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HOUSE BILL 106

**53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO PUBLIC SCHOOLS; ENACTING THE NATIVE NEW MEXICAN  
TEACHER INCENTIVE PAY ACT; PROVIDING FOR IMPLEMENTATION AND  
ADMINISTRATION OF AN INCENTIVE PAY PROGRAM FOR NATIVE NEW  
MEXICANS WHO AGREE TO TEACH IN CERTAIN ELEMENTARY SCHOOLS;  
PROVIDING CONDITIONS; MAKING AN APPROPRIATION.

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

SECTION 1. A new section of the Public School Code is  
enacted to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the  
"Native New Mexican Teacher Incentive Pay Act"."

SECTION 2. A new section of the Public School Code is  
enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Native New  
Mexican Teacher Incentive Pay Act:

.209235.1

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1           A. "incentive contract" means an agreement entered  
2 into between a native New Mexican teacher and a school district  
3 or charter school by which the native New Mexican teacher is  
4 hired to teach in a qualified public school, which agreement  
5 runs coextensively with the native New Mexican teacher's  
6 employment contract;

7           B. "incentive pay" means the amount of money a  
8 native New Mexican teacher receives above the native New  
9 Mexican teacher's base salary based on the native New Mexican  
10 teacher's training and experience and the school district's or  
11 charter school's compensation plan;

12           C. "native New Mexican teacher" means a level 3-A  
13 teacher who has a valid New Mexico birth certificate and meets  
14 other qualifications to be a recipient of incentive pay;

15           D. "program" means the native New Mexican teacher  
16 incentive pay program; and

17           E. "qualified school" means a public elementary  
18 school in which eighty-five percent or more of the students are  
19 ethnic minorities and the school was rated D or F in the last  
20 school rating pursuant to the A-B-C-D-F Schools Rating Act."

21           **SECTION 3.** A new section of the Public School Code is  
22 enacted to read:

23           "[NEW MATERIAL] NATIVE NEW MEXICAN TEACHER INCENTIVE PAY  
24 PROGRAM--APPLICATION--ELIGIBILITY.--

25           A. The department shall establish a ten-year

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1 "native New Mexican teacher incentive pay program" for the  
2 2018-2019 through 2027-2028 school years at qualified schools.  
3 The purpose of the program is to authorize the hiring of native  
4 New Mexican teachers during the 2018-2019 through 2023-2024  
5 school years to fill teaching vacancies at qualified schools to  
6 help those schools raise their school grade at least one letter  
7 grade each year until the qualified school achieves and  
8 maintains an A. The program shall consist of six cohorts of  
9 native New Mexican teachers who are eligible to receive  
10 incentive pay for up to five years. Based on the number of  
11 applications received, the department may approve the  
12 participation of as many native New Mexican teachers as there  
13 is money in the native New Mexican teacher incentive fund to  
14 pay the incentives.

15 B. The department shall administer the program and  
16 promulgate rules to carry out the provisions of the Native New  
17 Mexican Teacher Incentive Pay Act. In designing and  
18 implementing the program, the department, in consultation with  
19 school districts and qualified schools, shall determine the  
20 form and content of data collected for the program. The  
21 department shall monitor and evaluate the efficacy of the  
22 program and make periodic and final reports on its findings and  
23 recommendations to the legislative education study committee  
24 and the legislative finance committee.

25 C. The program is open to a native New Mexican

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1 teacher who:

2 (1) holds a master's degree plus at least  
3 eight additional credit hours or national board for  
4 professional teaching standards certification;

5 (2) is rated as a highly effective or  
6 exemplary teacher; and

7 (3) signs an incentive contract with a school  
8 district or charter school to teach in qualified schools.

9 D. A native New Mexican teacher hired to fill a  
10 vacancy pursuant to this section shall receive incentive pay of  
11 three thousand dollars (\$3,000) above the teacher's base  
12 salary.

13 E. The incentive contract may be renewed each year  
14 for a program total of five years. Renewal of the incentive  
15 contract is based on the native New Mexican teacher's  
16 performance evaluation. A native New Mexican teacher who  
17 receives a rating of highly effective or exemplary shall be  
18 eligible for renewal of the incentive contract.

19 F. A qualified school shall apply for the program  
20 on forms provided by the department and the application shall  
21 include qualifications on teacher candidates for the program,  
22 if known. The application shall be signed by the qualified  
23 school principal and the local superintendent or the local  
24 superintendent's authorized representative."

25 SECTION 4. A new section of the Public School Code is  
.209235.1

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1 enacted to read:

2 "[NEW MATERIAL] FAILURE TO COMPLETE TERMS OF CONTRACT.--

3 A. A native New Mexican teacher who fails to  
4 complete a school year of service and perform as described in  
5 the incentive contract shall:

6 (1) repay to the state all incentive pay  
7 received during the year by the native New Mexican teacher up  
8 to the date of the contract termination; or

9 (2) in consultation with the department,  
10 establish alternative terms of repayment or service deemed  
11 sufficient by the department.

12 B. If a native New Mexican teacher falls below  
13 highly effective in the native New Mexican teacher's annual  
14 evaluation or if the qualified school does not improve its  
15 school grade, the school principal, in consultation with the  
16 local superintendent or the local superintendent's authorized  
17 representative, may refuse to renew the native New Mexican  
18 teacher's incentive contract with the qualified school. The  
19 refusal to renew an incentive contract does not affect rights  
20 afforded to teachers under the School Personnel Act.

21 C. A native New Mexican teacher, affected school  
22 principals and the local superintendent may agree to allow a  
23 native New Mexican teacher to relocate to another qualified  
24 school without loss of incentive pay."

25 SECTION 5. A new section of the Public School Code is

.209235.1

underscored material = new  
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1 enacted to read:

2 "[NEW MATERIAL] NATIVE NEW MEXICAN TEACHER INCENTIVE FUND  
3 CREATED--USE.--The "native New Mexican teacher incentive fund"  
4 is created in the state treasury. The fund consists of  
5 appropriations, gifts, grants and donations. Money in the fund  
6 shall revert to the general fund at the end of fiscal year  
7 2028. Money in the fund is appropriated to the department to  
8 carry out the purposes of the Native New Mexican Teacher  
9 Incentive Pay Act. Money in the fund shall be expended on  
10 warrants of the secretary of finance and administration  
11 pursuant to vouchers signed by the secretary of public  
12 education or the secretary's authorized representative."

13 SECTION 6. APPROPRIATION.--Two million dollars  
14 (\$2,000,000) is appropriated from the general fund to the  
15 native New Mexican teacher incentive fund for expenditure in  
16 fiscal year 2019 and subsequent fiscal years through the 2027-  
17 2028 school year to carry out the purposes of the Native New  
18 Mexican Teacher Incentive Pay Act. Any unexpended or  
19 unencumbered balance at the end of fiscal year 2028 shall  
20 revert to the general fund.

21 SECTION 7. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2018.