AN ACT

RELATING TO HEALTH CARE PROFESSIONAL LOAN REPAYMENT; REQUIRING AWARD RECIPIENTS TO BE HEALTH PROFESSIONALS WHO CURRENTLY MAINTAIN PRACTICE IN NEW MEXICO OR AGREE TO RELOCATE TO AND COMMENCE PRACTICE IN NEW MEXICO; REQUIRING THE HIGHER EDUCATION DEPARTMENT TO DETERMINE AND DISBURSE AWARD AMOUNTS; PROVIDING ADDITIONAL AWARD CRITERIA; ADDING DEFINITIONS; ALLOWING FEES TO BE ASSESSED UPON BREACH OF CONTRACT; AMENDING THE HEALTH PROFESSIONAL LOAN REPAYMENT FUND; REPEALING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

SECTION 1. Section 21-22D-3 NMSA 1978 (being Laws 1995, Chapter 144, Section 18, as amended) is amended to read:

"21-22D-3. DEFINITIONS.--As used in the Health Professional Loan Repayment Act:

A. "award" means the grant of money to repay eligible education debt;

B. "department" means the higher education department;

C. "health professional" means a professional licensed pursuant to the:

(1) Medical Practice Act;

(2) Physical Therapy Act;

(3) Occupational Therapy Act;

(4) Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(5) Pharmacy Act;

(6) Nutrition and Dietetics Practice Act;

(7) Respiratory Care Act;

(8) Medical Imaging and Radiation Therapy Health and Safety Act;

(9) Dental Health Care Act;

(10) Professional Psychologist Act;

(11) Counseling and Therapy Practice Act;

(12) Nursing Practice Act;

(13) Optometry Act;

(14) Chiropractic Physician Practice Act;

(15) Dental Amalgam Waste Reduction Act;

(16) Genetic Counseling Act;

(17) Polysomnography Practice Act;

(18) Physician Assistant Act;

(19) Anesthesiologist Assistants Act;

(20) Podiatry Act;

(21) Professional Psychologist Act;

(22) Pharmacist Prescriptive Authority Act;

(23) Massage Therapy Practice Act;

(24) Acupuncture and Oriental Medicine Practice Act;

(25) Social Work Practice Act;

(26) Emergency Medical Services Act; and

(27) other health professional licensing acts as determined by the department;

D. "licensed physician" means a health professional who is licensed to practice medicine in New Mexico pursuant to the Medical Practice Act;

E. "loan" means a grant of money to defray the costs incidental to a health education, under a contract between the federal government or a commercial lender and a health professional, requiring either repayment of principal and interest or repayment in services; and

F. "nurse in advanced practice" means a registered nurse, including a:

(1) certified nurse practitioner, certified registered nurse anesthetist or clinical nurse specialist, authorized pursuant to the Nursing Practice Act to function beyond the scope of practice of professional registered nursing; or

(2) certified nurse-midwife licensed by the department of health."

SECTION 2. Section 21-22D-6 NMSA 1978 (being Laws 1995, Chapter 144, Section 21, as amended) is amended to read:

"21-22D-6. HEALTH PROFESSIONAL LOAN REPAYMENT PROGRAM--AWARD CRITERIA--CONTRACT TERMS--PAYMENT.--

A. The "health professional loan repayment program" is created and shall be administered by the department. A health professional shall apply for an award on a form provided by the department.

B. Health professionals shall be selected to receive awards based on the following criteria:

(1) a health professional shall currently maintain practice in New Mexico or have agreed to relocate to and commence practice in New Mexico within ninety days of the grant of an award. An award shall not be disbursed until the health professional commences practice in New Mexico;

(2) highest priority shall be given to licensed physicians;

(3) designated health professional shortage areas and a health professional's total eligible education debt and characteristics of the practice; and

(4) the number of awards shall be limited to the amount of funds appropriated to the department for the purpose of the health professional loan repayment program.

C. Award amounts shall be determined by the department in accordance with the following:

(1) funds shall be disbursed in amounts that result in the payment of the full obligation of all awards provided in a given year;

(2) an award to a licensed physician shall

be a minimum of seventy-five thousand dollars ($75,000) per year for four consecutive years, with the exception that:

(a) the total award amount shall not exceed the licensed physician's total eligible education debt;

(b) the award amount shall be prorated based on a four-year award period; and

(c) part-time employment as a licensed physician shall be prorated based on the percentage of hours worked relative to full-time employment; and

(3) an award to a health professional other than a licensed physician shall:

(a) not exceed the health professional's total eligible education debt;

(b) be prorated based on a three-year award period; and

(c) be prorated based on the percentage of hours relative to full-time employment if the health professional maintains part-time employment in the health professional's respective health profession.

D. The department shall encumber the full amount of the award during the first year of a health professional's award period at a published schedule as determined by the department.

E. The following education debts are not eligible

for repayment pursuant to the Health Professional Loan Repayment Act:

(1) amounts incurred as a result of participation in state loan-for-service programs or other state programs whose purpose states that service be provided in exchange for financial assistance;

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

(3) personal loans; and

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

F. The loan repayment award shall be evidenced by a contract between the health professional and the department acting on behalf of the state. The contract shall provide for the payment by the state of a stated sum to the health professional's debtors and shall state the obligations of the health professional under the program, including a minimum four-year period of service for licensed physicians and three-year period of service for health professionals other than licensed physicians, quarterly reporting requirements and other policies established by the department. The department may cancel the contract made between the department and the health professional for any reasonable cause deemed sufficient by the department.

G. Recipients shall serve a complete year in order

to receive credit for that year. The minimum credit for a year shall be established by the department.

H. If a health professional does not comply with the terms of the contract, the department shall assess up to the full amount of award disbursed and may assess a fee of no more than eighteen percent interest of the amount of the award disbursed, unless the department finds acceptable extenuating circumstances for why the health professional cannot serve or comply with the terms of the contract. If the department does not find acceptable extenuating circumstances for the health professional's failure to comply with the contract, the department shall require immediate repayment.

I. The department shall promulgate rules to implement the provisions of this section that may provide for the disbursement of awards to the lenders of health professionals in annual or other periodic installments."

SECTION 3. Section 21-22D-7 NMSA 1978 (being Laws 1995, Chapter 144, Section 22) is amended to read:

"21-22D-7. CONTRACTS--ENFORCEMENT.--The general form of the contract required shall be prepared and approved by the attorney general and signed by the health professional and the designated representative of the department on behalf of the state. The department is vested with full and complete authority and power to sue in its own name for any balance

due the state from any student on any such contract."

SECTION 4. Section 21-22D-8 NMSA 1978 (being Laws 1995, Chapter 144, Section 23) is amended to read:

"21-22D-8. HEALTH PROFESSIONAL LOAN REPAYMENT FUND CREATED--PURPOSE--METHOD OF PAYMENT.--

A. The "health professional loan repayment fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, distributions, gifts and grants. The department shall administer the fund, and money in the fund is appropriated to the department to provide awards pursuant to the Health Professional Loan Repayment Act; provided that:

(1) no less than fifty percent of the available funds in the health professional loan repayment fund as of the beginning of each fiscal year shall be encumbered for licensed physicians who receive an award; and

(2) funds that are encumbered but unexpended shall be used for awards in the next fiscal year.

B. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of higher education or the secretary's authorized representative."

SECTION 5. Section 21-22D-10 NMSA 1978 (being Laws 1995, Chapter 144, Section 25) is amended to read:

"21-22D-10. REPORTS.--By December 31 of each year, the

department shall make annual reports to the governor and to the legislature of its activities, the amount of each award granted, the cumulative total award amount, the number of awards made by profession type and the county and municipality where each health professional that received an award practices in the state."

SECTION 6. REPEAL.--Sections 21-22D-2 and 21-22D-9 NMSA 1978 (being Laws 1995, Chapter 144, Sections 17 and 24) are repealed.