

**PROVISIONS FOR HEALTH CARE**

**PROVIDERS**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Judy Ann Buffmire**

AN ACT RELATING TO HEALTH; DEFINING TERMS; CLARIFYING PER DIEM AND EXPENSE PROVISIONS FOR MEMBERS OF THE SPECIAL POPULATION HEALTH CARE PROVIDER FINANCIAL ASSISTANCE COMMITTEE; AMENDING THE COMMITTEE'S RESPONSIBILITIES; ESTABLISHING REPAYMENT OBLIGATIONS AND PENALTIES FOR SCHOLARSHIP AND GRANTS RECIPIENTS WHO FAIL TO MEET THEIR SERVICE OBLIGATIONS; MAKING TECHNICAL AND CONFORMING AMENDMENTS; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**26-9e-2**, as enacted by Chapter 345, Laws of Utah 1996

**26-9e-4**, as enacted by Chapter 345, Laws of Utah 1996

**26-9e-5**, as enacted by Chapter 345, Laws of Utah 1996

**26-9e-7**, as enacted by Chapter 345, Laws of Utah 1996

**26-9e-8**, as enacted by Chapter 345, Laws of Utah 1996

**26-9e-9**, as enacted by Chapter 345, Laws of Utah 1996

**26-9e-10**, as enacted by Chapter 345, Laws of Utah 1996

**26-9e-11**, as enacted by Chapter 345, Laws of Utah 1996

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **26-9e-2** is amended to read:

**26-9e-2. Definitions.**

As used in this chapter:

(1) "Award" means a scholarship or loan repayment [awarded] grant that is provided as

1 a recruitment and retention incentive to [recipients] a recipient under this chapter.

2 (2) "Committee" means the Special Population Health Care Provider Financial Assistance  
3 Committee created by Section 26-1-7.

4 (3) "Dentist" means a person licensed under Title 58, Chapter 69, Dentist and Dental  
5 Hygienist Practice Act, to practice dentistry.

6 (4) "Educational expenses" means the cost of education in a health care profession,  
7 including tuition, fees, books, supplies, education equipment and materials, and reasonable living  
8 expenses.

9 (5) "Government official or employee" means a person who is an official or employee of  
10 the State, a local government, or public institution of higher education.

11 [(5)] (6) "Loan repayment" means an award of funds under a loan repayment [program]  
12 contract to defray loans incurred for educational expenses under this chapter.

13 [(6)] (7) "Medically underserved urban area" means [~~a geographic area recognized within~~  
14 ~~Metropolitan Statistical Data as urban and~~] a county that has a population of 100 or more people  
15 per square mile which has been designated by the committee as containing a significant population  
16 of individuals and families that face barriers to obtaining primary health care services.

17 [(7)] (8) "Mental health therapist" means a person licensed under:

18 (a) Title 58, Chapter 60, Mental Health Professional Practice Act, or Title 58, Chapter 61,  
19 Psychologist Licensing Act; [and] or

20 (b) Title 58, Chapter 67, Utah Medical Practice Act, as a physician and surgeon, or Title  
21 58, Chapter 68, Utah Osteopathic Medical Practice Act, as an osteopathic physician and surgeon.

22 [(8)] (9) "Physician" means a person licensed to practice medicine under Title 58, Chapter  
23 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

24 [(9)] (10) "Physician assistant" means a person licensed under Title 58, Chapter [70] 70a,  
25 Physician Assistant Practice Act.

26 [(10)] (11) "Primary health care provider" means:

27 (a) a physician practicing as a family [~~practitioner~~] practice physician, pediatrician,  
28 obstetrician, or internist;

29 (b) a physician assistant;

30 (c) a dentist; or

31 (d) a mental health therapist.

1           ~~[(11)]~~ (12) "Program" means the Special Population Health Care Provider Financial  
2 Assistance Program created under this chapter.

3           ~~[(12)]~~ (13) "Recipient" means an applicant selected to receive ~~[a scholarship or loan~~  
4 ~~repayment]~~ an award under this chapter.

5           ~~[(13)]~~ (14) "Service obligation" means professional service~~[-]~~ agreed to as part of the  
6 scholarship or loan repayment contract~~[-]~~ rendered at an approved site in a medically underserved  
7 urban area for a minimum of two years~~[-, or a longer period to which the recipient agrees in the~~  
8 ~~scholarship contract]~~. Any period of internship, residency, or other advanced clinical training ~~[is]~~  
9 may not be considered toward satisfying the service obligation under this chapter.

10           ~~[(14)]~~ (15) "~~[Special population health care provider]~~ Site" means a ~~[primary care~~  
11 ~~physician, physician assistant, dentist, or mental]~~ location designated by the committee within a  
12 medically underserved urban area where health ~~[therapist whose practice is maintained in a~~  
13 ~~location or with an organization where]~~ care is provided and the majority of ~~[the]~~ patients served  
14 are medically underserved due to lack of health care insurance, unwillingness of existing providers  
15 to accept patients covered by government health programs, or other economic, cultural, or  
16 language barriers ~~[to access]~~ to health care access.

17           (16) "Special population health care provider" means a primary health care provider whose  
18 practice is at a site approved by the committee.

19           Section 2. Section **26-9e-4** is amended to read:

20           **26-9e-4. Committee created.**

21           (1) The Special Population Health Care Provider Financial Assistance Committee created  
22 in Section 26-1-7 is comprised of ten members:

23           (a) nine members are appointed by the governor as follows:

24           (i) one employee of the department nominated by the director of the department;

25           (ii) one representative of the Utah Association of Health Care Providers having a  
26 demonstrated interest in health care services for special populations, nominated by the president  
27 of the association;

28           (iii) one representative of the Utah Medical Association having a demonstrated interest  
29 in health care services for special populations, nominated by the president of the association;

30           (iv) one representative of the Utah Academy of Physician Assistants having a  
31 demonstrated interest in health care services for special populations, nominated by the president

1 of the organization;

2 (v) one urban representative of the Association for Utah Community Health nominated  
3 by the board of the association;

4 (vi) one representative of the Utah Dental Association having a demonstrated interest in  
5 health care services for special populations, nominated by the president of the association;

6 (vii) one representative of the mental health therapist professions who has a demonstrated  
7 interest in health care services for special populations, selected from nominees submitted by the  
8 professional associations representing the various mental health therapist professions in the state;

9 (viii) one urban representative of the Association of Local Health Officers nominated by  
10 the president of the association; and

11 (ix) one representative of the low-income advocacy community, nominated by the Utah  
12 Human Service Coalition; and

13 (b) one member of the Legislature chosen by the president and speaker, who serves as an  
14 ex officio, nonvoting member.

15 (2) (a) Upon initial appointment, the governor shall designate four committee members  
16 to serve for two-year terms, and four to serve four-year terms. All subsequent appointments shall  
17 be to four-year terms.

18 (b) A person appointed to fill a vacancy prior to the expiration of a member's term shall  
19 fill the remainder of the unexpired term.

20 (c) A committee member may not serve more than two consecutive terms.

21 (3) A majority of the voting members of the committee constitutes a quorum for the  
22 transaction of business.

23 (4) The committee shall annually designate one of its members to serve as chairman for  
24 one year.

25 (5) (a) (i) [Committee members not employed by the state or a local governmental entity  
26 shall] Members who are not government employees shall receive no compensation or benefits for  
27 their services, but may receive [a] per diem [allowance for] and expenses [actually] incurred in the  
28 [discharge of their committee] performance of the member's official duties[- as approved] at the  
29 rates established by the Division of Finance under [Section] Sections 63A-3-106 and 63A-3-107.

30 (ii) Members may decline to receive per diem and expenses for their service.

31 (b) (i) Government officer and employee members who do not receive salary, per diem,

1 or expenses from their employer for their service may receive per diem and expenses incurred in  
2 the performance of their official duties from the committee at the rates established by the Division  
3 of Finance under Sections 63A-3-106 and 63A-3-107.

4 (ii) Government officer and employee members may decline to receive per diem and  
5 expenses for their service.

6 (c) A legislator on the committee shall receive compensation and expenses as provided by  
7 Section 36-2-2 and Legislative Joint Rule 15.03.

8 Section 3. Section **26-9e-5** is amended to read:

9 **26-9e-5. Committee responsibilities.**

10 (1) ~~[The]~~ To promote and facilitate the recruitment and retention of primary health care  
11 providers in medically underserved urban areas of the state the committee shall:

12 (a) establish application procedures for ~~[scholarship and loan repayment]~~ awards;

13 (b) establish eligibility and selection criteria for ~~[scholarship and loan repayment]~~ award  
14 recipients;

15 (c) determine ~~[scholarship and loan repayment]~~ awards and conditions, including contract  
16 requirements, for each recipient;

17 (d) establish standard award repayment schedules consistent with the provision of Section  
18 26-9e-9 for inclusion in each program contract;

19 (e) establish criteria for canceling or reducing an award due to extreme hardship or other  
20 good cause;

21 ~~[(d)]~~ (f) designate [eligible] medically underserved urban areas and [available primary  
22 health care service] eligible sites [or organizations in] at which [the] recipients may fulfill their  
23 service obligations;

24 (g) approve sites from among those designated as eligible;

25 ~~[(e)]~~ (h) establish educational requirements necessary for the recipient to be qualified to  
26 meet service obligations;

27 ~~[(f)]~~ (i) annually assess the needs for providers and programs in the designated medically  
28 underserved urban areas of the state; and

29 ~~[(g)]~~ (j) annually determine a strategy for using available funds to address the assessed  
30 needs for the recruitment and retention of providers in [the designated] eligible sites.

31 (2) ~~[The]~~ To promote and facilitate the recruitment and retention of primary health care

1 providers in medically underserved urban areas of the state, the committee may:

2 (a) [~~approve~~] approve the specific site at which a recipient [~~may~~] is expected to fulfill the  
3 service obligation under [~~the program~~] this chapter;

4 (b) set limitations on the amount an individual may receive and on the number of years  
5 for which an individual may receive funds under [~~the program~~] this chapter;

6 (c) cancel an award for cause and, for [~~compelling reasons,~~] extreme hardship or other  
7 good cause:

8 (i) accept a lesser measure of damages for breach of contract; or

9 (ii) release a recipient from the service obligation without penalty [~~for extreme hardship~~  
10 ~~or other good cause~~];

11 (d) cancel an award for good cause without penalty to the state;

12 (e) cancel an award if the recipient fails to meet the conditions of the award or if it  
13 reasonably appears the recipient will not meet award conditions; [~~and~~]

14 (f) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking  
15 Act, to implement the provisions of [~~the program,~~] this chapter;

16 (g) support medically underserved urban areas in their efforts to recruit and retain primary  
17 health care providers; and

18 (h) develop alternative service obligations that an award recipient may fulfill if the  
19 committee determines that the recipient is not able to fulfill his service obligation at an approved  
20 site for reasons beyond his control.

21 Section 4. Section **26-9e-7** is amended to read:

22 **26-9e-7. Primary health care provider loan repayment grants -- Terms and amounts**  
23 **-- Service.**

24 (1) (a) To increase the number of primary health care providers practicing in medically  
25 underserved urban areas of the state, the department may [~~award grants~~] provide a grant to primary  
26 health care providers to repay loans taken [~~by them~~] for educational expenses in exchange for their  
27 agreement to practice for a specified period of time [~~in designated eligible sites~~] at an approved  
28 site in the state.

29 (b) Grants may be given only to repay loans taken by a primary health care provider for  
30 educational expenses incurred while pursuing an education at an institution that provides training  
31 leading to the award of a [~~final~~] degree that qualifies the primary health care provider to practice

1 in his or her field.

2 (2) Grants under this section may not be used to satisfy other obligations owed by the  
3 primary health care provider under any similar program and may not be used to repay a loan that  
4 is in default at the time of application.

5 (3) The department may not disburse any grant [~~funds~~] monies under this chapter until the  
6 recipient has performed at least three months of service at the [~~designated eligible~~] approved site.

7 Section 5. Section **26-9e-8** is amended to read:

8 **26-9e-8. Primary health care provider scholarships -- Terms and amounts -- Service.**

9 (1) To increase the number of primary health care providers practicing in medically  
10 underserved urban areas in the state, the department may [~~award~~] provide scholarships to  
11 individuals seeking to become primary health care providers in exchange for their agreement to  
12 practice for a specified period of time [~~in designated eligible sites~~] at an approved site in the state.

13 (2) Scholarships may be given to pay educational expenses while pursuing an education  
14 at an institution approved by the committee that provides training leading to the award of a final  
15 degree that qualifies the primary health care provider to practice in his or her field.

16 (3) Scholarships given under this section may not be used to satisfy other obligations owed  
17 under any similar program and may not be in an amount more than is reasonably necessary to meet  
18 educational expenses.

19 (4) Scholarship recipients shall seek a course of education following a schedule of at least  
20 a minimum number of course hours per year as set by committee rule which leads to receipt of a  
21 degree or completion of specified additional course work in a number of years as established by  
22 the committee.

23 Section 6. Section **26-9e-9** is amended to read:

24 **26-9e-9. Service obligation -- Repayment -- Penalty.**

25 (1) (a) Before receiving an award under this chapter, each recipient shall enter into a  
26 contract with the state agreeing to the conditions upon which the award is to be made.

27 (b) The contract shall include necessary conditions to carry out the purposes of this  
28 chapter.

29 (2) (a) In exchange for financial assistance under this chapter, the recipient shall practice  
30 for a minimum of 24 months in a medically underserved urban area at a site [~~or with an~~  
31 organization] approved by the committee.

1 (b) The recipient's practice in a medically underserved urban area at a site [~~or with an~~  
2 organization] approved by the committee retires the amount owed for the award according to a  
3 schedule established by the committee.

4 (c) Periods of internship, preceptorship, or other clinical training do not satisfy the service  
5 obligation under this chapter.

6 (3) A loan repayment grant recipient under this chapter who fails to complete the service  
7 obligation shall:

8 (a) pay as a penalty[;] twice the total amount of the grant[;] on a prorated basis according  
9 to a schedule established by contract with the committee and 12% per annum interest on the  
10 unpaid penalty amount; and

11 (b) costs and expenses incurred in collection, including attorney fees.

12 (4) A scholarship recipient who:

13 (a) fails to finish his professional schooling [and become a special population health care  
14 provider] within the period of time agreed upon with the committee shall within 90 days after the  
15 deadline for completing his schooling or within 90 days of his failure to continue his schooling,  
16 whichever occurs earlier, shall repay:

17 ~~[(a)]~~ (i) all scholarship money received[;] according to a schedule established by contract  
18 with the committee;

19 ~~[(b)]~~ (ii) if not repaid within one year of default, 12% per annum interest on [the funds  
20 received under the] unrepaid scholarship[;] money calculated from the date each installment [is]  
21 was received under the scholarship [~~until it is repaid~~]; and

22 ~~[(c)]~~ (iii) costs and expenses incurred in collection, including attorney fees[;];

23 (b) finishes his schooling and fails to pass the necessary professional certifications or  
24 examinations within the time period agreed upon with the committee shall repay:

25 (i) all scholarship money received according to a schedule established by contract with the  
26 committee;

27 (ii) if not repaid within one year of default, 12% per annum interest on unrepaid  
28 scholarship money calculated from the date each installment was received under the scholarship;  
29 and

30 (iii) costs and expenses incurred in collection, including attorney fees;

31 (c) finishes his schooling and fails to take the necessary professional certifications or



1 examinations within the time period agreed upon with the committee shall:

2 (i) pay as a penalty twice the total amount of the scholarship money on a prorated basis  
3 according to a schedule established by contract with the committee and 12% per annum interest  
4 on the unpaid penalty amount; and

5 (ii) costs and expenses incurred in collection, including attorney fees; and

6 ~~[(5)]~~ (d) ~~[A scholarship recipient who]~~ finishes his schooling and becomes a special  
7 population health care provider~~[,]~~ but who fails to fulfill his service obligation shall repay:

8 ~~[(a)]~~ (i) twice the total scholarship amount ~~[paid to him]~~ received that is not yet retired by  
9 his service~~[,]~~ on a prorated basis according to a schedule established by contract with the  
10 committee;

11 ~~[(b)]~~ (ii) 12% per annum interest on the unretired ~~[funds received under the]~~ scholarship  
12 money calculated from the date ~~[he received]~~ each installment was received under the scholarship;  
13 and

14 ~~[(c)]~~ (iii) costs and expenses incurred in collection, including attorney fees.

15 ~~[(6)]~~ (5) Amounts recovered and damages collected under this section shall be deposited  
16 as dedicated credits to be used to carry out the provisions of this chapter.

17 Section 7. Section **26-9e-10** is amended to read:

18 **26-9e-10. Funding.**

19 (1) Appropriations for programs under this chapter shall be a separate line item to the  
20 department in the annual appropriations act, and unless otherwise provided in an appropriations  
21 act, is nonlapsing.

22 (2) Federal funds, gifts, endowments, contributions for the programs, and damages  
23 collected from breach of program contracts may also be used for programs under this chapter and,  
24 except for damages deposited as dedicated credits, are nonlapsing.

25 (3) ~~[After a program]~~ When the department enters into a contract ~~[has been signed by both~~  
26 ~~parties]~~ obligating funds under this chapter, the department shall set aside the funds necessary to  
27 ensure sufficient funds will be available to make payments under the contract ~~[for the full term of~~  
28 ~~the service obligation]~~.

29 (4) Funding under Subsections (1) and (2) shall be used to make payments ~~[under the]~~ on  
30 program contracts.

31 (5) Committee and department staff support costs necessary to administer this chapter shall

1 be appropriated by the Legislature.

2 Section 8. Section **26-9e-11** is amended to read:

3 **26-9e-11. Committee report.**

4 Annually on or before August 1, the committee shall submit a written report of its activities  
5 under this chapter to the executive director of the department and to the Health and [Environment]  
6 Human Services Interim Committee of the Legislature. The report shall include:

7 (1) the number and type of loan repayment grants and scholarships, and the areas of  
8 practice of the recipients;

9 (2) the total amount of each award;

10 (3) the site at which each recipient is practicing;

11 (4) the number of applications filed under this chapter within the preceding year;

12 (5) the areas designated by the committee as medically underserved urban areas;

13 (6) the amount of administrative expenses incurred by the committee and by the  
14 department to provide staff support during the preceding year in carrying out the provisions of this  
15 chapter;

16 (7) an assessment of the needs in the designated medically underserved urban areas for  
17 providers, and recruitment and retention programs;

18 (8) the plan for addressing the assessed needs in terms of recruitment and retention of  
19 health care providers;

20 (9) the location and type of education program where each scholarship recipient is  
21 receiving training; [and]

22 (10) the location [~~where each~~] and professional activities of former award [~~recipient is~~  
23 ~~currently practicing.~~] recipients, if known; and

24 (11) other information that the department considers beneficial or the committee requests  
25 in evaluating the activities authorized under this chapter.

26 Section 9. **Effective date.**

27 This act takes effect on July 1, 1998.

**Legislative Review Note**  
**as of 1-26-98 5:48 PM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**