

1 SENATE BILL 173

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 Linda M. Lopez

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10 AN ACT

11 RELATING TO HIGHER EDUCATION; ENACTING THE SPECIAL EDUCATION
12 LOAN FOR SERVICE ACT; PROVIDING POWERS AND DUTIES; REQUIRING
13 ENFORCEABLE CONTRACTS; REQUIRING SERVICE FOR THE REPAYMENT OF A
14 LOAN; PROVIDING PENALTIES IF CONTRACT TERMS ARE NOT FULFILLED;
15 CREATING A FUND; MAKING AN APPROPRIATION.

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

18 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
19 cited as the "Special Education Loan for Service Act".

20 SECTION 2. [NEW MATERIAL] PURPOSE.--The purpose of the
21 Special Education Loan for Service Act is to proactively
22 address New Mexico's critical special education teacher and
23 instructional support provider shortages by providing students
24 with the financial means to complete or enhance their post-
25 secondary teaching preparation or special education

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1 instructional support professional degree in teaching or
2 supporting special education.

3 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
4 Special Education Loan for Service Act:

5 A. "department" means the higher education
6 department;

7 B. "loan" means a payment of money under contract
8 between the department and a student that defrays the costs
9 incidental to a teacher preparation program or pertinent
10 instructional support provider professional degree offered in a
11 regionally accredited post-secondary educational institution in
12 New Mexico and that requires repayment in services;

13 C. "special education instructional support
14 provider" means a dually licensed special education specialist,
15 including diagnostician, school counselor, social worker,
16 psychologist, speech-language pathologist, physical therapist,
17 occupational therapist, recreational therapist or other
18 professional with qualifications applicable to working with
19 special education public school students and leading to dual
20 licensure as a professional and a special education
21 instructional support provider;

22 D. "student" means a United States citizen and
23 resident of New Mexico who is enrolled in or accepted by an
24 undergraduate or graduate teacher preparation program or
25 undergraduate or graduate special education instructional

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1 support professional degree program at a regionally accredited
2 post-secondary educational institution in New Mexico; and

3 E. "teacher preparation program" means a program
4 that has been formally approved as meeting the requirements of
5 the public education department for special education teachers
6 and that leads to initial licensure or to additional licensure
7 endorsements.

8 SECTION 4. [NEW MATERIAL] TEACHER STUDENT LOANS
9 AUTHORIZED--QUALIFICATIONS.--

10 A. The department may grant a loan to a student
11 deemed qualified by the department upon such terms and
12 conditions as may be imposed by rule of the department.

13 B. The department shall only receive, pass upon and
14 allow or disallow an application for a loan made by a student
15 who declares the intent to serve as a public school special
16 education teacher or special education instructional support
17 provider in a designated teacher shortage area of New Mexico.
18 Teacher shortage areas may be either geographic or discipline-
19 specific.

20 C. The department shall make a full and careful
21 investigation of the ability and qualifications of each
22 applicant to become a recipient of a loan. The department
23 shall give preference to qualified applicants who demonstrate
24 financial need.

25 D. The department and the public education

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1 department shall arrange for loan recipients to receive
2 assistance in locating employment with public schools in New
3 Mexico.

4 SECTION 5. [NEW MATERIAL] LOANS--CONTRACT TERMS--
5 REPAYMENT.--

6 A. Each applicant who is approved for a loan by the
7 department may be granted a loan in such amount and for such
8 period as the department determines. The loan shall not exceed
9 the necessary expenses incurred while attending a teacher
10 preparation or special education instructional support
11 professional program.

12 B. A loan shall bear interest at the rate of:

13 (1) eighteen percent per year if the loan
14 recipient completes a teacher preparation or special education
15 instructional support professional program and no portion of
16 the principal and interest is forgiven pursuant to Subsection F
17 of this section; or

18 (2) seven percent per year in all other cases.

19 C. Loans made pursuant to the Special Education
20 Loan for Service Act shall not accrue interest until the
21 department:

22 (1) determines the loan recipient has
23 terminated the loan recipient's teacher preparation or special
24 education instructional support professional program prior to
25 completion;

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1 (2) determines the loan recipient has failed
2 to fulfill the loan recipient's obligation to practice as a
3 licensed teacher or dually licensed special education
4 instructional support provider in New Mexico; or

5 (3) cancels a contract between a loan
6 recipient and the department pursuant to Section 8 of the
7 Special Education Loan for Service Act.

8 D. The loan shall be evidenced by a contract
9 between the loan recipient and the department acting on behalf
10 of the state. The contract shall provide for the payment by
11 the state of a stated sum covering the costs of a teacher
12 preparation or special education instructional support
13 professional program and shall be conditioned on the repayment
14 of the loan to the state over a period established by the
15 department after the completion of the teacher preparation or
16 special education instructional support professional program
17 and any postgraduate study or internship required to complete
18 the loan recipient's education.

19 E. A loan made to a recipient who fails to complete
20 a teacher preparation or special education instructional
21 support professional program shall become due immediately upon
22 termination of the teacher preparation or special education
23 instructional support professional program. The department, in
24 consultation with the loan recipient, shall establish terms of
25 repayment, alternate service or cancellation.

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1 F. The contract shall provide that the department
2 shall forgive a portion of the loan for each year that the loan
3 recipient practices as a licensed teacher or dually licensed
4 special education instructional support provider in New Mexico.
5 The loan shall be forgiven as follows:

6 (1) loan terms of one year shall require one
7 year of practice. Upon completion of service, one hundred
8 percent of the loan shall be forgiven;

9 (2) loan terms of two years shall require one
10 year of practice for each year of the loan. Upon completion of
11 the first year of service, fifty percent of the loan shall be
12 forgiven. Upon completion of the second year of service, the
13 remainder of the loan shall be forgiven; and

14 (3) for loan terms of three years or more,
15 forty percent of the loan shall be forgiven upon completion of
16 the first year of service, thirty percent of the loan shall be
17 forgiven upon completion of the second year of service and the
18 remainder of the loan shall be forgiven upon completion of the
19 third year of service.

20 G. A loan recipient shall serve a complete contract
21 year in order to receive credit for that year. The minimum
22 credit for a year shall be established by the department.

23 H. If a loan recipient completes a teacher
24 preparation or special education instructional support
25 professional program and does not serve in a New Mexico public

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1 school, the department shall assess a penalty of up to three
2 times the principal due, plus eighteen percent interest, unless
3 the department finds acceptable extenuating circumstances that
4 prevent the loan recipient from serving. If the department
5 does not find acceptable extenuating circumstances for the loan
6 recipient's failure to carry out the loan recipient's declared
7 intent to serve, the department shall require immediate
8 repayment of the loan plus the amount of any interest and
9 penalty assessed pursuant to this section.

10 I. The department shall adopt and promulgate rules
11 to implement the provisions of this section. The rules may
12 provide for the repayment of loans in annual or other periodic
13 installments.

14 SECTION 6. [NEW MATERIAL] CONTRACTS--LEGAL ASSISTANCE--
15 ENFORCEMENT.--The general form of the contract shall be
16 prepared and approved by the attorney general and signed by the
17 loan recipient and a designee of the department on behalf of
18 the state. The department is vested with full and complete
19 authority and power to sue in its own name for any balance due
20 the state from a loan recipient on a contract.

21 SECTION 7. [NEW MATERIAL] FUND CREATED--METHOD OF
22 PAYMENT.--The "special education loan for service fund" is
23 created in the state treasury. Money appropriated for loans
24 pursuant to the Special Education Loan for Service Act;
25 earnings from investment of the fund; gifts, grants and

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1 donations to the fund; and all payments of principal and
2 interest on loans made pursuant to that act shall be deposited
3 in the fund. Money in the fund shall not revert at the end of
4 a fiscal year. The fund shall be administered by the
5 department. All payments of money for loans shall be made on
6 warrants drawn by the secretary of finance and administration
7 pursuant to vouchers signed by the department's designated
8 representative.

9 SECTION 8. [NEW MATERIAL] CANCELLATION.--The department
10 may cancel a contract between the department and a loan
11 recipient for any reasonable cause deemed sufficient by the
12 department.

13 SECTION 9. [NEW MATERIAL] REPORTS.--The department shall
14 report annually by January 1 to the governor and the
15 legislature on its activities pursuant to the Special Education
16 Loan for Service Act, including the loans granted, the names
17 and addresses of loan recipients, the teacher preparation and
18 special education instructional support professional programs
19 loan recipients are attending and the names and locations of
20 practice of loan recipients who have completed their education
21 and are teaching or providing special education instructional
22 support.