

2020 South Dakota Legislature

Senate Bill 81

AMENDMENT 81A FOR THE INTRODUCED BILL

1 **An Act to establish eligibility criteria for out-of-state health institutions to receive**
2 **financing from the Health and ~~Education~~ Educational Facilities Authority.**

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

4 **Section 1.** That § 1-16A-1 be AMENDED:

5 **1-16A-1. Legislative findings and intent.**

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

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

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

6 It is the further intent of the Legislature to provide a measure of assistance and
7 alternative methods of financing to participating health institutions to aid them in
8 providing needed health facilities that will assure admission and care of high quality and
9 affordability to all who need it and to aid them in dealing with the cash requirements of
10 such participating health institutions, whether resulting from capital expenditures,
11 operating expenditures, delays in the receipt of payments for services, or otherwise.

12 It is the intent of the Legislature to ensure the availability of the most efficient and
13 affordable financing alternatives to health institutions that are located outside ~~the State~~
14 ~~of South Dakota but in a state or states geographically contiguous to the State of South~~
15 ~~Dakota that are~~ this state but owned, operated, leased, or managed by, or otherwise
16 affiliated with, health institutions located within ~~the State of South Dakota~~ this state, to
17 promote the economy of ~~the State of South Dakota~~ this state and the access of the people
18 ~~of the State of South Dakota~~ of this state to adequate and affordable health care within
19 ~~the State of South Dakota~~ this state and its geographically contiguous other states, all for
20 the benefit of the health, welfare, safety, trade, commerce, industry, and economy of the
21 people of ~~the State of South Dakota~~ this state.

22 It is not intended by this chapter that the state authority shall itself be authorized to
23 operate any such health or educational facilities.

24 It is also determined that the availability of improved access to health professions
25 schools will benefit the people of ~~the State of South Dakota~~ this state and improve their
26 health, welfare, and living conditions and that the establishment of a health education
27 loan bond program, with proceeds of bonds to be used for the purchase or making of loans
28 to students, or certain former students, of health professions schools will enhance the
29 availability of improved access to such schools and assist such persons in meeting the
30 expenses incurred in availing themselves of health education opportunities.

31 **Section 2.** That § 1-16A-2 be AMENDED:

32 **1-16A-2. Definitions.**

33 As used in this chapter, unless the context otherwise ~~clearly~~ requires:

- 1 (1) "Authority" means the South Dakota Health and Educational Facilities Authority
2 created by this chapter;
- 3 (2) "Costs," as applied to facilities financed in whole or in part under ~~the provisions of~~
4 this chapter ~~includes,~~ include the sum total of all reasonable or necessary costs
5 incidental to the acquisition, construction, reconstruction, repair, alteration,
6 improvement, and extension of such facilities, including without limitation the cost
7 of studies and surveys; the costs for land title and mortgage guaranty policies;
8 plans, specifications, architectural, and engineering services; legal, organization,
9 marketing, or other special services; financing, acquisition, demolition,
10 construction, equipment, and site development of new and rehabilitated buildings;
11 rehabilitation, reconstruction, repair, or remodeling of existing buildings; costs of
12 acquiring or reacquiring accounts receivable; and all other necessary and incidental
13 expenses, including working capital and an initial bond and interest reserve, together
14 with interest on bonds issued to finance such facilities to a date six months
15 subsequent to the estimated date of completion;
- 16 (3) "Credit enhancement obligation," means an agreement, instrument, or other
17 arrangement described in chapter 6-8B, pursuant to which any municipality or
18 county covenants or agrees to levy taxes or pledge its full faith and credit or other
19 revenues, funds, fees, or property, in amounts necessary to pay debt service and
20 related charges on or in connection with bonds or other obligations issued to finance
21 or refinance property, real or personal, and related costs for a health institution
22 ~~which that~~ owns or operates a hospital in South Dakota this state;
- 23 (4) "Educational institution" means any private nonprofit corporation or institution
24 authorized by law to provide or operate educational facilities and to provide a
25 program of education beyond the high school level ~~in the State of South Dakota,~~
26 and this state. A "participating ~~education~~ educational institution," means a nonprofit
27 educational institution ~~which that~~, pursuant to ~~the provisions of~~ this chapter, shall
28 undertake the financing and construction or acquisition of educational facilities or
29 shall undertake the refunding or refinancing of outstanding obligations or of a
30 mortgage or of advances or loans, as provided in and permitted by this chapter. A
31 "participating educational institution" also means any school district or LEA in the
32 state authorized to enter into a lease-purchase agreement with the health and
33 educational facilities authority pursuant to chapter 13-19 or 13-39;
- 34 (5) "Facilities," in the case of a participating health institution, means a structure or
35 building suitable for use as a hospital, clinic, nursing facility, home for the aged, or

1 other health care facility, laboratory, laundry, residence for nurses, doctors, or
2 interns ~~residence~~, administration building, research facility, maintenance, storage
3 or utility ~~facilities~~ facility, auditorium, dining hall, food service and preparation
4 ~~facilities~~ facility, fire prevention facility, mental and physical health care facility,
5 dental care facility, nursing school, medical teaching facility, offices, parking lots,
6 and garages, and other supporting service structures, and all necessary, useful, and
7 related equipment, furnishings, and appurtenances, and including without limitation
8 the acquisition, preparation, and development of all lands necessary or convenient
9 as a site or sites for any of the foregoing; ~~"facilities,"~~ Facilities, in the case of a
10 participating health institution, also means any accounts receivable, working
11 capital, or operating expense, financing, or refinancing program of a participating
12 health institution or institutions, with or involving funds provided in whole or in part
13 hereunder, or any combination thereof; ~~"facilities,"~~ Facilities, in the case of a
14 participating educational institution, means a structure suitable for use as a
15 dormitory or other housing facility, dining hall, student union, administration
16 building, academic building, library, laboratory, research facility, classroom, athletic
17 facility, health care facility, and maintenance, storage, or utility facility, and other
18 structures or facilities related thereto or required or useful for the instruction of
19 students or the conducting of research or the operation of an institution for higher
20 education, including parking and other facilities or structures essential or convenient
21 for the orderly conduct of ~~such the~~ institution for higher education, and ~~shall also~~
22 ~~include~~ includes equipment and machinery and other similar items, necessary or
23 convenient for the operation of a particular facility or structure in the manner for
24 which its use is intended, but does not include such items as books, fuel, supplies,
25 or other items ~~which that~~ are customarily deemed to result in a current operating
26 charge; ~~"facilities,"~~ Facilities does not include any property used or to be used
27 primarily for sectarian instruction or study, or as a place for devotional activities or
28 religious worship, or any property ~~which that~~ is used or to be used primarily in
29 connection with any part of a program of a school or department of divinity of any
30 religious denomination;

- 31 (6) "HEAL loans" means loans to finance the graduate education of health professionals,
32 which have been made pursuant to the Federal Health Education Assistance Loan
33 Program created pursuant to P.L. 94-484, and which are fully insured or guaranteed
34 as to principal and interest by the United States, its agencies or instrumentalities;

(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~~ this state, 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 this state."

(8) "Participating health institution," means a nonprofit health institution ~~which that~~, 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, whether located within this state or in another state;

~~(8)~~(9) "Participating public agency," means any public agency, as defined in chapter 1-24, which has elected to participate in a pool arrangement;

~~(9)~~(10) "Public body" means any county, municipality, or township, or any school district, hospital district, sanitary district, irrigation district, drainage district, or water user district; and

~~(10)~~(11) "Revenues," with respect to facilities, means the rents, fees, charges, and other income or profit derived therefrom, and with respect to HEAL loans, means all amounts received in repayment of such loans, including any insurance benefits.

Section 3. That a NEW SECTION be added:

1-16A-2.2. Out-of-state participating health institution--Eligibility for financing.

To be eligible for financing under this chapter, ~~an any~~ participating health institution located outside of this state shall, at the time of issuance:

(1) Be financing or refinancing health facilities located within the United States;

(2) Control, be controlled by, or be under common control with, a health institution located within this state; and

1 (3) Be engaged, by itself or through an affiliate located within this state, in a financing
2 or refinancing on behalf of a health institution located within this state.

3 In connection with such a financing or refinancing of any such health facilities, the
4 authority shall find that the financing or refinancing would promote the economy of this
5 state and the access of the people of this state to adequate and affordable health care
6 within this and other states, all for the benefit of the health, welfare, safety, trade,
7 commerce, industry, economy, and living conditions of the people of this state by creating
8 employment opportunities in this state or the lowering of the cost of accessing health care
9 or reducing the cost of financing, refinancing, or operating such health facilities and such
10 out-of-state health facilities owned, operated, leased, or managed by, or otherwise
11 affiliated with, a health institution located within this state.

12 For purposes of this section, the authority's findings must be deemed conclusive.

13 **Section 4.** That § 1-16A-2.1 be REPEALED.

14 **1-16A-2.1. Community defined.**