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SENATE BILL 248

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Mary Kay Papen

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

**RELATING TO BEHAVIORAL HEALTH; PROVIDING A LOAN PROGRAM FOR
FUNDING CAPITAL PROJECTS FOR NONPROFIT BEHAVIORAL HEALTH
FACILITIES; ENACTING THE BEHAVIORAL HEALTH CAPITAL FUNDING ACT.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. SHORT TITLE.--This act may be cited as the
"Behavioral Health Capital Funding Act".**

**Section 2. PURPOSE.--The purpose of the Behavioral Health
Capital Funding Act is to provide funding for capital projects
to eligible entities in order to increase behavioral health
care services to sick and indigent patients.**

**Section 3. DEFINITIONS.--As used in the Behavioral Health
Capital Funding Act:**

**A. "authority" means the New Mexico finance
authority;**

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1 B. "capital project" means repair, renovation or
2 construction of a behavioral health facility; purchase of land;
3 or acquisition of capital equipment of a long-term nature;

4 C. "department" means the department of health;

5 D. "eligible entity" means a nonprofit behavioral
6 health facility that has assets totaling less than ten million
7 dollars (\$10,000,000), is a 501(c)(3) nonprofit corporation for
8 federal income tax purposes and serves primarily sick and
9 indigent patients; and

10 E. "fund" means the behavioral health capital fund.

11 Section 4. BEHAVIORAL HEALTH CAPITAL FUND. --

12 A. The "behavioral health capital fund" is created
13 as a revolving fund in the authority. The fund shall consist
14 of appropriations, loan repayments, gifts, grants, donations
15 and interest earned on investment of the fund. Money in the
16 fund shall not revert at the end of a fiscal year.

17 B. Money in the fund is appropriated to the
18 authority for the purpose of making loans to eligible entities
19 for capital projects pursuant to the Behavioral Health Capital
20 Funding Act.

21 C. The fund shall be administered by the authority.
22 Administrative costs of the authority or department shall not
23 be paid from the fund.

24 Section 5. DEPARTMENT--AUTHORITY--RULES.--The department,
25 in conjunction with the authority, shall adopt rules to

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1 administer and implement the provisions of the Behavioral
2 Health Capital Funding Act, including provisions:

3 A. establishing procedures and forms for applying
4 for loans for capital projects;

5 B. specifying the documentation required to be
6 provided by the applicant to justify the need for the capital
7 project;

8 C. specifying the documentation required to be
9 provided by the applicant to demonstrate that the applicant is
10 an eligible entity;

11 D. establishing procedures for review, evaluation
12 and approval of loans, including the programmatic,
13 organizational and financial information necessary to review,
14 evaluate and approve an application;

15 E. for evaluating the ability and competence of an
16 applicant to provide efficiently and adequately for the
17 completion of a proposed capital project;

18 F. for the approval of loan applications, including
19 provisions that accord priority attention to areas with the
20 greatest need for behavioral health services;

21 G. that ensure fair geographic distribution of
22 loans;

23 H. establishing requirements for repayment of
24 loans, including payment schedules, interest rates, loan terms
25 and other requirements;

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1 I. for ensuring the state's interest in any capital
2 project by the filing of a lien equal to the total of the
3 state's financial participation in the project; and

4 J. for such other requirements deemed necessary by
5 the department and the authority to ensure that the state
6 receives the behavioral health services for which the
7 legislature appropriates money and that the state's interest in
8 a capital project is protected.

9 Section 6. DEPARTMENT--AUTHORITY--POWERS AND DUTIES. --

10 A. The department and the authority shall
11 administer the loan programs established pursuant to the
12 provisions of the Behavioral Health Capital Funding Act. The
13 department and the authority shall:

14 (1) enter into joint powers agreements with
15 each other or other appropriate public agencies to carry out
16 the provisions of that act; and

17 (2) apply to any appropriate federal, state or
18 local governmental agency or private organization for grants
19 and gifts to carry out the provisions of that act.

20 B. The department and the authority may:

21 (1) make and enter into contracts and
22 agreements necessary to carry out their powers and duties
23 pursuant to the provisions of the Behavioral Health Capital
24 Funding Act; and

25 (2) do all things necessary or appropriate to

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1 carry out the provisions of the Behavioral Health Capital
2 Funding Act.

3 C. The authority is responsible for all financial
4 duties of the programs, including:

5 (1) administering the fund;

6 (2) accounting for all money received,
7 controlled or disbursed for capital projects in accordance with
8 the provisions of the Behavioral Health Capital Funding Act;

9 (3) evaluating and approving loans, including
10 determining the financial capacity of an eligible entity;

11 (4) enforcing contract provisions of loans,
12 including the ability to sue to recover money or property owed
13 the state;

14 (5) determining interest rates and other
15 financial aspects of a loan and relevant terms of a contract
16 for services; and

17 (6) performing other duties in accordance with
18 the provisions of the Behavioral Health Capital Funding Act,
19 rules promulgated pursuant to that act or joint powers
20 agreements entered into with the department.

21 D. The department is responsible for the following
22 duties:

23 (1) defining sick and medically indigent
24 persons for purposes of the Behavioral Health Capital Funding
25 Act;

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- 1 (2) establishing priorities for loans;
- 2 (3) determining the appropriateness of a
- 3 capital project;
- 4 (4) evaluating the capability of an applicant
- 5 to provide and maintain behavioral health services;
- 6 (5) selecting recipients of loans; and
- 7 (6) determining that capital projects comply
- 8 with all state and federal licensing and procurement
- 9 requirements.

10 E. The authority may make a loan to an eligible

11 entity to acquire, construct, renovate or otherwise improve a

12 capital project, provided there is a finding:

13 (1) by the department that the project will

14 provide behavioral health services to sick and indigent persons

15 as defined by the department; and

16 (2) by the authority that there is adequate

17 protection, including loan guarantees, real property liens,

18 title insurance, security interests in or pledges of accounts

19 and other assets, loan covenants and warranties or restrictions

20 or other encumbrances and pledges for the state funds extended

21 for the loan.

22 Section 7. ELIGIBLE ENTITY--CHANGE IN STATUS.--If an

23 eligible entity that has received a loan for a capital project

24 ceases to maintain its nonprofit status or ceases to deliver

25 behavioral health services at the site of the capital project

1 for twelve consecutive months, the state may pursue the
2 remedies provided in the loan agreement or as provided by law.

3 Section 8. REPORT.--The department and the authority
4 shall report jointly to the governor and the legislature by
5 December 1 of each year on the behavioral health capital
6 funding program.

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