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HOUSE BILL 50

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2000**

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO HEALTH; ENACTING THE HEALTH PROFESSIONAL  
RECRUITMENT ACT; CREATING AN EXEMPTION; AMENDING, REPEALING  
AND ENACTING SECTIONS OF THE NMSA 1978; MAKING  
APPROPRIATIONS.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 7 of this act may be cited as the "Health  
Professional Recruitment Act".

Section 2. [NEW MATERIAL] PURPOSE.--The purpose of the  
Health Professional Recruitment Act is to address the  
shortage of health professionals in rural and underserved  
areas and to provide for the changing needs of New Mexico to  
ensure access to health services throughout the state.

Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
Health Professional Recruitment Act:

A. "applicant" means a person who is a licensed

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1 health professional or a person enrolled or seeking to enroll  
2 in a health education or training program;

3 B. "commission" means the commission on higher  
4 education;

5 C. "committee" means the health profession  
6 advisory committee created in Section 21-1-26.8 NMSA 1978;

7 D. "health professional" means a person licensed  
8 or certified by the state to provide health and health-  
9 related services;

10 E. "loan" means money paid to a health  
11 professional student to pay all or part of that student's  
12 health education costs, money paid to a health professional  
13 during training or money paid to a health professional under  
14 a contract issued pursuant to the provisions of the Health  
15 Professional Recruitment Act; and

16 F. "underserved area" means an area or population  
17 of New Mexico that is lacking in sufficient health  
18 professionals or health services to ensure appropriate access  
19 to health care.

20 Section 4. [NEW MATERIAL] HEALTH PROFESSIONAL AND  
21 STUDENT LOANS--QUALIFICATIONS--PREFERENCES.--

22 A. The commission may grant a loan to an applicant  
23 it deems qualified upon terms and conditions it determines  
24 pursuant to the provisions of the Health Professional  
25 Recruitment Act.

B. The commission shall accept a loan application  
from an applicant who is a United States citizen or a

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1 resident alien registered with the federal immigration  
2 service and who declares his intent to practice in an  
3 underserved area of the state.

4 C. The commission shall make a full and careful  
5 investigation of the ability and qualifications of each  
6 applicant to determine his fitness to receive a loan. The  
7 commission shall, as applicable, give preference to those  
8 applicants who:

9 (1) agree to serve in those underserved  
10 areas of the state;

11 (2) are enrolled in or accepted by an  
12 accredited health professional education program;

13 (3) are studying or practicing in a branch  
14 of health service designated by the commission as a high  
15 priority need;

16 (4) are unable, or whose parents or  
17 guardians are unable, to pay the expenses of the education;  
18 and

19 (5) are New Mexico residents.

20 D. The commission shall maintain a list of  
21 underserved areas and health professions most lacking in  
22 underserved areas.

23 E. After consideration of committee  
24 recommendations on allocation of appropriations for loan  
25 purposes, the commission shall determine the amount of the  
loan, taking into consideration:

(1) available funds;

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- 1 (2) federal requirements for health  
2 professional recruitment programs;  
3 (3) the location of the underserved area;  
4 (4) the need for a particular type of health  
5 professional to serve in a given area;  
6 (5) the difficulty in filling vacancies and  
7 maintaining health professional services in that area; and  
8 (6) other circumstances related to the need  
9 for health professional services in particular underserved  
10 areas.

11 F. The commission shall report annually by October  
12 1 to the governor, the legislative health and human services  
13 committee and the legislative finance committee all actions  
14 concerning the health professional recruitment fund,  
15 including number, amounts and types of health education loans  
16 made and the locations and types of health professionals  
17 serving under contracts with the commission.

18 Section 5. [NEW MATERIAL] LOANS--CONTRACTS--REPAYMENT.-  
19 -

20 A. Loans may be forgiven in return for an  
21 appropriate term of service as a health professional  
22 practicing in an underserved area of the state, the specific  
23 term of service to be set by the commission.

24 B. Prior to receiving a loan, an applicant shall  
25 sign a contract with the commission agreeing to practice as a  
licensed or certified health professional in an underserved  
area of New Mexico designated by the commission.

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C. The contract shall provide for payment of the proceeds and repayment of the loan under terms and conditions set by the commission, except that no repayment service obligation shall be for less than one full year. Annual loan repayment in service shall be in proportion to the years of service specified in the contract, except that the commission may alter the years of service obligation of the applicant depending on the location and circumstances of the underserved area. A health professional must serve a complete year in order to be credited with fulfilling a year's repayment obligation.

D. A person who does not fulfill the service obligations of the contract shall be declared in default by the commission and shall immediately pay to the commission an amount equal to three times the outstanding principal, plus interest at the rate of eighteen percent per year, unless the commission finds extenuating circumstances that justify cancellation of the contract. If the contract is canceled with the approval of the commission, the amount due shall be as provided in Subsection E of this section.

E. If an applicant who receives a loan fails to complete his health education, or if a health professional loan recipient fails to complete his contractual service obligation, but the commission finds there are extenuating circumstances permitting contract cancellation, the balance of the loan principal plus interest at the rate of seven percent per year are due immediately, except if the

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1 commission determines there are extenuating circumstances  
2 warranting modification of the amount due or the payment  
3 period.

4 Section 6. [NEW MATERIAL] CONTRACTS--LEGAL ASSISTANCE--  
5 ENFORCEMENT--CANCELLATION.--

6 A. The general form of the contracts required by  
7 the Health Professional Recruitment Act shall be prepared and  
8 approved by the attorney general and signed by the applicant  
9 and by the designated representative of the commission on  
10 behalf of the state. The commission is vested with full  
11 power to sue for any balance due the state from a student or  
12 health professional on a contract.

13 B. The commission may arrange with other agencies  
14 for the performance of services required by the provisions of  
15 the Health Professional Recruitment Act.

16 C. The commission may cancel or modify any  
17 contract made between it and any student or health  
18 professional for any reasonable cause.

19 Section 7. [NEW MATERIAL] FUND CREATED--PURPOSE--METHOD  
20 OF PAYMENT.--The "health professional recruitment fund" is  
21 created in the state treasury, to consist of all  
22 appropriations, gifts, grants, donations, interest on  
23 investment of the fund and money in the medical student loan  
24 for service fund, the osteopathic medical student loan for  
25 service fund, the nursing student loan for service fund, the  
allied health student loan for service fund and the health  
professional loan repayment fund. All payments of principal

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1 and interest on loans made pursuant to Chapter 21, Articles  
2 22, 22A, 22B, 22C and 22D NMSA 1978 and all appropriations  
3 made and payments, repayments and penalties and interest made  
4 pursuant to the Health Professional Recruitment Act are  
5 credited to the fund or shall be deposited with the  
6 commission's administrative agent. All payments for loans  
7 shall be made on warrants signed by the secretary of finance  
8 and administration upon vouchers signed by the designated  
9 representative of the commission. Any unexpended or  
10 unencumbered balance remaining at the end of a fiscal year  
11 shall not revert to the general fund.

12 Section 8. Section 13-1-98 NMSA 1978 (being Laws 1984,  
13 Chapter 65, Section 71, as amended) is amended to read:

14 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The  
15 provisions of the Procurement Code shall not apply to:

16 A. procurement of items of tangible personal  
17 property or services by a state agency or a local public body  
18 from a state agency, a local public body or external  
19 procurement unit except as otherwise provided in Sections  
20 13-1-135 through 13-1-137 NMSA 1978;

21 B. procurement of tangible personal property or  
22 services for the governor's mansion and grounds;

23 C. printing and duplicating contracts involving  
24 materials [~~which~~] that are required to be filed in connection  
25 with proceedings before administrative agencies or state or  
federal courts;

D. purchases of publicly provided or publicly

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1 regulated gas, electricity, water, sewer and refuse  
2 collection services;

3 E. purchases of books and periodicals from the  
4 publishers or copyright holders thereof;

5 F. travel or shipping by common carrier or by  
6 private conveyance or to meals and lodging;

7 G. purchase of livestock at auction rings or to  
8 the procurement of animals to be used for research and  
9 experimentation or exhibit;

10 H. contracts with businesses for public school  
11 transportation services;

12 I. procurement of tangible personal property or  
13 services, as defined by Sections 13-1-87 and 13-1-93 NMSA  
14 1978, by the corrections industries division of the  
15 corrections department pursuant to ~~[regulations]~~ rules  
16 adopted by the corrections commission, which shall be  
17 reviewed by the purchasing division of the general services  
18 department prior to adoption;

19 J. minor purchases not exceeding five thousand  
20 dollars (\$5,000) consisting of magazine subscriptions,  
21 conference registration fees and other similar purchases  
22 where prepayments are required;

23 K. municipalities having adopted home rule  
24 charters and having enacted their own purchasing ordinances;

25 L. the issuance, sale and delivery of public  
securities pursuant to the applicable authorizing statute,  
with the exception of bond attorneys and general financial



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consultants;

M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;

N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;

O. contracts and expenditures for services to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;

P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

Q. contracts with professional entertainers; ~~[and]~~

R. contracts and expenditures for litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts; and

S. contracts with health professionals signed pursuant to the provisions of the Health Service Corps Act."

Section 9. Section 21-1-26.8 NMSA 1978 (being Laws 1995, Chapter 144, Section 1) is amended to read:

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1 "21-1-26.8. HEALTH PROFESSION ADVISORY COMMITTEE--  
2 CREATED--DUTIES.--

3 A. The "health profession advisory committee" is  
4 created to advise the commission on higher education on  
5 matters relating to the administration of [~~student loan~~  
6 ~~programs for health professionals. The health profession~~  
7 ~~advisory committee replaces the medical shortage area~~  
8 ~~committee]~~ the health professional recruitment fund.

9 B. The health profession advisory committee shall  
10 be composed of a representative of the department of health;  
11 a representative of the New Mexico health policy commission;  
12 and representatives of public post-secondary health and  
13 medical training programs, underserved health and medical  
14 area providers, recruiting and placement organizations and  
15 professional health and medical associations. Members shall  
16 be appointed by the commission on higher education pursuant  
17 to the policies and procedures of the commission.

18 C. The health profession advisory committee shall:

19 (1) [~~designate~~] recommend to the commission  
20 eligible health professional shortage areas of the state;

21 (2) make recommendations to the commission  
22 on higher education on applicants for medical, osteopathic,  
23 nursing and allied health loan for service programs and loan  
24 repayment programs; and

25 (3) give advice or other assistance to the  
commission as requested."

Section 10. Section 24-1D-1 NMSA 1978 (being Laws 1994,

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1 Chapter 63, Section 1) is amended to read:

2 "24-1D-1. SHORT TITLE.--~~[This act]~~ Chapter 24, Article  
3 1D NMSA 1978 may be cited as the "Health Service Corps Act".

4 Section 11. Section 24-1D-2 NMSA 1978 (being Laws 1994,  
5 Chapter 63, Section 2) is amended to read:

6 "24-1D-2. DEFINITIONS.--As used in the Health Service  
7 Corps Act:

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

10 ~~[A.]~~ B. "corps" means the New Mexico health  
11 service corps;

12 ~~[B.]~~ C. "department" means the department of  
13 health;

14 ~~[C.]~~ D. "health professional" means a [physician,  
15 physician assistant, nurse practitioner, nurse midwife or  
16 emergency medical technician paramedic;

17 ~~D. "physician" means a medical doctor or doctor of~~  
18 ~~osteopathic medicine;~~

19 ~~E. "physician assistant" means a physician~~  
20 ~~assistant or osteopathic physician assistant]~~ person licensed  
21 or certified by the state to provide pre-hospital care or  
22 basic medical or dental health services; and

23 ~~[F.]~~ E. "practice site" means a [public health  
24 clinic or public or private nonprofit primary care clinic  
25 that is] health facility licensed by the state or a federal  
health facility located in [a state-designated medically  
underserved] an area [or that serves a high-needs population]

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1 designated by the department as critically or chronically  
2 underserved and that uses a sliding fee scale approved by the  
3 department."

4 Section 12. Section 24-1D-3 NMSA 1978 (being Laws 1994,  
5 Chapter 63, Section 3) is amended to read:

6 "24-1D-3. NEW MEXICO HEALTH SERVICE CORPS--STAFF--  
7 DEPARTMENT POWERS AND DUTIES.--

8 A. The "New Mexico health service corps" is  
9 created in the department to recruit, ~~[and]~~ place and support  
10 health professionals in ~~[rural and other medically]~~  
11 critically or chronically underserved areas. The secretary  
12 of health may employ a medical director to head the corps.  
13 The medical director may employ support staff and employ or  
14 contract with health professional staff. Employees are  
15 subject to the provisions of the Personnel Act.

16 B. The corps has the power to:

17 (1) enter into contracts to carry out the  
18 provisions of the Health Service Corps Act and sue for  
19 enforcement of those contracts; and

20 (2) adopt and file, in accordance with the  
21 State Rules Act, rules ~~[and regulations]~~ to carry out the  
22 provisions of the Health Service Corps Act.

23 C. The corps shall:

24 (1) recruit health professionals as  
25 employees or contractors of the corps;

~~[(2) determine physician specialties to be  
recruited, with a focus on family practice physicians;~~

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1                   ~~(3) establish criteria and procedures for~~  
2 ~~the acceptance of applications and selection of recipients~~  
3 ~~for commitment stipends;~~

4                   (+4)] (2) establish criteria and procedures  
5 for evaluating and qualifying corps health professionals;

6                   [+5)] (3) determine and maintain a list of  
7 ~~[eligible communities]~~ critically or chronically underserved  
8 areas and practice sites;

9                   [+6)] (4) determine the need for health  
10 professionals at each practice site and assign staff as  
11 needed on a priority basis;

12                   [+7)] (5) provide support for health  
13 professionals at practice sites;

14                   [+8)] (6) work closely with the commission  
15 ~~[on higher education and the educational assistance~~  
16 ~~foundation]~~ to coordinate the use of health professionals who  
17 have practice obligations pursuant to the ~~[Medical Student~~  
18 ~~Loan for Service Act, the Osteopathic Medical Student Loan~~  
19 ~~for Service Act or the Nursing Student Loan for Service Act]~~  
20 Health Professional Recruitment Act or the western interstate  
21 commission for higher education program;

22                   ~~(9) work with the university of New Mexico~~  
23 ~~school of medicine, college of nursing, the emergency medical~~  
24 ~~services academy and any other entity to identify students or~~  
25 ~~residents who qualify for the corps; and~~

                  (+10)] (7) establish accounting and auditing  
procedures to account for all money paid to health

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1 professionals or received from communities and practice  
2 sites;

3 (8) provide technical assistance and support  
4 to practice sites and areas determined to be critically or  
5 chronically underserved in order to facilitate the  
6 recruitment or retention of health professionals; and

7 (9) report annually to the legislative  
8 finance committee and the legislative health and human  
9 services committee on the activities of the corps, including  
10 expenditures from the health professional safety net fund."

11 Section 13. Section 24-1D-4 NMSA 1978 (being Laws 1994,  
12 Chapter 63, Section 4) is amended to read:

13 "24-1D-4. CORPS SITES--LOCAL ASSISTANCE--  
14 REIMBURSEMENTS.--The corps may require a community or  
15 practice site to pay the costs associated with providing  
16 corps health professionals in the community. The corps may  
17 allow in-kind contributions as partial or complete payment.  
18 The corps may negotiate with the community on the amount of  
19 money or in-kind services that shall be paid to the state.  
20 Money paid to the state shall be deposited in the ~~[general]~~  
21 health professional safety net fund. Payback requirements  
22 and in-kind contributions shall be determined and negotiated  
23 based on formulas adopted pursuant to ~~[regulations]~~ state  
24 rules."

25 Section 14. Section 24-1D-7 NMSA 1978 (being Laws 1994,  
Chapter 63, Section 7) is amended to read:

"24-1D-7. CORPS SERVICE FOR EDUCATIONAL LOAN-FOR-

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1 SERVICE PROGRAMS.--Service in the corps may be used to  
2 satisfy service requirements for loans made pursuant to the  
3 provisions of ~~[state educational loan for service programs]~~  
4 the Health Professional Recruitment Act, except as prohibited  
5 by federal law."

6 Section 15. Section 24-1D-9 NMSA 1978 (being Laws 1994,  
7 Chapter 63, Section 9) is amended to read:

8 "24-1D-9. LEGAL COUNSEL.--The office of general counsel  
9 of the department ~~[of health]~~ shall provide legal services to  
10 the corps. ~~[The general form of stipend contracts entered~~  
11 ~~into pursuant to the provisions of the Health Service Corps~~  
12 ~~Act shall be approved by a special assistant attorney general~~  
13 ~~employed by the department of health and signed by the~~  
14 ~~resident or student and the medical director or his~~  
15 ~~authorized representative on behalf of the state.]~~ The corps  
16 is vested with full ~~[and complete authority and]~~ power to sue  
17 in its own name for any balance due the state ~~[from a~~  
18 ~~resident or student]~~ on a contract. Money paid pursuant to  
19 contract shall be deposited in the ~~[general]~~ health  
20 professional safety net fund."

21 Section 16. A new Section 24-1D-11 NMSA 1978 is enacted  
22 to read:

23 "24-1D-11. [NEW MATERIAL] HEALTH PROFESSIONAL SAFETY  
24 NET FUND CREATED.--The "health professional safety net fund"  
25 is created, to consist of all appropriations, gifts, grants,  
donations, interest on investment of the fund, payments,  
penalties, interest on penalties and money appropriated to

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1 the department for the purposes of the Health Service Corps  
2 Act, any money or contributions made by a community or  
3 practice site pursuant to Section 24-1D-4 NMSA 1978 and any  
4 penalties and interest due pursuant to contracts signed  
5 pursuant to Section 24-1D-3 NMSA 1978 in effect prior to July  
6 1, 2000. Any unexpended or unencumbered balance remaining at  
7 the end of a fiscal year shall not revert to the general fund  
8 but shall remain in the fund to carry out the purposes of the  
9 Health Service Corps Act."

10 Section 17. TEMPORARY PROVISION--TRANSFER OF FUNDS.--  
11 Effective July 1, 2000, all money in the medical student loan  
12 for service fund, the osteopathic medical student loan for  
13 service fund, the nursing student loan for service fund, the  
14 allied health student loan for service fund and the health  
15 professional loan repayment fund is transferred to the health  
16 professional recruitment fund.

17 Section 18. REPEAL.--Sections 21-22-1 through 21-22-10,  
18 21-22A-1 through 21-22A-10, 21-22B-1 through 21-22B-10,  
19 21-22C-1 through 21-22C-10, 21-22D-1 through 21-22D-10,  
20 24-1D-5 and 24-1D-6 NMSA 1978 (being Laws 1975, Chapter 244,  
21 Sections 1 through 10, Laws 1978, Chapter 109, Sections 1  
22 through 10, Laws 1987, Chapter 299, Sections 1 through 10,  
23 Laws 1994, Chapter 57, Sections 3 through 12, Laws 1995,  
24 Chapter 144, Sections 16 through 25 and Laws 1994, Chapter  
25 63, Sections 5 and 6, as amended) are repealed.

Section 19. EFFECTIVE DATE.--The effective date of the  
provisions of this act is July 1, 2000.