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HOUSE BILL 158

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Al Park

AN ACT

RELATING TO EDUCATION; DECREASING THE AVERAGE CLASS SIZE FOR GRADES FOUR, FIVE AND SIX.

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

Section 1. Section 22-10A-20 NMSA 1978 (being Laws 1986, Chapter 33, Section 3, as amended) is amended to read:

"22-10A-20. 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 educational assistant.

B. The average class load for elementary school teachers at an individual school shall not exceed twenty-two

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1 students when averaged among grades one, two and three;  
2 provided that any teacher in grade one with a class load of  
3 twenty-one or more shall be entitled to the full-time  
4 assistance of an educational assistant.

5 C. The average class load for an elementary school  
6 teacher at an individual school shall not exceed [~~twenty-four~~]  
7 twenty-two students when averaged among grades four, five and  
8 six.

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

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

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

5 F. Class load limits provided for in this section  
6 do not apply to band or music classes or athletic electives.

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

13 (1) no portable classrooms are available;

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

16 (3) the school district is planning  
17 alternatives to increase building capacity for implementation  
18 within one year; and

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

21 (a) of the statutory class load  
22 requirements;

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

25 (c) of the school district plan to

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1 achieve compliance with the class load requirements.

2 H. If a waiver is granted pursuant to Subsection G  
3 of this section to an individual school, the average class load  
4 for elementary school teachers at that school shall not exceed  
5 twenty students in grade one and shall not exceed twenty-five  
6 students when averaged among grades two, three, four, five and  
7 six.

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

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

18 K. Notwithstanding the provisions of Subsection G  
19 of this section, the [~~state board~~] secretary may waive the  
20 individual class load and teaching load requirements  
21 established in this section upon a demonstration of a viable  
22 alternative curricular plan and a finding by the [~~state board~~]  
23 secretary that the plan is in the best interest of the school  
24 district and that, on an annual basis, the plan has been  
25 presented to and is supported by the affected teaching staff.

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1 The department shall evaluate the impact of each alternative  
2 curricular plan annually. Annual reports shall be made to the  
3 legislative education study committee.

4 L. Teachers shall not be required to perform  
5 noninstructional duties except in emergency situations as  
6 defined by the ~~[state board]~~ department. For purposes of this  
7 subsection, "noninstructional duties" means noon hall duty,  
8 noon ground duty and noon cafeteria duty."

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