



WYOMING LEGISLATIVE SERVICE OFFICE

Memorandum

DATE April 25, 2023
TO Joint Judiciary Committee
FROM Clarissa Nord, Legislative Editor
SUBJECT Other States' Rural Attorney Incentive Programs

This memorandum summarizes other states' rural attorney incentive programs in Idaho, Illinois, Montana, North Dakota, and South Dakota. The North Dakota and South Dakota legislatures established rural attorney incentive programs that are administered by the judicial branch. Other models of rural attorney incentive programs include a scholarship fund through the University of Idaho College of Law, a fellowship program supported by the Illinois State Bar Association, and a Rural Incubator Project administered by the Montana Legal Services Association.

Generally, rural attorney incentive programs aim to mitigate a decline in the number of attorneys practicing in rural areas. These programs support attorneys practicing in rural communities and are intended to help ensure citizens' legal needs are met in those communities.

LEGISLATIVELY CREATED PROGRAMS

South Dakota

The South Dakota Legislature established the Rural Attorney Recruitment Program in 2013 to address the current and projected shortage of attorneys practicing in rural communities.¹ South Dakota appears to have been the first state to enact legislation specifically targeted toward recruiting attorneys to rural areas.² The South Dakota Unified Judicial System, State Bar of South Dakota, and eligible counties and municipalities collaborate to fund the program to provide attorneys incentive payments to serve and reside in rural counties and municipalities.³

Eligibility Requirements

To participate in the program, an attorney must sign a contract with the Unified Judicial System, the State Bar of South Dakota, and the eligible county or municipality, agreeing to practice full-time as an attorney within the eligible county or municipality for a minimum of five consecutive

¹ SL 2013, ch. 102, § 1; S.D. Codified Laws §§ 16-23-1 through 16-23-11.

² Patrick Goetzinger, *Project Rural Practice: Saving an Endangered Species by Recruiting the Sweet Sixteen*, American Bar Association (July-August 2013),

https://www.americanbar.org/groups/bar_services/publications/bar_leader/2012_13/july_august/project_rural_practice_saving_endangered_species_recruiting_sweet_sixteen/.

³ S.D. Codified Laws § 16-23-6; South Dakota Unified Judicial System, *Rural Attorney Recruitment Program, 2023 Annual Report* (2023), <https://ujs.sd.gov/uploads/RARPreport.pdf>.

years.⁴ The attorney does not need to have any experience practicing law. But, among other requirements, the attorney must have a Juris Doctorate degree from an American Bar Association (ABA)-accredited law school; provide their law school transcript; be licensed as an attorney in South Dakota; never have been disbarred, suspended, or publicly censured from the practice of law in any jurisdiction; be willing to reside in the county or municipality they serve unless the community agrees to a different arrangement; and never have participated in a similar program.⁵

The criteria for counties and municipalities to participate in the program are as follows:

- Have a county population of 10,000 residents or less, or a municipal population of 3,500 residents or less;
- Pay 35% of the total amount of the incentive payment;
- Apply to the Unified Judicial System by submitting a letter of intent from the County Commissioners; and
- Receive a determination of eligibility from the Unified Judicial System.⁶

The Unified Judicial System determines community eligibility by considering various factors, such as:

- County or municipality demographics;
- Age and number of attorneys currently practicing within the community;
- Recommendation of the presiding circuit court judge;
- Geographic location of the community relative to other counties or municipalities receiving assistance; and
- Prior participation by the county or municipality.⁷

The Unified Judicial System is responsible for maintaining a list of eligible communities for participation in the program, which is available on the Unified Judicial System's website.⁸

Financial Information and Incentives

The South Dakota Legislature initially approved the program in 2013 and appropriated \$475,000 from general funds to provide incentive payments for up to 16 attorneys. In 2015, the Legislature appropriated another \$500,000 from the Court Automation Fund to cover incentive payments for 16 additional attorneys. The program operated under a pilot status until 2019, when the Legislature permanently established the program, expanded the eligible communities to include municipalities with a population of 3,500 residents or less, and appropriated \$150,000 for the incentive payments. The Unified Court System continues to cover its 50% portion of incentive payments from the Court Automation Fund.⁹

⁴ S.D. Codified Laws §§ 16-23-4; 16-23-8; South Dakota Unified Judicial System, *Rural Attorney Recruitment Program, 2023 Annual Report* (2023), <https://ujs.sd.gov/uploads/RARPreport.pdf>.

⁵ S.D. Codified Laws § 16-23-4; South Dakota Unified Judicial System, *Rural Attorney Recruitment Program, 2023 Annual Report* (2023), <https://ujs.sd.gov/uploads/RARPreport.pdf>.

⁶ S.D. Codified Laws §§ 16-23-2.1; 16-23-2.2; 16-23-6; South Dakota Unified Judicial System, *Rural Attorney Recruitment Program, 2023 Annual Report* (2023), <https://ujs.sd.gov/uploads/RARPreport.pdf>.

⁷ S.D. Codified Laws § 16-23-3.

⁸ S.D. Codified Laws § 16-23-2.

⁹ South Dakota Unified Judicial System, *Rural Attorney Recruitment Program, 2023 Annual Report* (2023), <https://ujs.sd.gov/uploads/RARPreport.pdf>.

Attorneys receive an incentive payment of \$12,513.60 per year for up to five years if they fulfill their contract obligations.¹⁰ This annual amount is set in statute and is required to be equal to 90% of the University of South Dakota School of Law's resident tuition and fees as determined on July 1, 2013.¹¹ The total monetary benefit an attorney may receive is \$62,568. Of this amount, the:

- Unified Judicial System contributes 50% (\$31,284);
- County/municipality¹² contributes 35% (\$21,898.80); and
- State Bar of South Dakota contributes 15% (\$9,385.20).¹³

If an attorney breaches their contract, they must repay the incentive payments received to the Unified Judicial System, State Bar of South Dakota, and the community.¹⁴ Failure to repay the amounts is grounds for attorney discipline.¹⁵ All expenditures for the program directly fund incentive payments; the funds do not support personnel or other administrative expenses within the Unified Judicial System.¹⁶

Program History

Since 2013, the program has supported 31 attorneys, with 11 currently practicing in rural communities. With respect to the attorneys who have graduated from the program, 15 attorneys graduated, with 12 remaining in their communities to continue practicing. The program experienced five terminated contracts, primarily due to the participants receiving different job opportunities.¹⁷ No more than 32 attorneys can participate in the program at any one time.¹⁸

Most of the program participants are graduates of the University of South Dakota School of Law, and current law school students have expressed interest in applying to the program after they graduate and pass the bar exam.¹⁹

North Dakota

The North Dakota Legislature authorized the Rural Attorney Recruitment Program in 2021 and largely modeled the program after the South Dakota Rural Attorney Recruitment Program.²⁰

¹⁰ *Id.* Participants receive incentive payments in five equal, annual installments. *Id.*

¹¹ S.D. Codified Laws § 16-23-5. In-state tuition and fees for one academic year at the University of South Dakota School of Law are currently \$16,793. See <https://www.usd.edu/Admissions-and-Aid/Tuition-and-Costs/School-of-Law-Tuition-and-Costs>.

¹² Eligible communities may enter into an agreement with any county, municipality, school district, or nonprofit entity to assist the community in meeting its funding obligations. S.D. Codified Laws § 16-23-7.

¹³ S.D. Codified Laws § 16-23-6; South Dakota Unified Judicial System, *Rural Attorney Recruitment Program* (August 5, 2022), <https://ujs.sd.gov/uploads/RuralAttorneyRecruitmentProgram.pdf>.

¹⁴ S.D. Codified Laws § 16-23-6.

¹⁵ *Id.*

¹⁶ South Dakota Unified Judicial System, *Rural Attorney Recruitment Program, 2023 Annual Report* (2023), <https://ujs.sd.gov/uploads/RARPreport.pdf>.

¹⁷ *Id.*

¹⁸ S.D. Codified Laws § 16-23-4.

¹⁹ South Dakota Unified Judicial System, *Rural Attorney Recruitment Program, 2023 Annual Report* (2023), <https://ujs.sd.gov/uploads/RARPreport.pdf>.

²⁰ Sally Holewa, North Dakota Office of the State Court Administrator, *SB 2267, Senate Judiciary Testimony* (February 1, 2023), https://ndlegis.gov/prod/assembly/68-2023/testimony/SJUD-2267-20230201-17914-F-HOLEWA_SALLY_A.pdf.

Eligibility Requirements

The Rural Attorney Program matches eligible attorneys with communities, and all attorneys who are members in good standing with the North Dakota Board of Bar Examiners are automatically eligible for the program. The Court System administers an open recruitment process where eligible attorneys can apply at any time.²¹

Attorneys must be licensed to practice in North Dakota, willing to live in or near the participating county or municipality and agree to practice full-time in the community for five consecutive years. Attorneys may work in either the public or private sectors, and an attorney who is already working in an eligible community may participate in the program, as the program is intended to retain attorneys working in rural areas. The program does not have any requirements related to attorney experience.²²

With respect to the attorney selection process, the Court System maintains a list of eligible attorneys on its website, and the community is primarily responsible for reaching an agreement with a participating attorney. When an agreement is established, the Court, community, State Bar Association, and the attorney enter into a contract.²³

Communities qualify for the program based on population size; a county must have a population of 16,000 residents or less, and a municipality must have a population of 5,000 residents or less. To further determine community eligibility, the Chief Justice of the North Dakota Supreme Court appoints an ad hoc committee of three members to review community applications. The Committee consists of a district court judge, an attorney, and a court administrator. The factors the Committee considers are similar to the South Dakota program factors (i.e., community demographics, age and number of the members of the county/local bar association, presiding district court judge recommendation, economic development programs, etc.).²⁴

Financial Information and Incentives

The program provides eligible attorneys a total incentive payment of \$45,000 in equal, annual installments over five years. State statute establishes the responsibility for providing the incentive payment among the following entities:

- The Supreme Court provides 50% (\$22,500);
- The participating community provides 35% (\$15,750); and
- The State Bar Association²⁵ provides 15% (\$6,750).²⁶

If an attorney breaches the agreement, the attorney must repay all funds received.²⁷

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ N.D. Cent. Code § 27-02.2-01.

²⁵ State statute allows the State Bar Association to partner with other legal associations to assist with the State Bar's portion of the payment, *See* N.D. Cent. Code § 27-02.2-08.

²⁶ N.D. Cent. Code § 27-02.2-06.

²⁷ *Id.*; State of North Dakota Courts, *Rural Attorney Recruitment Program*, <https://www.ndcourts.gov/rural-attorney-recruitment-program>.

Program History

The program currently has contracts with two attorneys, with the North Dakota Court System expecting to finalize two more contracts (as of February 2023).²⁸ The North Dakota Legislature initially capped participation to allow the Court System to implement the program and for the Legislature to assess the program's success.²⁹ The original cap was set at four attorneys, but the Legislature enacted SB 2267 in March 2023 to expand the program to allow eight attorneys to participate in the program.³⁰

SCHOLARSHIP/FELLOWSHIP PROGRAMS

Idaho

The University of Idaho College of Law offers the Rural Services Scholarship Fund to support students participating in internships, externships, or pro bono service in rural communities. The purpose of the program is to encourage students to develop connections in rural areas with the anticipation that these experiences will encourage future practice in those areas. Students are eligible to receive stipends ranging from \$500 to \$4,000.³¹

Illinois

The Illinois State Bar Association created the Rural Practice Fellowship Program in 2020 to connect rural communities and law firms with law students and newer attorneys interested in practicing in rural areas.³² The Illinois State Bar Association Rural Practice Initiative Committee established two programs:

- The Rural Practice Summer Fellows Program: Matches law students with rural law firms to encourage students to practice in rural communities. The program provides a \$5,000 fellowship grant and mentoring focused on how to practice in rural communities.
- The Rural Practice Associate Fellows Program: Places graduating law students and new attorneys as permanent associates with rural law firms. The program involves a \$5,000 stipend when employment begins, and an additional \$5,000 stipend if the associate works for the same law firm for one year.³³

The Illinois State Bar Association helps match qualified summer clerks and associates with eligible law firms.³⁴ To participate in the program, a supervising attorney employed by an eligible law firm must be a member of the Illinois State Bar, in good standing, and have been admitted to practice

²⁸ Sally Holewa, North Dakota Office of the State Court Administrator, *SB 2267, Senate Judiciary Testimony* (February 1, 2023), https://ndlegis.gov/prod/assembly/68-2023/testimony/SJUD-2267-20230201-17914-F-HOLEWA_SALLY_A.pdf.

²⁹ *Id.*

³⁰ 68th Legislative Assembly of North Dakota, *Senate Bill No. 2267* (2023), <https://www.ndlegis.gov/assembly/68-2023/regular/bill-overview/bo2267.html>.

³¹ University of Idaho College of Law, *Idaho Heritage Project* (2023),

<https://www.uidaho.edu/law/academics/practical-skills/idaho-heritage-project>.

³² Illinois State Bar Association, *Rural Practice Fellowship Program*, <https://www.isba.org/ruralpractice>.

³³ *Id.*

³⁴ Illinois State Bar Association, *Application for Lawyers & Firms Seeking to Employ a Fellow*,

<https://www.isba.org/ruralpractice/lawyers>.

for five years or more.³⁵ In 2021, ten associates and four summer clerks participated, and in 2022, eight associates and five summer clerks were involved in the program.³⁶

Montana

The Montana Legal Services Association manages the Rural Incubator Project for Lawyers to encourage attorneys to offer affordable legal services to limited-income residents and tribal members living in underserved, rural communities. The Montana Legal Services Association is a private, non-profit law firm that partners with the Montana Justice Foundation, State Bar of Montana, Montana Supreme Court, and the University of Montana School of Law to administer the program.³⁷

Eligibility Requirements

To be eligible for the program, attorneys must establish a law practice that serves the legal needs of individuals and small businesses located in rural and underserved areas. Attorneys must participate in the program for two years and meet the following requirements:

- Be an active member of the State Bar of Montana and in good standing;
- Have less than five years of active practice experience;
- Establish a solo or small law firm within the first two months of the program;
- Develop a practice serving rural communities (can provide remote and in-person services);
- Participate in various training, mentoring, and networking opportunities;
- Provide 25 pro bono hours the first year and 25 hours the second year; and
- Provide 125 reduced rate hours the first year and 225 hours the second year.³⁸

As a program fellow, participants can receive the following benefits:

- Training and business development sessions: Involvement in a “Business Boot Camp”, a five-day program pertaining to various topic areas, as well as training opportunities regarding law practice management, business development and planning, and marketing;
- Continuing legal education, mentorship, and mentoring calls;
- Montana Legal Services Association pro bono residency;
- Practice resources and office space;
- Client referral services;
- Malpractice insurance;
- Student loan repayment assistance: The Montana Justice Foundation provides up to \$1,800 of loan repayment assistance.³⁹

³⁵ *Id.*

³⁶ American Bar Association, *Success on the Horizon? New Efforts to Increase Rural Access to Justice* (May 1, 2022), https://www.americanbar.org/groups/bar_services/publications/bar_leader/2021_22/may-june/success-on-the-horizon-new-efforts-to-increase-rural-access-to-justice/.

³⁷ Montana Legal Services Association, *Rural Incubator Project for Lawyers*, <https://www.mtlsa.org/rural-incubator-project-for-lawyers/>.

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³⁹ Montana Legal Services Association, *Rural Incubator Project for Lawyers, Information and Application Packet* (2022), <https://www.mtlsa.org/wp-content/uploads/2022/05/RIPL-Application-PDF-2022.pdf>.

The program currently supports one fellow; eight fellows previously participated in the program.⁴⁰
Table 1., below, provides a broad overview of other states' rural attorney incentive programs.

⁴⁰ Montana Legal Services Association, *2023 RIPL Fellow and RIPL Alumni (2023)*, <https://www.mtlsa.org/ripl-fellows/>.

Table 1. Rural Attorney Incentive Programs.

State	Administrator(s)	Attorney/Student Eligibility Requirements*	Incentives
Legislatively Created Programs			
South Dakota	South Dakota Unified Judicial System	<ul style="list-style-type: none"> • Have a J.D. degree from an ABA-accredited institution and be licensed as an attorney in South Dakota. • No prior participation in a program that requires the attorney to provide services within an underserved area. • Live and practice in an eligible community for five years. • Provide pro bono legal services for at least one case per year. 	<ul style="list-style-type: none"> • Incentive payment of \$12,513.60 per year; total benefit of \$62,568 for each attorney.
North Dakota	North Dakota Court System	<ul style="list-style-type: none"> • Licensed to practice law in North Dakota and be in good standing. • No prior participation in a program that requires the attorney to provide services within an underserved area. • Live and practice in an eligible community for five years. 	<ul style="list-style-type: none"> • Payment of \$9,000 per year; total benefit of \$45,000 for each attorney.
Scholarship/Fellowship Programs			
Idaho	University of Idaho College of Law	<ul style="list-style-type: none"> • Serve in a summer internship, externship, or pro bono service in rural communities in Idaho. 	<ul style="list-style-type: none"> • Stipend award of \$500 to \$4,000.

* Please note, this table provides a summary of attorney/student eligibility requirements; this is not a comprehensive list for each program.

<p>Illinois</p>	<p>Illinois State Bar Association</p>	<ul style="list-style-type: none"> • The Illinois State Bar determines the criteria for the Rural Practice Fellows and reviews applications from law students and new attorneys to match them with rural law firms. 	<ul style="list-style-type: none"> • <u>Rural Practice Summer Fellows Program</u>: \$5,000 fellowship grant and mentoring. • <u>Rural Practice Associate Fellows Program</u>: \$5,000 initial stipend, additional \$5,000 stipend for one year of employment.
<p>Montana</p>	<p>Montana Legal Services Association</p>	<ul style="list-style-type: none"> • Must be an active participant of the Montana Bar and in good standing. • Have less than five years of practice experience. • Establish a solo or small law firm within the first two months of the Program. • Participate in training and networking opportunities. 	<ul style="list-style-type: none"> • Training, mentoring, and networking opportunities. • Loan repayment assistance (\$1,800). • Practice resources (legal research tools, law practice management technology, office space, etc.)

Source: LSO compilation of information from other states.