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FISCAL IMPACT REPORT

SPONSOR Sanchez, M. **DATE TYPED** 3/11/05 **HB** _____

SHORT TITLE Legal Education Loan Repayment Program **SB** 258/aSFC

ANALYST Medina

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	NFI			

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the District Attorneys (AODA)

First Judicial District Attorney

Public Defender Department (PDD)

Responses Not Received From

Commission on Higher Education (CHE)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment removes the appropriation of \$500.0 from the general fund to the public service law loan repayment fund. The amendment clarifies the definition

of tax exempt organizations that qualifies as public service employment, requiring that such an organization provides for the care and maintenance of indigent persons through civil legal services. The amendment provides that CHE may grant an award to repay loans obtained for legal education expenses of a participating attorney as consideration and inducement to the attorney to engage in public service employment, clarifying what an attorney must do to meet the requirements of the Public Service Law Loan Repayment Act.

The award criteria are refined to provide that attorney applicants who are already engaged in low-paying public service employment, rather than those simply declaring intent to do so, are to have preference in receiving awards. The award criteria for preferential application status are further amended to provide that preference be given to applicants who work in public service employment in underserved areas of New Mexico that are in greatest need of attorneys practicing in public service employment.

The terms of the loan repayment contract are modified to eliminate the provision that the contract provide for the payment by the state of a stated sum to the participating attorney's legal education debtors, providing instead that the contract simply state the amount of the award and the participant's obligations.

If a participating attorney does not comply with the terms of the contract, CHE *shall* rather than *may* require immediate repayment of the award plus penalties. The extenuating circumstances for non-compliance with the contract are further amended to provide that if the CHE does not find acceptable extenuating circumstances for the participating attorney's failure to comply with the contract, CHE shall require immediate repayment plus penalties. Finally, the proposed CHE rules are amended to strike the provision of the disbursement of loan repayment awards that the disbursement to the lenders of participating attorneys in installments.

Synopsis of Original Bill

Senate Bill 258 appropriates \$500.0 from the general fund to the public service law loan repayment fund for the purpose of providing legal education loan repayment assistance to attorneys in public service employment through a loan-for-service program. The bill would provide law loan repayment assistance to attorneys licensed to practice in New Mexico who declare an intent to practice as an attorney with the Public Defender Department, a New Mexico district attorney office, or a tax-exempt civil legal service organization that provides civil legal services to indigent persons.

Eligibility to the loan repayment program includes intent to practice as a public service attorney in a position paying less than \$45.0 thousand per year and documented proof of application to all other available law loan repayment programs. As a condition of the law loan repayment, participating attorneys would be obligated to at least three years of service as an attorney in public service employment. The maximum credit per year is not to exceed \$7.2 thousand.

Senate Bill 258 also establishes the public service law advisory committee comprised of the dean of the University of New Mexico School of Law or a designee, the executive director of the New Mexico Legal Aid or a designee, the chief public defender or designee, a district attorney appointed by the New Mexico District Attorney's Association, and a financial aid or career services office of the UNM School of Law to be designated by the dean of the UNM School of Law. The committee would make recommendations to the Commission on Higher Education

Significant Issues

Senate Bill 258 provides an avenue for the district attorneys and the public defender to address recruitment and retention problems. The Public Defender Department (citing the American Bar Association) contends that the average law school student accumulates \$80.0 thousand or more. It is unclear how many law school graduates would be eligible for the legal education loan repayment program.

PERFORMANCE IMPLICATIONS

According to both AODA and the Public Defender Department, it is extremely difficult for the district attorney offices and the department to recruit and retain attorneys and it is difficult for attorneys who are recent law school graduates to repay student loans and make a living on current entry-level salaries. Both AODA and the public defender argue that the quality of legal service suffers when they are unable to retain attorneys after they train them.

FISCAL IMPLICATIONS

The appropriation of \$500.0 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining in the newly created public service law loan repayment fund at the end of a fiscal year shall not revert to the general fund.

Continuing Appropriations

The LFC FY06 appropriation recommendation is balanced between revenues and expenditures and any increase in recurring funding must be offset by reductions in other areas of the recommendation. The Legislature must consider all priorities and funding requirements to find revenue to support this legislation.

This bill creates a new fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

RELATIONSHIP

Section 21-22 through Section 21-22D NMSA 1978 (Medical Student Loan Act). Senate Bill 258 is similar in its intent to the Medical Student Loan for Service Act, which is designed to address the shortage of medical doctors and physician assistants in the less populated areas of the state by offering the loan for service incentive to work in rural areas.

Section 21-22E NMSA 1978 (Teacher For Loan Service Act). Senate Bill 258 also resembles the Teacher For Loan Service Act which is designed to proactively address New Mexico's looming teacher shortage by providing students with the financial means to complete or enhance their post-secondary teacher preparation education.

ALTERNATIVES

One alternative is to focus on increasing entry-level attorney salaries for the district attorneys and the public defender, thus making the practice of law in public service a more lucrative option for law school graduates who have accumulated significant legal education debt.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

According to the First Judicial District Attorney, the agencies affected will continue to experience high turnover rates. According to the Public Defender Department, the department will continue to suffer from the lack of qualified applicants and lose young attorneys as soon as the department trains them.

POSSIBLE QUESTIONS

Should the proposed legal education loan repayment program be extended to other attorneys employed by the state, counties, or municipalities who would qualify under the maximum salary requirement of \$45.0 thousand?

Approximately how many graduates of the University of New Mexico School of Law enter into public law service as attorneys immediately following graduation?

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