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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;
- B. "capital project" means repair, renovation or construction of a behavioral health facility; purchase of land; or acquisition of capital equipment of a long-term nature;
- C. "department" means the department of health;
- D. "eligible entity" means a nonprofit behavioral health facility that has assets totaling less than ten million dollars (\$10,000,000), is a 501(c)(3) nonprofit

1 corporation for federal income tax purposes and serves  
2 primarily sick and indigent patients; and

3 E. "fund" means the behavioral health capital  
4 fund.

5 Section 4. BEHAVIORAL HEALTH CAPITAL FUND.--

6 A. The "behavioral health capital fund" is created  
7 as a revolving fund in the authority. The fund shall consist  
8 of appropriations, loan repayments, gifts, grants, donations  
9 and interest earned on investment of the fund. Money in the  
10 fund shall not revert at the end of a fiscal year.

11 B. Money in the fund is appropriated to the  
12 authority for the purpose of making loans to eligible  
13 entities for capital projects pursuant to the Behavioral  
14 Health Capital Funding Act.

15 C. The fund shall be administered by the  
16 authority. Administrative costs of the authority or  
17 department shall not be paid from the fund.

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

22 A. establishing procedures and forms for applying  
23 for loans for capital projects;

24 B. specifying the documentation required to be  
25 provided by the applicant to justify the need for the capital

1 project;

2 C. specifying the documentation required to be  
3 provided by the applicant to demonstrate that the applicant  
4 is an eligible entity;

5 D. establishing procedures for review, evaluation  
6 and approval of loans, including the programmatic,  
7 organizational and financial information necessary to review,  
8 evaluate and approve an application;

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

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

15 G. that ensure fair geographic distribution of  
16 loans;

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

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

23 J. for such other requirements deemed necessary by  
24 the department and the authority to ensure that the state  
25 receives the behavioral health services for which the

1 legislature appropriates money and that the state's interest  
2 in a capital project is protected.

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

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

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

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

14 B. The department and the authority may:

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

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

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

24 (1) administering the fund;

25 (2) accounting for all money received,

1 controlled or disbursed for capital projects in accordance  
2 with the provisions of the Behavioral Health Capital Funding  
3 Act;

4 (3) evaluating and approving loans,  
5 including determining the financial capacity of an eligible  
6 entity;

7 (4) enforcing contract provisions of loans,  
8 including the ability to sue to recover money or property  
9 owed the state;

10 (5) determining interest rates and other  
11 financial aspects of a loan and relevant terms of a contract  
12 for services; and

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

17 D. The department is responsible for the following  
18 duties:

19 (1) defining sick and medically indigent  
20 persons for purposes of the Behavioral Health Capital Funding  
21 Act;

22 (2) establishing priorities for loans;

23 (3) determining the appropriateness of a  
24 capital project;

25 (4) evaluating the capability of an

1 applicant to provide and maintain behavioral health services;

2 (5) selecting recipients of loans; and

3 (6) determining that capital projects comply  
4 with all state and federal licensing and procurement  
5 requirements.

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

9 (1) by the department that the project will  
10 provide behavioral health services to sick and indigent  
11 persons as defined by the department; and

12 (2) by the authority that there is adequate  
13 protection, including loan guarantees, real property liens,  
14 title insurance, security interests in or pledges of accounts  
15 and other assets, loan covenants and warranties or  
16 restrictions or other encumbrances and pledges for the state  
17 funds extended for the loan.

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

25 Section 8. REPORT.--The department and the authority

1 shall report jointly to the governor and the legislature by  
2 December 1 of each year on the behavioral health capital  
3 funding program. \_\_\_\_\_

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