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**SENATE BILL 659**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Pete Campos**

**AN ACT**

**RELATING TO EDUCATION; AMENDING SECTIONS OF THE PUBLIC SCHOOL  
CODE TO ELIMINATE OR CHANGE CERTAIN REPORTING REQUIREMENTS OF  
THE STATE DEPARTMENT OF PUBLIC EDUCATION.**

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

**Section 1. Section 22-2-8.2 NMSA 1978 (being Laws 1986,  
Chapter 33, Section 3, as amended) is amended to read:**

**"22-2-8.2. STAFFING PATTERNS--CLASS LOAD--TEACHING  
LOAD. --**

**A. The individual class load for elementary school  
teachers shall not exceed twenty students for kindergarten;  
provided that any teacher in kindergarten with a class load of  
fifteen to twenty students shall be entitled to the assistance  
of an instructional assistant.**

**B. The average class load for elementary school**

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1 teachers at an individual school shall not exceed twenty-two  
2 students when averaged among grades one, two and three;  
3 provided that any teacher in grade one with a class load of  
4 twenty-one or more shall be entitled to the full-time  
5 assistance of an instructional assistant.

6 C. Effective with the 1994-95 school year, the  
7 average class load for an elementary school teacher at an  
8 individual school shall not exceed twenty-four students when  
9 averaged among grades four, five and six.

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

19 E. Students receiving special education services  
20 integrated into a regular classroom for any part of the day  
21 shall be counted in the calculation of class load averages.  
22 Students receiving special education services not integrated  
23 into the regular classroom shall not be counted in the  
24 calculation of class load averages. Only classroom teachers  
25 charged with responsibility for the regular classroom

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1 instructional program shall be counted in determining average  
2 class loads. In elementary schools offering only one grade  
3 level, average class loads may be calculated by averaging  
4 appropriate grade levels between schools in the school  
5 district.

6 F. The state superintendent may waive the  
7 individual school class load requirements established in this  
8 section. Waivers shall be applied for annually and a waiver  
9 shall not be granted for more than two consecutive years.

10 Waivers may only be granted if a school district 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 year;  
16 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.

25 G. If a waiver is granted pursuant to Subsection F

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1 of this section to an individual school, the average class  
2 load for elementary school teachers at that school shall not  
3 exceed twenty students in grade one and shall not exceed  
4 twenty-five students when averaged among grades two, three,  
5 four, five and six.

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

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

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

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1 made to the legislative education study committee.

2 [K-] J. Effective with the 1987-88 school year,  
3 certified school instructors shall not be required to perform  
4 noninstructional duties except in emergency situations as  
5 defined by the state board. For purposes of this subsection,  
6 "noninstructional duties" means noon hall duty, noon ground  
7 duty and noon cafeteria duty."

8 Section 2. Section 22-8-30 NMSA 1978 (being Laws 1974,  
9 Chapter 8, Section 17, as amended) is amended to read:

10 "22-8-30. SUPPLEMENTAL DISTRIBUTIONS. --

11 A. The state superintendent shall make  
12 supplemental distributions only for the following purposes:

13 (1) to pay the out-of-state tuition of  
14 students subject to the Compulsory School Attendance Law who  
15 are attending school out-of-state because school facilities  
16 are not reasonably available in the school district of their  
17 residence;

18 (2) to make emergency distributions to school  
19 districts in financial need, but no money shall be distributed  
20 to any school district having cash and invested reserves, or  
21 other resources or any combination thereof, equaling five  
22 percent or more of the school district's operational budget;

23 (3) to make program enrichment distributions  
24 in the amount of actual program expense to school districts  
25 for the purpose of providing specific programs to meet

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1 particular educational requirements that cannot otherwise be  
2 financed;

3 (4) a special vocational education  
4 distribution to area vocational schools or state supported  
5 schools with state board approved vocational programs to  
6 reimburse those schools for the cost of vocational education  
7 programs for those students subject to the Compulsory School  
8 Attendance Law who are enrolled in such programs; and

9 (5) to make emergency capital outlay  
10 distributions to school districts that have experienced an  
11 unexpected capital outlay emergency demanding immediate  
12 attention.

13 B. The state superintendent shall account for all  
14 supplemental distributions [~~and shall make full reports to the~~  
15 ~~governor, legislative education study committee and~~  
16 ~~legislative finance committee of payments made as~~] authorized  
17 [~~in~~] pursuant to Subsection A of this section.

18 C. The state superintendent may divert any unused  
19 or unneeded balances in any of the distributions made under  
20 the supplementary distribution authority to make any other  
21 distribution made pursuant to the same authority. "

22 Section 3. REPEAL. -- Section 22-2-16 NMSA 1978 (being  
23 Laws 1978, chapter 129, Section 3) is repealed.