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SENATE BILL 100

**45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002**

INTRODUCED BY

Joseph J. Carraro

AN ACT

RELATING TO EDUCATION; AMENDING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978 TO PROVIDE FOR IMPROVEMENTS AND REFORMS; MAKING APPROPRIATIONS.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 10 of this act may be cited as the "Teacher Loan for Service Act".

Section 2. [NEW MATERIAL] PURPOSE.--The purpose of the Teacher Loan for Service Act is to proactively address New Mexico's looming teacher shortage by providing qualified students with the financial means to complete their post-secondary teacher preparation education.

Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the Teacher Loan for Service Act:

A. "commission" means the commission on higher education;

B. "loan" means a payment of money under contract between the commission and a student that defrays the costs

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1 incidental to a state-board-of-education-approved teacher  
2 preparation program offered in a regionally accredited post-  
3 secondary educational institution in New Mexico and that  
4 requires repayment in services;

5 C. "loan recipient" means an applicant approved  
6 for a loan pursuant to the provisions of the Teacher Loan for  
7 Service Act; and

8 D. "student" means a United States citizen who is  
9 enrolled in or accepted by an undergraduate or graduate state-  
10 board-of-education-approved teacher preparation program in a  
11 regionally accredited post-secondary educational institution  
12 in New Mexico.

13 Section 4. [NEW MATERIAL] TEACHER STUDENT LOANS  
14 AUTHORIZED--QUALIFICATIONS.--

15 A. The commission may grant a loan to a student  
16 deemed qualified by the commission upon such terms and  
17 conditions as may be imposed by rule of the commission.

18 B. The commission shall only receive, pass upon  
19 and allow or disallow an application for a loan made by a  
20 student who declares his intent to serve as a public school  
21 teacher in New Mexico.

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

D. The commission and the department of education  
shall arrange for loan recipients to receive assistance in  
locating employment with public schools in New Mexico.

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1           Section 5. [NEW MATERIAL] DELEGATION OF DUTIES TO OTHER  
2 STATE AGENCIES.--The commission may arrange with other  
3 agencies for the performance of services required by the  
4 provisions of Section 4 of the Teacher Loan for Service Act.

5           Section 6. [NEW MATERIAL] TEACHER LOANS--CONTRACT  
6 TERMS--REPAYMENT.--

7           A. Each applicant who is approved for a loan by  
8 the commission may be granted a loan in such amounts and for  
9 such periods as the commission determines. The loan shall not  
10 exceed the necessary expenses incurred while attending a  
11 teacher preparation program.

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

13                   (1) up to eighteen percent per year if the  
14 loan recipient completes his teacher preparation program and  
15 no portion of the principal and interest is forgiven pursuant  
16 to Subsection E of this section; or

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

19           C. The loan shall be evidenced by a contract  
20 between the loan recipient and the commission acting on behalf  
21 of the state. The contract shall provide for the payment by  
22 the state of a stated sum covering the costs of a teacher  
23 preparation program and shall be conditioned on the repayment  
24 of the loan to the state, together with interest, over a  
25 period established by the commission after the completion of  
the teacher preparation program and any postgraduate study or  
internship required to complete the loan recipient's  
education. The contract shall further provide that  
immediately upon completion or termination of the loan

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1 recipient's education, all interest then accrued shall be  
2 capitalized.

3 D. A loan made to a loan recipient who fails to  
4 complete his teacher preparation program shall become due,  
5 together with interest, immediately upon termination of his  
6 teacher preparation program. The contract shall provide that  
7 the loan recipient shall immediately notify the commission of  
8 his failure to complete his teacher program. The commission,  
9 in consultation with the loan recipient, shall establish terms  
10 of repayment, alternate service or cancellation terms.

11 E. The contract shall provide that the commission  
12 shall forgive a portion of the loan principal and interest for  
13 each year that the loan recipient practices his profession as  
14 a licensed teacher in New Mexico. Loan principal and interest  
15 shall be forgiven as follows:

16 (1) loan terms of one year shall require one  
17 year of practice. Upon completion of service, one hundred  
18 percent of the principal plus accrued interest shall be  
19 forgiven;

20 (2) loan terms of two years shall require one  
21 year of practice for each year of the loan. Upon completion  
22 of the first year of service, fifty percent of the principal  
23 plus accrued interest shall be forgiven. Upon completion of  
24 the second year of service, the remainder of the principal  
25 plus accrued interest shall be forgiven; and

(3) for loan terms of three years or more,  
forty percent of the principal plus accrued interest shall be  
forgiven upon completion of the first year of service, thirty  
percent of the principal plus accrued interest shall be

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1 forgiven upon completion of the second year of service and the  
2 remainder of the principal plus accrued interest shall be  
3 forgiven upon completion of the third year of service.

4 F. A loan recipient shall serve a complete  
5 contract year in order to receive credit for that year. The  
6 minimum credit for a year shall be established by the  
7 commission.

8 G. If a loan recipient completes his teacher  
9 preparation program and does not serve in a New Mexico public  
10 school, the commission shall assess a penalty of up to three  
11 times the principal due, plus eighteen percent interest,  
12 unless the commission finds acceptable extenuating  
13 circumstances that prevent the loan recipient from serving.  
14 If the commission does not find acceptable extenuating  
15 circumstances for the loan recipient's failure to carry out  
16 his declared intent to serve, the commission shall require  
17 immediate repayment of the unpaid principal amount of the loan  
18 plus accrued interest owed the state plus the amount of any  
19 penalty assessed pursuant to this section.

20 H. The commission shall adopt and promulgate rules  
21 to implement the provisions of this section. The rules may  
22 provide for the repayment of loans in annual or other periodic  
23 installments.

24 Section 7. [NEW MATERIAL] CONTRACTS--LEGAL ASSISTANCE--  
25 ENFORCEMENT.--The general form of the contract shall be  
prepared and approved by the attorney general and signed by  
the loan recipient and a designee of the commission on behalf  
of the state. The commission is vested with full and complete  
authority and power to sue in its own name for any balance due

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1 the state from a loan recipient on a contract.

2 Section 8. [NEW MATERIAL] FUND CREATED--METHOD OF  
3 PAYMENT.--The "teacher loan for service fund" is created in  
4 the state treasury. Money appropriated for loans pursuant to  
5 the Teacher Loan for Service Act; earnings from investment of  
6 the fund; gifts, grants and donations to the fund; and all  
7 payments of principal and interest on loans made pursuant to  
8 that act shall be deposited in the fund. Money in the fund  
9 shall not revert at the end of a fiscal year. The fund shall  
10 be administered by the commission. All payments of money for  
11 loans shall be made on warrants drawn by the secretary of  
12 finance and administration pursuant to vouchers signed by the  
13 commission's designated representative.

14 Section 9. [NEW MATERIAL] CANCELLATION.--The commission  
15 may cancel a contract between it and a loan recipient for any  
16 reasonable cause deemed sufficient by the commission.

17 Section 10. [NEW MATERIAL] REPORTS.--The commission  
18 shall report annually by January 1 to the governor and the  
19 legislature on its activities pursuant to the Teacher Loan for  
20 Service Act, including the loans granted, the names of loan  
21 recipients, the teacher preparation programs loan recipients  
22 are attending and the names and locations of practice of loan  
23 recipients who have completed their teacher preparation  
24 education and are teaching.

25 Section 11. A new section of the Public School Code is  
enacted to read:

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

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1 reads independently."

2 Section 12. [NEW MATERIAL] SHORT TITLE.--Sections 12  
3 through 16 of this act may be cited as the "Private Student  
4 Tuition Scholarship Act".

5 Section 13. [NEW MATERIAL] LEGISLATIVE INTENT.--The  
6 legislature recognizes that for every student eligible for  
7 public school who is instead educated in a nonpublic school or  
8 at home, the state is spared the cost of educating that  
9 student. The intent of the Private Student Tuition  
10 Scholarship Act is to recognize the value of the private  
11 contribution that has been made to the student's education by  
12 providing the student with a tuition scholarship for post-  
13 secondary education.

14 Section 14. [NEW MATERIAL] DEFINITIONS.--As used in the  
15 Private Student Tuition Scholarship Act:

16 A. "commission" means the commission on higher  
17 education;

18 B. "eligible institution" means any public post-  
19 secondary educational institution in New Mexico;

20 C. "eligible student" means a New Mexico resident  
21 under the age of twenty-four who has completed one or more  
22 years of qualifying private education; and

23 D. "qualifying private education" means elementary  
24 or secondary education in New Mexico that occurs after July 1,  
25 2001 at an accredited nonpublic school or in an approved home  
school program.

Section 15. [NEW MATERIAL] ELIGIBILITY.--An eligible  
student meeting entrance requirements shall be entitled to one  
full-year tuition scholarship to the eligible institution of

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1 the student's choice for each year of qualifying private  
2 education completed by the student at a time when the student  
3 was eligible for enrollment in public school in New Mexico.  
4 The scholarship shall continue for such time as the recipient  
5 remains a student in good standing at the institution, but in  
6 no event shall the student receive a scholarship for more than  
7 five years.

8 Section 16. [NEW MATERIAL] RULES.--The commission may  
9 adopt rules necessary to implement the provisions of the  
10 Private Student Tuition Scholarship Act.

11 Section 17. Section 22-2-8.7 NMSA 1978 (being Laws 1986,  
12 Chapter 33, Section 8, as amended by Laws 2001, Chapter 255,  
13 Section 1 and by Laws 2001, Chapter 261, Section 1) is amended  
14 to read:

15 "22-2-8.7. CERTIFICATION REQUIREMENTS.--

16 A. Except as otherwise provided in this section,  
17 the state board shall require any person seeking certification  
18 in elementary or secondary education to complete the following  
19 minimum requirements in the college of arts and sciences:

20 (1) twelve hours in English;

21 (2) twelve hours in history, including  
22 American history and western civilization;

23 (3) six hours in mathematics;

24 (4) six hours in government, economics or  
25 sociology;

(5) twelve hours in science, including  
biology, chemistry, physics, geology, zoology and botany; and

(6) six hours in fine arts.

B. In addition to the requirements specified in



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1 Subsections A and C of this section, the state board shall  
2 require that a person seeking standard or alternative  
3 elementary certification shall have completed six hours of  
4 reading courses, and a person seeking standard or alternative  
5 secondary certification shall have completed three hours of  
6 reading courses in subject matter content. The state board  
7 shall establish requirements that provide a reasonable period  
8 of time to comply with the provisions of this section.

9 C. The state board shall require, prior to  
10 certification, no less than fourteen weeks of student  
11 teaching, a portion of which shall occur in the first thirty  
12 credit hours taken in the college of education and shall be  
13 under the direct supervision of a certified school instructor  
14 and a portion of which shall occur in the student's senior  
15 year with the student teacher being directly responsible for  
16 the classroom.

17 D. Nothing in this section shall preclude the  
18 state board from establishing or accepting equivalent  
19 requirements for purposes of reciprocal certification or  
20 minimum requirements for alternative certification. The state  
21 board may waive the requirements of Subsections A through C of  
22 this section if it determines that an applicant is otherwise  
23 qualified by reason of his education or training.

24 ~~[E. The requirements in Subsections A and C of~~  
25 ~~this section shall apply to students first entering a college~~  
~~or university beginning in the fall of 1986.~~

F.] E. Vocational teacher preparatory programs may  
be exempt from Subsections A through C of this section upon a  
determination by the state board that other certification

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1 requirements are more appropriate for vocational teacher  
2 preparatory programs."

3 Section 18. Section 22-10-11 NMSA 1978 (being Laws 1967,  
4 Chapter 16, Section 113, as amended) is amended to read:

5 "22-10-11. EMPLOYMENT CONTRACTS--DURATION.--

6 A. All employment contracts between local school  
7 boards and certified school personnel and between governing  
8 authorities of state agencies and certified school instructors  
9 shall be in writing on forms approved by the state board.  
10 These forms shall contain and specify the term of service, the  
11 salary to be paid, the method of payment, the causes for  
12 termination of the contract and other provisions required by  
13 the regulations of the state board.

14 B. All employment contracts between local school  
15 boards and certified school personnel and between governing  
16 authorities of state agencies and certified school instructors  
17 shall be for a period of one [~~school~~] year except:

18 (1) contracts for one school year are  
19 permitted upon the request of the certified school employee;

20 [~~(1)~~] (2) contracts for less than one school  
21 year are permitted to fill personnel vacancies which occur  
22 during the school year;

23 [~~(2)~~] (3) contracts for the remainder of a  
24 school year are permitted to staff programs when the  
25 availability of funds for the programs is not known until  
after the beginning of the school year;

[~~(3)~~] (4) contracts for less than one school  
year are permitted to staff summer school programs and to  
staff federally funded programs in which the federally

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1 approved programs are specified to be conducted for less than  
2 one school year;

3 [~~(4)~~] (5) contracts not to exceed three years  
4 are permitted for certified school administrators in public  
5 schools who are engaged in administrative functions for more  
6 than one-half of their employment time; and

7 [~~(5)~~] (6) contracts not to exceed three years  
8 are permitted at the discretion of the local school board for  
9 certified school instructors in public schools who have been  
10 employed in the school district for three consecutive school  
11 years.

12 C. Persons employed under contracts for periods of  
13 less than one school year as provided in Paragraphs [~~(1) and~~]  
14 (2) through (4) of Subsection B of this section shall be  
15 accorded all the duties, rights and privileges of the  
16 [~~Certified~~] School Personnel Act.

17 D. In determination of eligibility for  
18 unemployment compensation rights and benefits for certified  
19 school instructors where those rights and benefits are claimed  
20 to arise from the employment relationship between governing  
21 authorities of state agencies or local school boards and  
22 certified school instructors, that period of a year not  
23 covered by a school year shall not be considered an  
24 unemployment period.

25 E. Except as provided in Section 22-10-12 NMSA  
1978, a person employed by contract pursuant to this section  
has no legitimate objective expectancy of reemployment, and no  
contract entered into pursuant to this section shall be  
construed as an implied promise of continued employment

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1 pursuant to a subsequent contract.

2 F. A certified school employee whose contract for  
3 employment is for a period of one year, pursuant to the  
4 provisions of Subsection B of this section, shall teach,  
5 supervise an instructional program, prepare student  
6 curriculum, counsel, provide special instructional services or  
7 administrate during the period between two consecutive school  
8 years."

9 Section 19. APPROPRIATION.--Six hundred thousand dollars  
10 (\$600,000) is appropriated from the general fund to the  
11 teacher loan for service fund for expenditure in fiscal year  
12 2003 and subsequent fiscal years to carry out the purposes of  
13 the Teacher Loan for Service Act. Any unexpended or  
14 unencumbered balance at the end of a fiscal year shall not  
15 revert to the general fund.

16 Section 20. APPROPRIATION.--One million four hundred  
17 thousand dollars (\$1,400,000) is appropriated from the general  
18 fund to the commission on higher education for expenditure in  
19 fiscal year 2003 to implement the Private Student Tuition  
20 Scholarship Act. Any unexpended or unencumbered balance  
21 remaining at the end of fiscal year 2003 shall revert to the  
22 general fund.

23 Section 21. APPROPRIATION.--Four million sixty-three  
24 thousand three hundred dollars (\$4,063,300) is appropriated  
25 from the general fund to the state department of public  
education for expenditure in fiscal year 2003 to extend the  
contracts for certified school personnel and certified school  
instructors who choose to work for one year pursuant to the  
provisions of this act. Any unexpended or unencumbered

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1 balance remaining at the end of fiscal year 2003 shall revert  
2 to the general fund.

3 Section 22. APPROPRIATION.--One hundred thousand dollars  
4 (\$100,000) is appropriated from the general fund to the state  
5 department of public education for expenditure in fiscal year  
6 2003 to provide economic education instruction and other  
7 business-related training to elementary and secondary public  
8 school teachers in the state. Any unexpended or unencumbered  
9 balance remaining at the end of fiscal year 2003 shall revert  
10 to the general fund.