

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

295J0654

## SENATE BILL NO. 92

Introduced by: Senators Knudson, Duniphan, Ham-Burr, Olson (Ed), and Symens and  
Representatives Michels, Craddock, Gillespie, McCaulley, and McLaughlin

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

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

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

6 1-16A-1. For the benefit of the people of the State of South Dakota and the improvement  
7 of their health, welfare, safety, trade, commerce, industry, economy, and living conditions it is  
8 essential that the people of this state have access, both geographically and financially, to  
9 adequate and affordable medical care and health facilities and it is essential that this and future  
10 generations of youth be given the fullest opportunity to learn and to develop their intellectual  
11 and mental capacities and it is essential that health institutions within the state and outside the  
12 state, subject to the limitations set forth in this chapter, and educational institutions within the  
13 state be provided with appropriate additional means to assist in the development and  
14 maintenance of public health and public education, respectively. It is the purpose of this chapter  
15 to provide a measure of assistance and alternative methods to enable health institutions within



1 the state and outside the state, subject to the limitations set forth in this chapter, and educational  
2 institutions in the state to refund or refinance outstanding indebtedness incurred for health  
3 facilities or educational facilities and to provide additional facilities and structures which are  
4 sorely needed to accomplish the purposes of this chapter, including securing access by the  
5 people of the State of South Dakota to adequate and affordable health care within the State of  
6 South Dakota and the states geographically contiguous to the State of South Dakota, all to the  
7 public benefit and good as more fully provided herein.

8       It is the intent of the Legislature by the passage of this chapter to create a state authority to  
9 lend money to health institutions and educational institutions and to authorize the state authority  
10 to acquire, construct, reconstruct, repair, alter, improve, extend, own, lease, and dispose of  
11 properties to the end that the state authority may be able to promote the health, welfare, safety,  
12 trade, commerce, industry, economy and education and welfare of the people of this state and  
13 to vest such state authority with all powers to enable such state authority to accomplish such  
14 purpose.

15       It is the further intent of the Legislature to provide a measure of assistance and alternative  
16 methods of financing to participating health institutions to aid them in providing needed health  
17 facilities that will assure admission and care of high quality and affordability to all who need  
18 it and to aid them in dealing with the cash requirements of such participating health institutions,  
19 whether resulting from capital expenditures, operating expenditures, delays in the receipt of  
20 payments for services, or otherwise. It is the intent of the Legislature to ensure the availability  
21 of the most efficient and affordable financing alternatives to health institutions located outside  
22 the State of South Dakota but in a state or states geographically contiguous to the State of South  
23 Dakota that are owned, operated, leased or managed by, or otherwise affiliated with, health  
24 institutions located within the State of South Dakota to promote the economy of the State of

1 South Dakota and the access of the people of the State of South Dakota to adequate and  
2 affordable health care within the State of South Dakota and its geographically contiguous states,  
3 all for the benefit of the health, welfare, safety, trade, commerce, industry and economy of the  
4 people of the State of South Dakota. It is not intended by this chapter that the state authority  
5 shall itself be authorized to operate any such health or educational facilities. It is also  
6 determined that the availability of improved access to health professions schools will benefit  
7 the people of the State of South Dakota and improve their health, welfare, and living conditions  
8 and that the establishment of a health education loan bond program, with proceeds of bonds to  
9 be used for the purchase or making of loans to students, or certain former students, of health  
10 professions schools will enhance the availability of improved access to such schools and assist  
11 such persons in meeting the expenses incurred in availing themselves of health education  
12 opportunities.

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

14 (7) "Health institution" means any private nonprofit corporation or institution authorized  
15 by law to provide or operate health facilities in the State of South Dakota, or any  
16 private nonprofit corporation or institution authorized by law to provide or operate  
17 health facilities outside the State of South Dakota, but in a state geographically  
18 contiguous to the State of South Dakota, provided that such nonprofit corporation or  
19 institution is owned, operated, leased or managed by, or otherwise affiliated with, a  
20 health institution located within the State of South Dakota and provided further that  
21 said entity located outside the State of South Dakota, or an affiliate thereof, is also  
22 engaged in a financing or refinancing on behalf of a health institution located within  
23 the State of South Dakota, and "participating health institution," a nonprofit health  
24 institution which, pursuant to the provisions of this chapter, shall undertake the

1 financing and construction or acquisition of health facilities or shall undertake the  
2 refunding or refinancing of outstanding obligations or of a mortgage or of advances  
3 or loans as provided in and permitted by this chapter;

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

5 1-16A-21. The authority is authorized and empowered directly or by or through a  
6 participating health institution or participating educational institution, as the case may be, as its  
7 agent, to acquire by purchase, lease, gift, devise or otherwise such lands, structures, property,  
8 real or personal, rights-of-way, franchises, easements, and other interests in lands, within or  
9 without the state, including lands lying under water and riparian rights which are located within  
10 or without the state as it may deem necessary or convenient for the construction or acquisition  
11 or operation of facilities but upon such terms as may be considered by the authority to be  
12 reasonable, and to take title thereto in the name of the authority or in the name of such  
13 participating health institution or participating educational institution, as the case may be, as its  
14 agent.

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

16 1-16A-32. The authority shall have the power, together with all powers incidental thereto  
17 or necessary for the performance thereof, to make loans to or for the benefit of a participating  
18 health institution or participating educational institution, as the case may be, to refund  
19 outstanding obligations, mortgages or advances issued, made or given by such institution for the  
20 cost of its facilities including the function to issue bonds and make loans to a participating  
21 health institution or participating educational institution, as the case may be, to refinance  
22 indebtedness incurred for facilities undertaken and completed prior to or after the enactment of  
23 this chapter whenever the authority finds that such financing is in the public interest, alleviates  
24 ~~the~~ a financial or contractual hardship upon the participating health institution or participating

1 educational institution, as the case may be, ~~and~~ or results in a lesser cost of patient care or cost  
2 of education and a saving to third parties, including state or federal governments, and to others  
3 who must pay for such care or education. Such loans may be made to any entity affiliated with  
4 a participating health institution or participating educational institution, as the case may be, if  
5 the proceeds of such loans are made available to or otherwise applied for the benefit of such  
6 participating health institution or participating educational institution, as the case may be.

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

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

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

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