

Chapter 2
(Senate Bill 81)

An Act to establish eligibility criteria for out-of-state health institutions to receive financing from the 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:

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

For the benefit of the people of ~~the State of South Dakota~~ this state 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~~ this state to adequate and affordable health care within ~~the State of South Dakota~~ this state and ~~the other 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 that are located outside ~~the State of South Dakota but in a state or states geographically contiguous to the State of South Dakota~~ this state but owned, operated, leased, or managed by, or otherwise affiliated with, health institutions located within ~~the State of South Dakota~~ this state, to promote the economy of ~~the State of South Dakota~~ this state and the access of the people of ~~the State of South Dakota~~ this state to adequate and affordable health care within ~~the State of South Dakota~~ this state and its geographically contiguous other states, all for the benefit of the health, welfare, safety, trade, commerce, industry, and economy of the people of ~~the State of South Dakota~~ this state.

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~~ this state 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 § 1-16A-2 be AMENDED:

1-16A-2. Definitions.

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

- (1) "Authority" means the South Dakota Health and Educational Facilities Authority created by this chapter;
- (2) "Costs," as applied to facilities financed in whole or in part under ~~the provisions of this chapter includes,~~ include the sum total of all reasonable or necessary costs incidental to the acquisition, construction, reconstruction, repair, alteration, improvement, and extension of such facilities, including without limitation the cost of studies and surveys; the costs for land title and mortgage guaranty policies; plans, specifications, architectural, and engineering services; legal, organization, marketing, or other special services; financing, acquisition, demolition, construction, equipment, and site development of new and rehabilitated buildings; rehabilitation, reconstruction, repair, or remodeling of existing buildings; costs of acquiring or reacquiring accounts receivable; and all other necessary and incidental expenses, including working capital and an initial bond and interest reserve, together with interest on bonds issued to finance such facilities to a date six months subsequent to the estimated date of completion;
- (3) "Credit enhancement obligation₇" means an agreement, instrument, or other arrangement described in chapter 6-8B, pursuant to which any municipality or county covenants or agrees

to levy taxes or pledge its full faith and credit or other revenues, funds, fees, or property, in amounts necessary to pay debt service and related charges on or in connection with bonds or other obligations issued to finance or refinance property, real or personal, and related costs for a health institution ~~which that~~ owns or operates a hospital in ~~South Dakota~~ this state;

- (4) "Educational institution" means any private nonprofit corporation or institution authorized by law to provide or operate educational facilities and to provide a program of education beyond the high school level ~~in the State of South Dakota, and this state.~~ A "participating education educational institution," means a nonprofit educational institution ~~which that~~, pursuant to ~~the provisions of~~ this chapter, shall undertake the financing and construction or acquisition of educational 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. A "participating educational institution" also means any school district or LEA in the state authorized to enter into a lease-purchase agreement with the health and educational facilities authority pursuant to chapter 13-19 or 13-39;
- (5) "Facilities," in the case of a participating health institution, means a structure or building suitable for use as a hospital, clinic, nursing facility, home for the aged, or other health care facility, laboratory, laundry, residence for nurses, doctors, or interns ~~residence,~~ administration building, research facility, maintenance, storage or utility ~~facilities~~ facility, auditorium, dining hall, food service and preparation ~~facilities~~ facility, fire prevention facility, mental and physical health care facility, dental care facility, nursing school, medical teaching facility, offices, parking lots, and garages, and other supporting service structures, and all necessary, useful, and related equipment, furnishings, and appurtenances, and including without limitation the acquisition, preparation, and development of all lands

necessary or convenient as a site or sites for any of the foregoing; ~~"facilities,"~~ Facilities, in the case of a participating health institution, also means any accounts receivable, working capital, or operating expense, financing, or refinancing program, of a participating health institution or institutions, with or involving funds provided in whole or in part hereunder, or any combination thereof; ~~"facilities,"~~ Facilities, in the case of a participating educational institution, means a structure suitable for use as a dormitory or other housing facility, dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, and maintenance, storage, or utility facility, and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, including parking and other facilities or structures essential or convenient for the orderly conduct of ~~such the~~ institution for higher education, and ~~shall also include~~ includes equipment and machinery and other similar items, necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended, but does not include such items as books, fuel, supplies, or other items ~~which that~~ are customarily deemed to result in a current operating charge; ~~"facilities,"~~ Facilities does not include any property used or to be used primarily for sectarian instruction or study, or as a place for devotional activities or religious worship, or any property ~~which that~~ is used or to be used primarily in connection with any part of a program of a school or department of divinity of any religious denomination;

- (6) "HEAL loans" means loans to finance the graduate education of health professionals, which have been made pursuant to the Federal Health Education Assistance Loan Program created pursuant to P.L. 94-484, and which are fully insured or guaranteed 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, 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
- (3) Be engaged, by itself or through an affiliate located within this state, in a financing or refinancing on behalf of a health institution located within this state.

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

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

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

1-16A-2.1. Community defined.

Signed March 23, 2020
