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SENATE BILL 258

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Michael S. Sanchez

FOR THE CORRECTIONS OVERSIGHT, COURTS AND JUSTICE COMMITTEE

AN ACT

**RELATING TO LEGAL EDUCATION; ESTABLISHING A LEGAL EDUCATION
LOAN REPAYMENT PROGRAM FOR ATTORNEYS SERVING IN PUBLIC SERVICE
EMPLOYMENT; CREATING A PUBLIC SERVICE LAW ADVISORY COMMITTEE;
MAKING AN APPROPRIATION.**

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

**Section 1. SHORT TITLE.--This act may be cited as the
"Public Service Law Loan Repayment Act".**

**Section 2. PURPOSE.--The purpose of the Public Service
Law Loan Repayment Act is to improve access to the justice
system in New Mexico by increasing the number of attorneys in
public service employment through a legal education loan
repayment program.**

**Section 3. DEFINITIONS.--As used in the Public Service
Law Loan Repayment Act:**

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

3 B. "committee" means the public service law
4 advisory committee;

5 C. "legal education" means education at an
6 accredited law school and any bar review preparation courses
7 for the state bar examination;

8 D. "loan" means money allocated to defray the costs
9 incidental to a legal education under a contract between the
10 federal government or a commercial lender and a law school
11 student, requiring either repayment of principal and interest
12 or repayment in services;

13 E. "participating attorney" means an attorney who
14 receives a loan repayment award from the commission pursuant to
15 the provisions of the Public Service Law Loan Repayment Act;
16 and

17 F. "public service employment" means employment
18 with:

19 (1) an organization that is exempt from
20 taxation pursuant to Section 501(c)(3) of Title 26 of the
21 United States Code and that provides civil legal services to
22 indigent persons in New Mexico;

23 (2) the public defender department; or

24 (3) a New Mexico district attorney's office.

25 Section 4. COMMISSION-- POWERS AND DUTIES. --

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1 A. The commission may:
2 (1) grant an award to repay loans obtained for
3 legal education expenses of an attorney who meets the
4 requirements of the Public Service Law Loan Repayment Act; and

5 (2) delegate to other agencies or contract for
6 the performance of services required by the provisions of the
7 Public Service Law Loan Repayment Act.

8 B. The commission shall make a full and careful
9 investigation of the ability, character and qualifications of
10 each applicant and determine fitness to become a participating
11 attorney in the public service law loan repayment program.

12 Section 5. LOAN REPAYMENT PROGRAM- PARTICIPANT
13 ELIGIBILITY--AWARD CRITERIA. --

14 A. An applicant shall be licensed to practice in
15 New Mexico as an attorney and shall declare an intent to
16 practice as an attorney in public service employment.

17 B. Prior to submitting an application to the public
18 service law loan repayment program, an applicant shall apply to
19 all available legal education loan repayment programs offered
20 by the applicant's law school for which the applicant
21 qualifies.

22 C. An applicant who intends to practice as an
23 attorney in a public service employment position that earns
24 more than forty-five thousand dollars (\$45,000) per year is not
25 eligible for participation in the public service law loan

1 repayment program.

2 D. Prior to receiving a loan repayment award, the
3 applicant shall file with the commission:

4 (1) a declaration of intent to practice as an
5 attorney in public service employment;

6 (2) proof of prior application to all legal
7 education loan repayment programs offered by the applicant's
8 law school for which the applicant qualifies; and

9 (3) documentation that includes the
10 applicant's total legal education debt, salary, any amounts
11 received by the applicant from other law loan repayment
12 programs and other sources of income deemed by the commission
13 as appropriate for consideration.

14 E. Award criteria shall provide that:

15 (1) preference in making awards shall be to
16 applicants who:

17 (a) have graduated from the university
18 of New Mexico law school;

19 (b) have the greatest financial need
20 based on legal education indebtedness and salary; and

21 (c) declare an intent to work in public
22 service employment that has the lowest salaries;

23 (2) an applicant's employment as an attorney
24 in public service employment prior to participation in the
25 public service law loan repayment program shall not count as

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1 time spent toward the minimum three-year period of service
2 requirement pursuant to the contract between the participating
3 attorney and the commission acting on behalf of the state;

4 (3) award amounts are dependent upon the
5 applicant's total legal education debt, salary and other
6 sources of income deemed by the commission as appropriate for
7 consideration;

8 (4) award amounts may be modified based upon
9 available funding or other special circumstances;

10 (5) an award shall not exceed the total legal
11 education debt of any participant; and

12 (6) award amounts shall be reduced by the sum
13 of the total award amounts received by the participant from
14 other legal education loan repayment programs.

15 F. The following legal education debts are not
16 eligible for repayment pursuant to the Public Service Law Loan
17 Repayment Act:

18 (1) amounts incurred as a result of
19 participation in state or law school loan-for-service programs
20 or other state or law school programs whose purposes state that
21 service be provided in exchange for financial assistance;

22 (2) scholarships that have a service component
23 or obligation;

24 (3) personal loans from relatives or friends;
25 and

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1 (4) loans that exceed individual standard
2 school expense levels.

3 Section 6. LOAN REPAYMENT CONTRACT TERMS--PAYMENT.--

4 A. The loan repayment award shall be evidenced by a
5 contract between the participating attorney and the commission
6 acting on behalf of the state. The contract shall provide for
7 the payment by the state of a stated sum to the participating
8 attorney's legal education debtors and shall state the
9 obligations of the participating attorney under the public
10 service law loan repayment program, including a minimum three-
11 year period of service, quarterly reporting requirements and
12 other policies established by the commission.

13 B. A participating attorney shall serve a complete
14 year in order to receive credit for that year. The minimum
15 credit for a year shall be established by the commission. The
16 maximum credit for a year shall not exceed seven thousand two
17 hundred dollars (\$7,200).

18 C. If a participating attorney does not comply with
19 the terms of the contract, the commission may require immediate
20 repayment of the award plus eighteen percent interest and may
21 assess a penalty of up to three times the amount of award
22 disbursed, unless the commission finds acceptable extenuating
23 circumstances for why the participating attorney cannot serve
24 or comply with the terms of the contract.

25 D. The commission, in consultation with the

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1 committee, shall adopt rules to implement the provisions of
2 this section. The rules may provide for the disbursement of
3 loan repayment awards to the lenders of participating attorneys
4 in annual or other periodic installments.

5 Section 7. CONTRACTS--ENFORCEMENT.--The general form of
6 the contract required shall be prepared and approved by the
7 attorney general and the department of finance and
8 administration and signed by the participating attorney and by
9 the executive director of the commission or the executive
10 director's designated representative on behalf of the state.
11 The commission is vested with full and complete authority and
12 power to sue in its own name for any balance due the state from
13 any attorney on any such contract.

14 Section 8. PUBLIC SERVICE LAW ADVISORY COMMITTEE--
15 CREATED--DUTIES.--

16 A. The "public service law advisory committee" is
17 created to advise the commission on matters relating to the
18 administration of the Public Service Law Loan Repayment Act.

19 B. The committee is composed of:

20 (1) the dean of the university of New Mexico
21 law school or the dean's designee;

22 (2) the executive director of New Mexico legal
23 aid or the director's designee who shall be an attorney
24 employed with an organization that is exempt from taxation
25 pursuant to Section 501(c)(3) of Title 26 of the United States

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1 Code and that provides civil legal services to indigent persons
2 in New Mexico;

3 (3) the chief public defender or the chief's
4 designee;

5 (4) a district attorney appointed by the New
6 Mexico district attorneys association; and

7 (5) a financial aid or career services officer
8 of the university of New Mexico law school designated by the
9 dean.

10 C. The committee shall:

11 (1) make recommendations to the commission on
12 applicants for the public service law loan repayment program;

13 (2) advise the commission on the adoption of
14 rules to implement the provisions of the Public Service Law
15 Loan Repayment Act; and

16 (3) give advice or other assistance to the
17 commission as requested.

18 Section 9. FUND CREATED--METHOD OF PAYMENT.--The "public
19 service law loan repayment fund" is created in the state
20 treasury. All money appropriated for the public service law
21 loan repayment program shall be credited to the fund and all
22 payments for repayment of awards or penalties received by the
23 commission shall be credited to the fund. All payments for
24 loan repayment awards shall be by warrant of the secretary of
25 finance and administration upon vouchers signed by the

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1 designated representative of the commission. Any unexpended or
2 unencumbered balance remaining in the public service law loan
3 repayment fund at the end of a fiscal year shall not revert to
4 the general fund.

5 Section 10. CANCELLATION. -- The commission may cancel any
6 contract made between it and any participating attorney for any
7 reasonable cause deemed sufficient by the commission.

8 Section 11. REPORTS. -- The commission shall make an annual
9 report to the governor and the legislature, prior to each
10 regular session, of its activities, including the loan
11 repayment awards granted, the names and addresses of
12 participating attorneys and their employers who are in public
13 service employment pursuant to the Public Service Law Loan
14 Repayment Act and the names of participating attorneys who are
15 not employed in public service employment, the reason they are
16 not employed in public service employment and the amounts owed
17 and paid on loans and loan repayment awards.

18 Section 12. APPROPRIATION. -- Five hundred thousand dollars
19 (\$500,000) is appropriated from the general fund to the public
20 service law loan repayment fund for expenditure in fiscal year
21 2006 and subsequent fiscal years to carry out the provisions of
22 the Public Service Law Loan Repayment Act. No more than three
23 percent of this appropriation shall be used for administrative
24 purposes. Any unexpended or unencumbered balance remaining at
25 the end of a fiscal year shall not revert to the general fund.

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