

AN ACT

ENTITLED, An Act to revise certain provisions relating to the type and location of health facilities that may be financed or refinanced by the South Dakota Health and Educational Facilities Authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 1-16A-1 be amended to read as follows:

1-16A-1. For the benefit of the people of the State of South Dakota and the improvement of their health, welfare, safety, trade, commerce, industry, economy, and living conditions it is essential that the people of this state have access, both geographically and financially, to adequate and affordable medical care and health facilities and it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities and it is essential that health institutions within the state and outside the state, subject to the limitations set forth in this chapter, and educational institutions within the state be provided with appropriate additional means to assist in the development and maintenance of public health and public education, respectively. It is the purpose of this chapter to provide a measure of assistance and alternative methods to enable health institutions within the state and outside the state, subject to the limitations set forth in this chapter, and educational institutions in the state to refund or refinance outstanding indebtedness incurred for health facilities or educational facilities and to provide additional facilities and structures which are sorely needed to accomplish the purposes of this chapter, including securing access by the people of the State of South Dakota to adequate and affordable health care within the State of South Dakota and the states geographically contiguous to the State of South Dakota, all to the public benefit and good as more fully provided herein.

It is the intent of the Legislature by the passage of this chapter to create a state authority to lend money to health institutions and educational institutions and to authorize the state authority to

acquire, construct, reconstruct, repair, alter, improve, extend, own, lease, and dispose of properties to the end that the state authority may be able to promote the health, welfare, safety, trade, commerce, industry, economy and education and welfare of the people of this state and to vest such state authority with all powers to enable such state authority to accomplish such purpose.

It is the further intent of the Legislature to provide a measure of assistance and alternative methods of financing to participating health institutions to aid them in providing needed health facilities that will assure admission and care of high quality and affordability to all who need it and to aid them in dealing with the cash requirements of such participating health institutions, whether resulting from capital expenditures, operating expenditures, delays in the receipt of payments for services, or otherwise. It is the intent of the Legislature to ensure the availability of the most efficient and affordable financing alternatives to health institutions located outside the State of South Dakota but in a state or states geographically contiguous to the State of South Dakota that are owned, operated, leased or managed by, or otherwise affiliated with, health institutions located within the State of South Dakota to promote the economy of the State of South Dakota and the access of the people of the State of South Dakota to adequate and affordable health care within the State of South Dakota and its geographically contiguous states, all for the benefit of the health, welfare, safety, trade, commerce, industry and economy of the people of the State of South Dakota. It is not intended by this chapter that the state authority shall itself be authorized to operate any such health or educational facilities. It is also determined that the availability of improved access to health professions schools will benefit the people of the State of South Dakota and improve their health, welfare, and living conditions and that the establishment of a health education loan bond program, with proceeds of bonds to be used for the purchase or making of loans to students, or certain former students, of health professions schools will enhance the availability of improved access to such schools and assist such persons in meeting the expenses incurred in availing themselves of health

education opportunities.

Section 2. That subdivision (7) of § 1-16A-2 be amended to read as follows:

- (7) "Health institution" means any private nonprofit corporation or institution authorized by law to provide or operate health facilities in the State of South Dakota, or any private nonprofit corporation or institution authorized by law to provide or operate health facilities outside the State of South Dakota, but in a state geographically contiguous to the State of South Dakota, provided that such nonprofit corporation or institution is owned, operated, leased or managed by, or otherwise affiliated with, a health institution located within the State of South Dakota and provided further that said entity located outside the State of South Dakota, or an affiliate thereof, is also engaged in a financing or refinancing on behalf of a health institution located within the State of South Dakota, and "participating health institution," a nonprofit health institution which, pursuant to the provisions of this chapter, shall undertake the financing and construction or acquisition of health facilities or shall undertake the refunding or refinancing of outstanding obligations or of a mortgage or of advances or loans as provided in and permitted by this chapter;

Section 3. That § 1-16A-21 be amended to read as follows:

1-16A-21. The authority is authorized and empowered directly or by or through a participating health institution or participating educational institution, as the case may be, as its agent, to acquire by purchase, lease, gift, devise or otherwise such lands, structures, property, real or personal, rights-of-way, franchises, easements, and other interests in lands, within or without the state, including lands lying under water and riparian rights which are located within or without the state as it may deem necessary or convenient for the construction or acquisition or operation of facilities but upon such terms as may be considered by the authority to be reasonable, and to take title thereto

in the name of the authority or in the name of such participating health institution or participating educational institution, as the case may be, as its agent.

Section 4. That § 1-16A-32 be amended to read as follows:

1-16A-32. The authority shall have the power, together with all powers incidental thereto or necessary for the performance thereof, to make loans to or for the benefit of a participating health institution or participating educational institution, as the case may be, to refund outstanding obligations, mortgages or advances issued, made or given by such institution for the cost of its facilities including the function to issue bonds and make loans to a participating health institution or participating educational institution, as the case may be, to refinance indebtedness incurred for facilities undertaken and completed prior to or after the enactment of this chapter whenever the authority finds that such financing is in the public interest, alleviates a financial or contractual hardship upon the participating health institution or participating educational institution, as the case may be, or results in a lesser cost of patient care or cost of education and a saving to third parties, including state or federal governments, and to others who must pay for such care or education. Such loans may be made to any entity affiliated with a participating health institution or participating educational institution, as the case may be, if the proceeds of such loans are made available to or otherwise applied for the benefit of such participating health institution or participating educational institution, as the case may be.

Section 5. That chapter 1-16A be amended by adding thereto a NEW SECTION to read as follows:

The authority shall have the power to assist, coordinate and participate with governmental authorities and issuers of states other than the State of South Dakota (for purposes of this section, "out-of-state issuers") in connection with issuance of bonds, notes or other evidence of indebtedness by such out-of-state issuers for educational and health facilities located within the State of South

Dakota.

In connection with such financing by out-of-state issuers, the authority is designated as the only entity in the State of South Dakota which may conduct the public hearing of the applicable governmental unit required by section 147(f) of the Internal Revenue Code of 1986, as amended, or any successor provision of the Internal Revenue Code, and the Governor of the State of South Dakota is designated as the only person in the State of South Dakota who may be the applicable elected representative pursuant to section 147(f) of the Internal Revenue Code of 1986, as amended.

Following such hearing, the authority shall determine whether the financing should proceed with respect to educational or health facilities located within the State of South Dakota by an out-of-state issuer. If the authority determines that the financing should not proceed, the financing shall not proceed by an out-of-state issuer with respect to the South Dakota facilities.

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I certify that the attached Act originated in the

SENATE as Bill No. 92

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 92
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State