

1 AN ACT  
2 RELATING TO BEHAVIORAL HEALTH; PROVIDING A LOAN PROGRAM FOR  
3 FUNDING CAPITAL PROJECTS FOR NONPROFIT BEHAVIORAL HEALTH  
4 FACILITIES; ENACTING THE BEHAVIORAL HEALTH CAPITAL FUNDING ACT.

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

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

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

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

- 14 A. "authority" means the New Mexico finance authority;
- 15 B. "capital project" means repair, renovation or construction of a  
16 behavioral health facility; purchase of land; or acquisition of capital equipment of a  
17 long-term nature;
- 18 C. "department" means the department of health;
- 19 D. "eligible entity" means a nonprofit behavioral health facility that  
20 has assets totaling less than ten million dollars (\$10,000,000), is a 501(c)(3)  
21 nonprofit corporation for federal income tax purposes and serves primarily sick and  
22 indigent patients; and
- 23 E. "fund" means the behavioral health capital fund.

24 Section 4. BEHAVIORAL HEALTH CAPITAL FUND.--

25 A. The "behavioral health capital fund" is created as a revolving fund  
in the authority. The fund shall consist of appropriations, loan repayments, gifts,  
grants, donations and interest earned on investment of the fund. Money in the fund

1 shall not revert at the end of a fiscal year.

2 B. Money in the fund is appropriated to the authority for the purpose  
3 of making loans to eligible entities for capital projects pursuant to the Behavioral  
4 Health Capital Funding Act.

5 C. The fund shall be administered by the authority. Administrative  
6 costs of the authority or department shall not be paid from the fund.

7 Section 5. DEPARTMENT--AUTHORITY--RULES.--The department, in  
8 conjunction with the authority, shall adopt rules to administer and implement the  
9 provisions of the Behavioral Health Capital Funding Act, including provisions:

10 A. establishing procedures and forms for applying for loans for  
11 capital projects;

12 B. specifying the documentation required to be provided by the  
13 applicant to justify the need for the capital project;

14 C. specifying the documentation required to be provided by the  
15 applicant to demonstrate that the applicant is an eligible entity;

16 D. establishing procedures for review, evaluation and approval of  
17 loans, including the programmatic, organizational and financial information  
18 necessary to review, evaluate and approve an application;

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

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

24 G. that ensure fair geographic distribution of loans;

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

I. for ensuring the state's interest in any capital project by the filing of

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1 a lien equal to the total of the state's financial participation in the project; and  
2 J. for such other requirements deemed necessary by the department  
3 and the authority to ensure that the state receives the behavioral health services for  
4 which the legislature appropriates money and that the state's interest in a capital  
5 project is protected.

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

7 A. The department and the authority shall administer the loan  
8 programs established pursuant to the provisions of the Behavioral Health Capital  
9 Funding Act. The department and the authority shall:

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

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

15 B. The department and the authority may:

16 (1) make and enter into contracts and agreements necessary  
17 to carry out their powers and duties pursuant to the provisions of the Behavioral  
18 Health Capital Funding Act; and

19 (2) do all things necessary or appropriate to carry out the  
20 provisions of the Behavioral Health Capital Funding Act.

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

23 (1) administering the fund;

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

(3) evaluating and approving loans, including determining the

1 financial capacity of an eligible entity;  
2 (4) enforcing contract provisions of loans, including the ability  
3 to sue to recover money or property owed the state;  
4 (5) determining interest rates and other financial aspects of a  
5 loan and relevant terms of a contract for services; and  
6 (6) performing other duties in accordance with the provisions  
7 of the Behavioral Health Capital Funding Act, rules promulgated pursuant to that act  
8 or joint powers agreements entered into with the department.

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9 D. The department is responsible for the following duties:

- 10 (1) defining sick and medically indigent persons for purposes  
11 of the Behavioral Health Capital Funding Act;  
12 (2) establishing priorities for loans;  
13 (3) determining the appropriateness of a capital project;  
14 (4) evaluating the capability of an applicant to provide and  
15 maintain behavioral health services;  
16 (5) selecting recipients of loans; and  
17 (6) determining that capital projects comply with all state and  
18 federal licensing and procurement requirements.

19 E. The authority may make a loan to an eligible entity to acquire,  
20 construct, renovate or otherwise improve a capital project, provided there is a  
21 finding:

- 22 (1) by the department that the project will provide behavioral  
23 health services to sick and indigent persons as defined by the department; and  
24 (2) by the authority that there is adequate protection,  
25 including loan guarantees, real property liens, title insurance, security interests in or  
pledges of accounts and other assets, loan covenants and warranties or restrictions  
or other encumbrances and pledges for the state funds extended for the loan.

1 Section 7. ELIGIBLE ENTITY--CHANGE IN STATUS.--If an eligible entity  
2 that has received a loan for a capital project ceases to maintain its nonprofit status  
3 or ceases to deliver behavioral health services at the site of the capital project for  
4 twelve consecutive months, the state may pursue the remedies provided in the loan  
5 agreement or as provided by law.

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

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