsection ~~[F]~~ D of this section to an individual school, the  
20 average class load for elementary school teachers at that  
21 school shall not exceed twenty students in grade one and shall  
22 not exceed twenty-five students when averaged among grades  
23 two, three, four, five and six.

24 ~~[H.]~~ F. Each school district shall report to the  
25 department of education the size and composition of classes

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1 subsequent to the fortieth day and the December 1 count.  
2 Failure to meet class load requirements within two years shall  
3 be justification for the disapproval of the school district's  
4 budget by the state superintendent.

5 ~~[F.]~~ G. The department of education shall report  
6 to the legislative education study committee by November 30 of  
7 each year regarding each school district's ability to meet  
8 class load requirements imposed by law.

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

20 ~~[K.—Effective with the 1987-88 school year]~~ I.  
21 Certified school instructors shall not be required to perform  
22 noninstructional duties except in emergency situations as  
23 defined by the state board. For purposes of this subsection,  
24 "noninstructional duties" means noon hall duty, noon ground  
25 duty and noon cafeteria duty. "

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

3           "22-2-8.7. CERTIFICATION REQUIREMENTS. --

4           A. Except as otherwise provided in this section,  
5 the state board shall require [~~any~~] a person seeking  
6 certification in elementary and secondary education to  
7 complete the following minimum requirements in the college of  
8 arts and sciences:

- 9                           (1) twelve hours in English;
- 10                          (2) twelve hours in history, including  
11 American history and western civilization;
- 12                          (3) six hours in mathematics;
- 13                          (4) six hours in government, economics or  
14 sociology;
- 15                          (5) twelve hours in science, including  
16 biology, chemistry, physics, geology, zoology and botany; and  
17                          (6) six hours in fine arts.

18           B. The state board shall require, prior to  
19 certification, no less than fourteen weeks of student  
20 teaching, a portion of which shall occur in the first thirty  
21 credit hours taken in the college of education and shall be  
22 under the direct supervision of a certified school instructor  
23 and a portion of which shall occur in the student's senior  
24 year with the student teacher being directly responsible for  
25 the classroom.

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1 C. Nothing in this section shall preclude the  
2 state board from establishing or accepting equivalent  
3 requirements for purposes of reciprocal certification or  
4 minimum requirements for alternative certification. The state  
5 board may waive the requirements of Subsection A or B of this  
6 section if it determines that an applicant is otherwise  
7 qualified by reason of his education or training.

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

11 E. Vocational teacher preparatory programs may be  
12 exempt from Subsections A and B of this section upon a  
13 determination by the state board that other certification  
14 requirements are more appropriate for vocational teacher  
15 preparatory programs. "

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

18 "22-10-14. TERMINATION DECISIONS--LOCAL SCHOOL  
19 BOARD--GOVERNING AUTHORITY OF A STATE AGENCY--PROCEDURES.--

20 A. A local school board or governing authority of  
21 a state agency may terminate an employee with fewer than three  
22 years of consecutive service for any reason it deems  
23 sufficient. Upon request of the employee, the local  
24 superintendent or state agency administrator shall provide  
25 written reasons for the decision to terminate. The reasons



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1 shall be provided within ten working days of the request. The  
2 reasons shall not be publicly disclosed by the superintendent,  
3 administrator, local school board or governing authority. The  
4 reasons shall not provide a basis for contesting the decision  
5 under the School Personnel Act.

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

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

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1 authority shall publicly disclose its reasons for termination.

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

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

25 ~~[F.]~~ E. A local school board or governing

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

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1 conclusion of the meeting."

2 Section 7. APPROPRIATION. -- Three million two hundred  
3 thousand dollars (\$3,200,000) is appropriated from the general  
4 fund to the state department of public education for  
5 expenditure in fiscal year 2000 to provide a one-time fifteen  
6 percent salary adjustment for the top two and one-half percent  
7 of teachers who perform outstanding meritorious work. If the  
8 appropriation is not sufficient to provide a fifteen percent  
9 one-time salary adjustment for the top two and one-half  
10 percent of outstanding teachers, the state department of  
11 public education shall prorate the fifteen percent salary  
12 adjustment. Any unexpended or unencumbered balance remaining  
13 at the end of fiscal year 2000 shall revert to the general  
14 fund.

15 Section 8. APPROPRIATION. --

16 A. It is the intent of the legislature to increase  
17 the compensation level of teachers in grades one through  
18 twelve, special education teachers, early childhood  
19 development teachers and preschool teachers by two thousand  
20 five hundred dollars (\$2,500) over the 1999-2000 compensation  
21 level. For purposes of this section, "compensation level"  
22 means the sum total of the remuneration received by a teacher  
23 in grades one through twelve, special education teachers,  
24 early childhood development teachers and preschool teachers  
25 inclusive of all benefits and any increments provided for

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1 additional experience and education.

2 B. Forty-eight million one hundred thirty thousand  
3 dollars (\$48,130,000) is appropriated from the general fund to  
4 the state department of public education for expenditure in  
5 fiscal year 2000 for the purpose of increasing the  
6 compensation level of each teacher in grades one through  
7 twelve, special education teachers, early childhood  
8 development teachers and preschool teachers by two thousand  
9 five hundred dollars (\$2,500), inclusive of the teachers'  
10 contribution to social security pursuant to the Federal  
11 Insurance Contribution Act, the required contribution pursuant  
12 to the Educational Retirement Act and any salary increments  
13 for teachers in grades one through twelve, special education  
14 teachers, early childhood development teachers and preschool  
15 teachers.

16 C. Salary increases funded pursuant to Subsection  
17 B of this section shall become a part of the base salary for  
18 teachers in grades one through twelve, special education  
19 teachers, early childhood development teachers and preschool  
20 teachers and be incorporated into the public school  
21 equalization distribution in subsequent years.

22 D. Any unexpended or unencumbered balance  
23 remaining at the end of fiscal year 2000 shall revert to the  
24 general fund.

25 Section 9. EMERGENCY.--It is necessary for the public

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1 peace, health and safety that this act take effect  
2 immediately.

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