

1 HOUSE BILL NO. 149

2 INTRODUCED BY R. JOHNSON

3 BY REQUEST OF THE DEPARTMENT OF COMMERCE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS RELATED TO THE HEALTH FACILITY
6 AUTHORITY; REVISING DEFINITIONS TO INCLUDE ADDITIONAL VARIATIONS OF HEALTH INSTITUTIONS;
7 CLARIFYING AUTHORITY TO MAKE DIRECT LOANS FROM THE AUTHORITY'S FUNDS; CLARIFYING
8 FUNDING OF THE CAPITAL RESERVE ACCOUNT; PROVIDING THAT THE AUTHORITY MAY MAKE
9 CERTAIN DEPOSITS INTO THE CAPITAL RESERVE ACCOUNT; CLARIFYING THAT THE AUTHORITY'S
10 MEETINGS ARE COVERED UNDER THE OPEN MEETING LAW; AND AMENDING SECTIONS 90-7-102,
11 90-7-104, 90-7-201, 90-7-202, 90-7-211, 90-7-213, 90-7-302, 90-7-305, AND 90-7-317, MCA."

12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14

15 **Section 1.** Section 90-7-102, MCA, is amended to read:

16 **"90-7-102. Definitions.** As used in this chapter, unless the context requires otherwise, the
17 following definitions apply:

18 (1) "Authority" means the Montana health facility authority created in 2-15-1815.

19 (2) "Capital reserve account" means the account established in 90-7-317.

20 (3) "Costs" means costs allowed under 90-7-103.

21 (4) "Health facility" means any facility provided for in 90-7-104.

22 (5) (a) "Health institution" means any public or private, nonprofit hospital, corporation, or other
23 organization authorized to provide or operate a health facility in this state.

24 (b) The term also includes the following, provided that the entity is a nonprofit entity or is
25 controlled by one or more nonprofit entities:

26 (i) a network of health care providers, regardless of how it is organized;27 (ii) an integrated health care delivery system;28 (iii) a joint venture or partnership between or among health care providers;29 (iv) a health care purchasing alliance;30 (v) any health insurers and third-party administrators that are participants in a system, network,

1 joint venture, or partnership that provides health services to one or more health institutions.

2 (6) "Participating health institution" means a health institution that undertakes the financing,
3 refunding, or refinancing of obligations on the construction or acquisition of a health facility pursuant to
4 the provisions of this chapter.

5 (7) "Revenues" means, with respect to facilities, the rents, fees, charges, interest, principal
6 repayments, and other income received or to be received by the authority from any source on account of
7 ~~such~~ the facilities."

8

9 **Section 2.** Section 90-7-104, MCA, is amended to read:

10 **"90-7-104. Eligible health facility.** (1) ~~Eligible health facility~~ The term "eligible health facility"
11 means any structure or building ~~used~~ suitable for use as:

12 (a) a hospital, clinic, nursing home, or other health care facility as defined in 50-5-101;

13 (b) ~~center~~ a facility for persons with developmental disabilities;

14 (c) ~~center~~ a facility for the handicapped;

15 (d) a chemical dependency treatment center;

16 (e) a nursing school;

17 (f) a medical teaching facility;

18 (g) a laboratory;

19 (h) a dental care facility;

20 (i) a diagnostic, treatment, or surgical center; or

21 (j) ~~other~~ a structure or facility related to any of the ~~foregoing~~ uses enumerated in subsections (1)(a)
22 through (1)(i) or required or useful for the operation of a health facility. These related facilities include
23 supporting service structures and all necessary, useful, and related equipment, furnishings, and
24 appurtenances and include without limitation the acquisition, preparation, and development of all lands and
25 real and personal property necessary or convenient as a site for any of the ~~foregoing~~ uses enumerated in
26 subsections (1)(a) through (1)(i).

27 (2) An eligible health facility does not include; ~~such~~

28 (a) items such as food, fuel, supplies, or other items that are customarily considered as current
29 operating expenses; and ~~eligible health facility does not include~~

30 (b) a structure used or to be used primarily for sectarian instruction or study or as a place for

1 devotional activities or religious worship."

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3 **Section 3.** Section 90-7-201, MCA, is amended to read:

4 **"90-7-201. Authority -- quorum -- mode of action -- expenses.** (1) Four members of the authority
5 constitute a quorum for the purpose of conducting business. Action may be taken by the authority upon
6 the affirmative vote of at least four of its members. ~~No~~ A vacancy in the membership of the authority
7 ~~impairs~~ does not impair the right of a quorum to exercise all the rights and perform all the duties of the
8 authority.

9 (2) Each meeting of the authority for any purpose must be open to the public. ~~Notice of meetings~~
10 ~~must be as provided in the bylaws of the authority~~ as provided for in Title 2, chapter 3, part 2. Resolutions
11 need not be published or posted.

12 (3) Each member is entitled to be paid \$50 for each day ~~he~~ that the member is actually and
13 necessarily engaged in the performance of board duties plus cost of travel, lodging, and meals as provided
14 in 2-18-501 through 2-18-503."

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16 **Section 4.** Section 90-7-202, MCA, is amended to read:

17 **"90-7-202. Powers of authority.** The authority may:

18 (1) sue and be sued;

19 (2) have a seal;

20 (3) adopt all procedural and substantive rules necessary for the administration of this chapter;

21 (4) issue bonds or incur other debt as described in this chapter, including the issuance of notes or
22 refunding bonds;

23 (5) invest any funds ~~obtained from the issuance of bonds and notes which~~ that are not required
24 for immediate use, subject to any agreements with its bondholders and noteholders, as provided in Title
25 17, chapter 6, except that all investment income from funds invested by the authority, less the cost for
26 investment, must be deposited in an enterprise fund to the credit of the authority to be used to carry out
27 the purposes of this chapter;

28 (6) contract in its own name for the investment of funds, borrowing of funds, or any other
29 purposes it considers appropriate to carry out the purposes of this chapter;

30 (7) participate with any financial institution in the purchase or guarantee of any loan or obligation;

1 (8) issue bond anticipation notes or any other anticipatory financial obligations to secure funding
2 of eligible facilities;

3 (9) enter into agreements or make advance commitments to insure repayments required by loan
4 agreements made by a lender. ~~Such~~ These agreements are subject to terms and conditions established by
5 the authority.

6 (10) establish programs to make, sell, purchase, or insure loans to finance the costs of eligible
7 facilities from any funds;

8 (11) accept gifts, grants, or loans from a federal agency, an agency or instrumentality of the state,
9 a municipality, or any other source;

10 (12) enter into contracts or other transactions with a federal agency, an agency or instrumentality
11 of the state, a municipality, a private organization, or any other entity consistent with the exercise of any
12 power under this chapter;

13 (13) with regard to property:

14 (a) acquire real or personal property or any right, interest, or easement ~~therein~~ in real or personal
15 property by gift, purchase, transfer, foreclosure, lease, or otherwise;

16 (b) hold, sell, assign, lease, encumber, mortgage, or otherwise dispose ~~thereof~~ of property;

17 (c) hold, sell, assign, or otherwise dispose of any mortgage or loan owned by it or in its control
18 or custody;

19 (d) release or relinquish any right, title, claim, interest, easement, or demand, however acquired,
20 including any equity or right of redemption;

21 (e) make any disposition by public or private sale, with or without public bidding;

22 (f) commence any action to protect or enforce any right conferred upon it by any law, mortgage,
23 contract, or other agreement;

24 (g) bid for and purchase property at any foreclosure or other sale or acquire or take possession of
25 it in lieu of foreclosure; and

26 (h) operate, manage, lease, dispose of, and otherwise deal with ~~such~~ property in any manner
27 necessary or desirable to protect its interests or the holders of its bonds or notes if ~~such~~ that action is
28 consistent with any agreement with ~~such~~ the holders;

29 (14) service, contract, and pay for the servicing of loans;

30 (15) provide general technical services in the analysis, planning, design, processing, construction,

1 rehabilitation, and management of eligible health facilities whenever considered appropriate;

2 (16) consent, whenever it considers necessary or desirable in fulfilling its purposes, to the
3 modification of the rate of interest, time, or payment of any installment of principal, interest, or security
4 or any other term of any contract, lease agreement, loan agreement, mortgage, mortgage loan, mortgage
5 loan commitment, construction loan, advance contract, or agreement of any kind, subject to any agreement
6 with bondholders and noteholders;

7 (17) collect reasonable interest, fees, and charges from participating institutions in connection with
8 making and servicing its lease agreements, loan agreements, mortgage loans, notes, bonds, commitments,
9 and other evidences of indebtedness. The interest, fees, and charges ~~shall~~ must be deposited to an
10 enterprise fund to the credit of the authority. Interest, fees, and charges are limited to the amounts required
11 to pay the costs of the authority, including operating and administrative expenses, ~~and~~ reasonable
12 allowances for losses that may be incurred, and bond financing costs, and to provide funds to make loans
13 to finance the costs of eligible facilities.

14 (18) perform any other acts necessary and convenient to carry out the purposes of this chapter."
15

16 **Section 5.** Section 90-7-211, MCA, is amended to read:

17 **"90-7-211. Necessary expenses -- fees.** (1) All expenses of the authority incurred in carrying out
18 the provisions of this chapter are payable solely from funds provided under the authority of this chapter,
19 ~~and no liability.~~ Liability may not be incurred by the authority beyond the extent to which money has been
20 provided under this chapter, except for the purposes of meeting the necessary expenses of initial
21 organization and operation and until ~~such the date as that~~ the authority derives money from funds provided
22 under this chapter. The authority may borrow money for necessary expenses of organization and operation.
23 ~~Such The~~ borrowed money must be repaid within a reasonable time after the authority receives funds
24 provided for under this chapter.

25 (2) When an application is made to the authority by any participating health institution for financial
26 assistance to provide for its facilities, the application may be accompanied by an initial planning service fee
27 in an amount determined by the authority. ~~Such The~~ initial planning service fee may be included in the cost
28 of the facilities to be financed ~~and is not refundable by the authority, whether or not any application is~~
29 ~~approved.~~ In addition to the initial fee, an annual planning service fee may be paid to the authority by each
30 participating health institution in an amount determined by the authority. The annual planning service fee

1 may be paid on ~~such~~ the dates or in installments ~~as may be~~ that are satisfactory to the authority. The fees
2 must be used for:

3 (a) necessary expenses to determine the need for facilities in the area concerned, and to that end
4 the authority may utilize recognized voluntary and official health planning organizations and agencies at
5 local, regional, and state levels;

6 (b) necessary administrative, operating, and financing expenses; ~~and~~

7 (c) reserves for anticipated future expenses or loan losses; and

8 (d) loans to finance the costs of eligible facilities.

9 (3) The authority may, for a negotiated fee, retain the services of any other public or private
10 person, firm, partnership, association, or corporation for the furnishing of services and data for use by the
11 authority in determining the need for and location of any eligible health facility for which application is being
12 made or for ~~such~~ other services or surveys ~~as~~ that the authority considers necessary to carry out the
13 purposes of this chapter."
14

15 **Section 6.** Section 90-7-213, MCA, is amended to read:

16 **"90-7-213. Loan limitation.** ~~No~~ A loan made by the authority may not exceed the total cost or
17 appraised value of the eligible health facility being financed as ~~such~~ the cost or appraised value is
18 determined by the participating institution and approved by the authority."
19

20 **Section 7.** Section 90-7-302, MCA, is amended to read:

21 **"90-7-302. Bonds and notes of the authority.** (1) The authority may in each biennium borrow
22 money and issue bonds and notes in an aggregate principal amount not to exceed ~~\$150~~ \$250 million,
23 exclusive of bonds or notes issued to refund ~~the~~ outstanding bonds or notes.

24 (2) Bonds must be authorized₇. The authority may specify that the bonds must be dated₇ and must
25 mature ~~as the authority may specify~~, except that a bond may not mature more than 40 years from the date
26 of its issue. Bonds must:

27 (a) bear interest at ~~the~~ a rate or rates₇;

28 (b) be in ~~the~~ denominations₇;

29 (c) be in the proper registered or bearer form₇;

30 (d) be executed in ~~the~~ a manner₇;

1 (e) be payable in ~~the~~ a medium of payment, and at ~~the~~ a place or places, ~~and~~; and

2 (f) be subject to ~~the~~ terms of redemption that the authority may provide.

3 (3) All bonds, regardless of form or character, are negotiable instruments for all purposes of the
4 Uniform Commercial Code, subject to requirements as to registration.

5 (4) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the
6 time or times ~~which~~ that the authority may determine.

7 (5) Before the issuance of any bonds, the authority shall make provisions, by lease or other
8 agreement, regarding the facility or facilities being financed by the issue of the bonds, for rentals or other
9 considerations sufficient, in the judgment of the authority, to:

10 (a) pay the principal of and interest on the bonds as they become due;

11 (b) create and maintain the reserves for payment of the principal and interest;

12 (c) meet all obligations in connection with the lease or other agreement; and

13 (d) meet all costs necessary to service the bonds unless the lease or agreement provides that the
14 obligations are to be met or costs are to be paid by a party other than the authority.

15 (6) The authority, before issuing any bonds, shall certify that an applicant has submitted a
16 statement that indicates that any contract let for a project costing more than \$25,000 and financed from
17 the proceeds of bonds issued under this part on or after July 1, 1993, will contain a provision requiring the
18 contractor to pay the standard prevailing wage rate in effect and applicable to the district in which the work
19 is being performed unless the contractor performing the work has entered into a collective bargaining
20 agreement covering the work to be performed.

21 (7) The authority may combine, for the purposes of a single offering, bonds financing more than
22 one facility under this chapter."

23
24 **Section 8.** Section 90-7-305, MCA, is amended to read:

25 **"90-7-305. Trust agreement to secure bonds.** In the discretion of the authority, any bonds issued
26 under this chapter may be secured by a trust agreement between the authority and a corporate trustee,
27 which may be any trust company or bank having the powers of a trust company in Montana or outside of
28 Montana, if it is determined by the authority to be in the best interest of financing the bonds. The trust
29 agreement or the resolution providing for the issuance of ~~such~~ the bonds may pledge or assign the revenues
30 to be received or the proceeds of any contract or contracts pledged and may convey or mortgage the

1 project or any portion ~~thereof~~ of the project. The trust agreement or resolution providing for the issuance
 2 of ~~such~~ the bonds may contain ~~such~~ provisions for protecting and enforcing the rights and remedies of the
 3 bondholders as may be reasonable and proper and not in violation of law, including particularly ~~such~~ any
 4 provisions ~~as~~ that have been specifically authorized to be included in ~~any~~ a resolution of the authority
 5 authorizing bonds. ~~Any~~ A bank or trust company incorporated under the laws of this state, ~~which~~ that may
 6 act as depository of the proceeds of bonds or of revenues or other money, may furnish ~~such~~ indemnifying
 7 bonds or pledge ~~such~~ securities ~~as~~ that may be required by the authority. ~~Any~~ such A trust agreement may
 8 set forth the rights and remedies of the bondholders and of the trustee or trustees and may restrict the
 9 individual right of action by bondholders. In addition, ~~any~~ such a trust agreement or resolution may contain
 10 ~~such~~ other provisions ~~as~~ that the authority may consider reasonable and proper for the security of the
 11 bondholders. All expenses incurred in carrying out ~~such~~ the trust agreement or resolution may be treated
 12 as a part of the cost of the operation of an eligible health facility."

13

14 **Section 9.** Section 90-7-317, MCA, is amended to read:

15 **"90-7-317. Capital reserve account.** (1) There is a capital reserve account in the enterprise fund
 16 provided for in 90-7-202(17).

17 (2) The authority shall deposit into the capital reserve account:

18 (a) funds from state appropriations received for deposit into the account, as provided in 90-7-319,
 19 for bonds issued to finance capital projects for community health facilities that contract with the state to
 20 provide health care services or bonds issued to finance the facilities described in 90-7-220 and 90-7-221;
 21 and

22 (b) proceeds from the sale of bonds or notes to the extent provided in the resolutions or indentures
 23 of the authority authorizing their issuance;

24 (3) The authority may also deposit into the capital reserve account:

25 ~~(a)~~ (a) revenue from fees and charges imposed by the authority;

26 ~~(b)~~ (b) income from the investment of funds belonging to the authority; and

27 ~~(c)~~ (c) any other funds that may be available to the authority for the purpose of the account from
 28 any other source, including loans authorized under 90-7-320."

29

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0149, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act authorizing the Montana Health Facility Authority to finance additional variations of the health facilities, to make direct loans from the Authority's funds, clarifies how the capital reserve account is to be funded, incorporates the procedures of the Montana open meeting law, and revises other pertinent statutory language to accommodate the changes in the health care industry and federal tax law which directly impact tax-exempt, revenue bond financing.

ASSUMPTIONS:

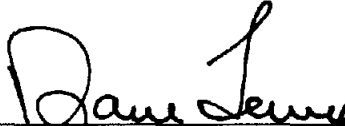
1. The authority financing program will continue to be used by non-profit health care facilities which are revising their methods of providing services to meet the impact of managed care and other cost containment activities.
2. Health facility mergers, consolidations and acquisitions will dominate the future health care industry, and future, dominant facilities will be composed of health facility networks and systems.
3. Smaller, less capital intensive facilities will require lower volume capital. Their difficulty in accessing the low cost, tax-exempt capital markets will continue.
4. The Department of Commerce, Montana Health Facility Authority will have no additional operating costs. Bond issuance costs will be paid by the health care facilities.

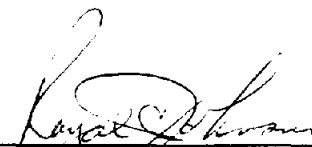
FISCAL IMPACT:

None.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

To the extent that cost efficient tax-exempt financing continues to be available to health facilities which are eligible for financing under the authority programs, the costs of capital for health facilities will be less and the savings passed on to the consumer in the form of lower per diem rates.

 1-11-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/13/97
ROYAL JOHNSON, PRIMARY SPONSOR DATE

Fiscal Note for HB 0149, as introduced

HB 149

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5 the provisions of this chapter.

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26 real and personal property necessary or convenient as a site for any of the ~~foregoing~~ uses enumerated in
27 subsections (1)(a) through (1)(i).

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26 (2) When an application is made to the authority by any participating health institution for financial
27 assistance to provide for its facilities, the application may be accompanied by an initial planning service fee
28 in an amount determined by the authority. ~~Such~~ The initial planning service fee may be included in the cost
29 of the facilities to be financed ~~and is not refundable by the authority, whether or not any application is~~
30 ~~approved.~~ In addition to the initial fee, an annual planning service fee may be paid to the authority by each

1 participating health institution in an amount determined by the authority. The annual planning service fee
 2 may be paid on ~~such~~ the dates or in installments ~~as may be~~ that are satisfactory to the authority. The fees
 3 must be used for:

4 (a) necessary expenses to determine the need for facilities in the area concerned, and to that end
 5 the authority may utilize recognized voluntary and official health planning organizations and agencies at
 6 local, regional, and state levels;

7 (b) necessary administrative, operating, and financing expenses; ~~and~~

8 (c) reserves for anticipated future expenses or loan losses; and

9 (d) loans to finance the costs of eligible facilities.

10 (3) The authority may, for a negotiated fee, retain the services of any other public or private
 11 person, firm, partnership, association, or corporation for the furnishing of services and data for use by the
 12 authority in determining the need for and location of any eligible health facility for which application is being
 13 made or for ~~such~~ other services or surveys ~~as~~ that the authority considers necessary to carry out the
 14 purposes of this chapter."
 15

16 **Section 6.** Section 90-7-213, MCA, is amended to read:

17 "**90-7-213. Loan limitation.** ~~No~~ A loan made by the authority may not exceed the total cost or
 18 appraised value of the eligible health facility being financed as ~~such~~ the cost or appraised value is
 19 determined by the participating institution and approved by the authority."
 20

21 **Section 7.** Section 90-7-302, MCA, is amended to read:

22 "**90-7-302. Bonds and notes of the authority.** (1) The authority may in each biennium borrow
 23 money and issue bonds and notes in an aggregate principal amount not to exceed ~~\$150~~ \$250 million,
 24 exclusive of bonds or notes issued to refund ~~its~~ outstanding bonds or notes.

25 (2) Bonds must be authorized₇. The authority may specify that the bonds must be dated₇ and must
 26 mature ~~as the authority may specify~~, except that a bond may not mature more than 40 years from the date
 27 of its issue. Bonds must:

28 (a) bear interest at ~~the~~ a rate or rates₇;

29 (b) be in ~~the~~ denominations₇;

30 (c) be in the proper registered or bearer form₇;

1 (d) be executed in ~~the a~~ manner;

2 (e) be payable in ~~the a~~ medium of payment, and at ~~the a~~ place or places, ~~and~~; and

3 (f) be subject to ~~the~~ terms of redemption that the authority may provide.

4 (3) All bonds, regardless of form or character, are negotiable instruments for all purposes of the
5 Uniform Commercial Code, subject to requirements as to registration.

6 (4) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the
7 time or times ~~which~~ that the authority may determine.

8 (5) Before the issuance of any bonds, the authority shall make provisions, by lease or other
9 agreement, regarding the facility or facilities being financed by the issue of the bonds, for rentals or other
10 considerations sufficient, in the judgment of the authority, to:

11 (a) pay the principal of and interest on the bonds as they become due;

12 (b) create and maintain the reserves for payment of the principal and interest;

13 (c) meet all obligations in connection with the lease or other agreement; and

14 (d) meet all costs necessary to service the bonds unless the lease or agreement provides that the
15 obligations are to be met or costs are to be paid by a party other than the authority.

16 (6) The authority, before issuing any bonds, shall certify that an applicant has submitted a
17 statement that indicates that any contract let for a project costing more than \$25,000 and financed from
18 the proceeds of bonds issued under this part on or after July 1, 1993, will contain a provision requiring the
19 contractor to pay the standard prevailing wage rate in effect and applicable to the district in which the work
20 is being performed unless the contractor performing the work has entered into a collective bargaining
21 agreement covering the work to be performed.

22 (7) The authority may combine, for the purposes of a single offering, bonds financing more than
23 one facility under this chapter."
24

25 **Section 8.** Section 90-7-305, MCA, is amended to read:

26 **"90-7-305. Trust agreement to secure bonds.** In the discretion of the authority, any bonds issued
27 under this chapter may be secured by a trust agreement between the authority and a corporate trustee,
28 which may be any trust company or bank having the powers of a trust company in Montana or outside of
29 Montana, if it is determined by the authority to be in the best interest of financing the bonds. The trust
30 agreement or the resolution providing for the issuance of ~~such~~ the bonds may pledge or assign the revenues

1 to be received or the proceeds of any contract or contracts pledged and may convey or mortgage the
 2 project or any portion ~~thereof~~ of the project. The trust agreement or resolution providing for the issuance
 3 of ~~such~~ the bonds may contain ~~such~~ provisions for protecting and enforcing the rights and remedies of the
 4 bondholders as may be reasonable and proper and not in violation of law, including particularly ~~such~~ any
 5 provisions ~~as~~ that have been specifically authorized to be included in ~~any~~ a resolution of the authority
 6 authorizing bonds. ~~Any~~ A bank or trust company incorporated under the laws of this state, ~~which~~ that may
 7 act as depository of the proceeds of bonds or of revenues or other money, may furnish ~~such~~ indemnifying
 8 bonds or pledge ~~such~~ securities ~~as~~ that may be required by the authority. ~~Any such~~ A trust agreement may
 9 set forth the rights and remedies of the bondholders and of the trustee or trustees and may restrict the
 10 individual right of action by bondholders. In addition, ~~any such~~ a trust agreement or resolution may contain
 11 ~~such~~ other provisions ~~as~~ that the authority may consider reasonable and proper for the security of the
 12 bondholders. All expenses incurred in carrying out ~~such~~ the trust agreement or resolution may be treated
 13 as a part of the cost of the operation of an eligible health facility."

14

15 **Section 9.** Section 90-7-317, MCA, is amended to read:

16 **"90-7-317. Capital reserve account.** (1) There is a capital reserve account in the enterprise fund
 17 provided for in 90-7-202(17).

18 (2) The authority shall deposit into the capital reserve account:

19 (a) funds from state appropriations received for deposit into the account, as provided in 90-7-319,
 20 for bonds issued to finance capital projects for community health facilities that contract with the state to
 21 provide health care services or bonds issued to finance the facilities described in 90-7-220 and 90-7-221;
 22 and

23 (b) proceeds from the sale of bonds or notes to the extent provided in the resolutions or indentures
 24 of the authority authorizing their issuance;

25 (3) The authority may also deposit into the capital reserve account:

26 ~~(a)~~ (a) revenue from fees and charges imposed by the authority;

27 ~~(b)~~ (b) income from the investment of funds belonging to the authority; and

28 ~~(c)~~ (c) any other funds that may be available to the authority for the purpose of the account from
 29 any other source, including loans authorized under 90-7-320."

30

-END-

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HOUSE BILL NO. 149

INTRODUCED BY R. JOHNSON

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS RELATED TO THE HEALTH FACILITY AUTHORITY; REVISING DEFINITIONS TO INCLUDE ADDITIONAL VARIATIONS OF HEALTH INSTITUTIONS; CLARIFYING AUTHORITY TO MAKE DIRECT LOANS FROM THE AUTHORITY'S FUNDS; CLARIFYING FUNDING OF THE CAPITAL RESERVE ACCOUNT; PROVIDING THAT THE AUTHORITY MAY MAKE CERTAIN DEPOSITS INTO THE CAPITAL RESERVE ACCOUNT; CLARIFYING THAT THE AUTHORITY'S MEETINGS ARE COVERED UNDER THE OPEN MEETING LAW; AND AMENDING SECTIONS 90-7-102, 90-7-104, 90-7-201, 90-7-202, 90-7-211, 90-7-213, 90-7-302, 90-7-305, AND 90-7-317, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO SECOND READING COPY (YELLOW) FOR COMPLETE TEXT.

HOUSE BILL NO. 149

INTRODUCED BY R. JOHNSON

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS RELATED TO THE HEALTH FACILITY AUTHORITY; REVISING DEFINITIONS TO INCLUDE ADDITIONAL VARIATIONS OF HEALTH INSTITUTIONS; CLARIFYING AUTHORITY TO MAKE DIRECT LOANS FROM THE AUTHORITY'S FUNDS; CLARIFYING FUNDING OF THE CAPITAL RESERVE ACCOUNT; PROVIDING THAT THE AUTHORITY MAY MAKE CERTAIN DEPOSITS INTO THE CAPITAL RESERVE ACCOUNT; CLARIFYING THAT THE AUTHORITY'S MEETINGS ARE COVERED UNDER THE OPEN MEETING LAW; AND AMENDING SECTIONS 90-7-102, 90-7-104, 90-7-201, 90-7-202, 90-7-211, 90-7-213, 90-7-302, ~~90-7-305~~, AND 90-7-317, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 90-7-102, MCA, is amended to read:

"90-7-102. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

- (1) "Authority" means the Montana health facility authority created in 2-15-1815.
- (2) "Capital reserve account" means the account established in 90-7-317.
- (3) "Costs" means costs allowed under 90-7-103.
- (4) "Health facility" means any facility provided for in 90-7-104.
- (5) (a) "Health institution" means any public or private, nonprofit hospital, corporation, or other organization authorized to provide or operate a health facility in this state.
- (b) The term also includes the following, provided that the entity is a nonprofit entity or is controlled by one or more nonprofit entities:
 - (i) a network of health care providers, regardless of how it is organized;
 - (ii) an integrated health care delivery system;
 - (iii) a joint venture or partnership between or among health care providers;
 - (iv) a ~~health care~~ purchasing alliance COMPOSED OF HEALTH CARE PROVIDERS;
 - (v) any health insurers and third-party administrators that are participants in a system, network,

1 ~~joint venture, or partnership that provides health services to~~ THROUGH one or more health institutions
2 FACILITIES.

3 (6) "Participating health institution" means a health institution that undertakes the financing,
4 refunding, or refinancing of obligations on the construction or acquisition of a health facility pursuant to
5 the provisions of this chapter.

6 (7) "Revenues" means, with respect to facilities, the rents, fees, charges, interest, principal
7 repayments, and other income received or to be received by the authority from any source on account of
8 ~~such~~ the facilities."

9

10 **Section 2.** Section 90-7-104, MCA, is amended to read:

11 "**90-7-104. Eligible health facility.** (1) ~~Eligible health facility~~ The term "eligible health facility"
12 means any structure or building ~~used~~ suitable for use as:

13 (a) a hospital, clinic, nursing home, or other health care facility as defined in 50-5-101;

14 (b) ~~center a facility~~ for persons with developmental disabilities;

15 (c) ~~center a facility~~ for the handicapped;

16 (d) a chemical dependency treatment center;

17 (e) a nursing school;

18 (f) a medical teaching facility;

19 (g) a laboratory;

20 (h) a dental care facility;

21 (i) a diagnostic, treatment, or surgical center; or

22 (j) ~~either a structure or facility related to any of the foregoing uses enumerated in subsections (1)(a)~~
23 through (1)(i) or required or useful for the operation of a health facility. These related facilities include
24 supporting service structures and all necessary, useful, and related equipment, furnishings, and
25 appurtenances and include without limitation the acquisition, preparation, and development of all lands and
26 real and personal property necessary or convenient as a site for any of the foregoing uses enumerated in
27 subsections (1)(a) through (1)(i).

28 (2) An eligible health facility does not include: ~~such~~

29 (a) items such as food, fuel, supplies, or other items that are customarily considered as current
30 operating expenses; and ~~eligible health facility does not include~~

1 **(b)** a structure used or to be used primarily for sectarian instruction or study or as a place for
2 devotional activities or religious worship."

3

4 **Section 3.** Section 90-7-201, MCA, is amended to read:

5 **"90-7-201. Authority -- quorum -- mode of action -- expenses.** (1) Four members of the authority
6 constitute a quorum for the purpose of conducting business. Action may be taken by the authority upon
7 the affirmative vote of at least four of its members. ~~No~~ A vacancy in the membership of the authority
8 ~~impairs~~ does not impair the right of a quorum to exercise all the rights and perform all the duties of the
9 authority.

10 (2) Each meeting of the authority for any purpose must be open to the public. ~~Notice of meetings~~
11 ~~must be as provided in the bylaws of the authority~~ as provided for in Title 2, chapter 3, part 2. Resolutions
12 need not be published or posted.

13 (3) Each member is entitled to be paid \$50 for each day ~~he~~ that the member is actually and
14 necessarily engaged in the performance of board duties plus cost of travel, lodging, and meals as provided
15 in 2-18-501 through 2-18-503."

16

17 **Section 4.** Section 90-7-202, MCA, is amended to read:

18 **"90-7-202. Powers of authority.** The authority may:

19 (1) sue and be sued;

20 (2) have a seal;

21 (3) adopt all procedural and substantive rules necessary for the administration of this chapter;

22 (4) issue bonds or incur other debt as described in this chapter, including the issuance of notes or
23 refunding bonds;

24 (5) invest any funds ~~obtained from the issuance of bonds and notes which~~ that are not required
25 for immediate use, subject to any agreements with its bondholders and noteholders, as provided in Title
26 17, chapter 6, except that all investment income from funds invested by the authority, less the cost for
27 investment, must be deposited in an enterprise fund to the credit of the authority to be used to carry out
28 the purposes of this chapter;

29 (6) contract in its own name for the investment of funds, borrowing of funds, or any other
30 purposes it considers appropriate to carry out the purposes of this chapter;

- 1 (7) participate with any financial institution in the purchase or guarantee of any loan or obligation;
- 2 (8) issue bond anticipation notes or any other anticipatory financial obligations to secure funding
3 of eligible facilities;
- 4 (9) enter into agreements or make advance commitments to insure repayments required by loan
5 agreements made by a lender. ~~Such~~ These agreements are subject to terms and conditions established by
6 the authority.
- 7 (10) establish programs to make, sell, purchase, or insure loans to finance the costs of eligible
8 facilities from any funds;
- 9 (11) accept gifts, grants, or loans from a federal agency, an agency or instrumentality of the state,
10 a municipality, or any other source;
- 11 (12) enter into contracts or other transactions with a federal agency, an agency or instrumentality
12 of the state, a municipality, a private organization, or any other entity consistent with the exercise of any
13 power under this chapter;
- 14 (13) with regard to property:
- 15 (a) acquire real or personal property or any right, interest, or easement ~~therein~~ in real or personal
16 property by gift, purchase, transfer, foreclosure, lease, or otherwise;
- 17 (b) hold, sell, assign, lease, encumber, mortgage, or otherwise dispose ~~thereof~~ of property;
- 18 (c) hold, sell, assign, or otherwise dispose of any mortgage or loan owned by it or in its control
19 or custody;
- 20 (d) release or relinquish any right, title, claim, interest, easement, or demand, however acquired,
21 including any equity or right of redemption;
- 22 (e) make any disposition by public or private sale, with or without public bidding;
- 23 (f) commence any action to protect or enforce any right conferred upon it by any law, mortgage,
24 contract, or other agreement;
- 25 (g) bid for and purchase property at any foreclosure or other sale or acquire or take possession of
26 it in lieu of foreclosure; and
- 27 (h) operate, manage, lease, dispose of, and otherwise deal with ~~each~~ property in any manner
28 necessary or desirable to protect its interests or the holders of its bonds or notes if ~~such~~ that action is
29 consistent with any agreement with ~~each~~ the holders;
- 30 (14) service, contract, and pay for the servicing of loans;

1 (15) provide general technical services in the analysis, planning, design, processing, construction,
2 rehabilitation, and management of eligible health facilities whenever considered appropriate;

3 (16) consent, whenever it considers necessary or desirable in fulfilling its purposes, to the
4 modification of the rate of interest, time, or payment of any installment of principal, interest, or security
5 or any other term of any contract, lease agreement, loan agreement, mortgage, mortgage loan, mortgage
6 loan commitment, construction loan, advance contract, or agreement of any kind, subject to any agreement
7 with bondholders and noteholders;

8 (17) collect reasonable interest, fees, and charges from participating institutions in connection with
9 making and servicing its lease agreements, loan agreements, mortgage loans, notes, bonds, commitments,
10 and other evidences of indebtedness. The interest, fees, and charges ~~shall~~ must be deposited to an
11 enterprise fund to the credit of the authority. Interest, fees, and charges are limited to the amounts required
12 to pay the costs of the authority, including operating and administrative expenses, ~~and~~ reasonable
13 allowances for losses that may be incurred, and bond financing costs, and to provide funds to make loans
14 to finance the costs of eligible facilities.

15 (18) perform any other acts necessary and convenient to carry out the purposes of this chapter."
16

17 **Section 5.** Section 90-7-211, MCA, is amended to read:

18 "**90-7-211. Necessary expenses -- fees.** (1) All expenses of the authority incurred in carrying out
19 the provisions of this chapter are payable solely from funds provided under the authority of this chapter,
20 ~~and no liability.~~ Liability may not be incurred by the authority beyond the extent to which money has been
21 provided under this chapter, except for the purposes of meeting the necessary expenses of initial
22 organization and operation and until ~~such the date as that~~ the authority derives money from funds provided
23 under this chapter. The authority may borrow money for necessary expenses of organization and operation.
24 ~~Such~~ The borrowed money must be repaid within a reasonable time after the authority receives funds
25 provided for under this chapter.

26 (2) When an application is made to the authority by any participating health institution for financial
27 assistance to provide for its facilities, the application may be accompanied by an initial planning service fee
28 in an amount determined by the authority. ~~Such~~ The initial planning service fee may be included in the cost
29 of the facilities to be financed ~~and is not refundable by the authority, whether or not any application is~~
30 ~~approved.~~ In addition to the initial fee, an annual planning service fee may be paid to the authority by each

1 participating health institution in an amount determined by the authority. The annual planning service fee
 2 may be paid on ~~such~~ the dates or in installments ~~as may be~~ that are satisfactory to the authority. The fees
 3 must be used for:

4 (a) necessary expenses to determine the need for facilities in the area concerned, and to that end
 5 the authority may utilize recognized voluntary and official health planning organizations and agencies at
 6 local, regional, and state levels;

7 (b) necessary administrative, operating, and financing expenses; ~~and~~

8 (c) reserves for anticipated future expenses or loan losses; and

9 (d) loans to finance the costs of eligible facilities.

10 (3) The authority may, for a negotiated fee, retain the services of any other public or private
 11 person, firm, partnership, association, or corporation for the furnishing of services and data for use by the
 12 authority in determining the need for and location of any eligible health facility for which application is being
 13 made or for ~~such~~ other services or surveys ~~as~~ that the authority considers necessary to carry out the
 14 purposes of this chapter."
 15

16 **Section 6.** Section 90-7-213, MCA, is amended to read:

17 "**90-7-213. Loan limitation.** ~~No~~ A loan made by the authority may not exceed the total cost or
 18 appraised value of the eligible health facility being financed as ~~such~~ the cost or appraised value is
 19 determined by the participating institution and approved by the authority."
 20

21 **Section 7.** Section 90-7-302, MCA, is amended to read:

22 "**90-7-302. Bonds and notes of the authority.** (1) The authority may in each biennium borrow
 23 money and issue bonds and notes in an aggregate principal amount not to exceed ~~\$150~~ \$250 million,
 24 exclusive of bonds or notes issued to refund ~~its~~ outstanding bonds or notes.

25 (2) Bonds must be authorized₇. The authority may specify that the bonds must be dated₇ and must
 26 mature ~~as the authority may specify~~, except that a bond may not mature more than 40 years from the date
 27 of its issue. Bonds must:

28 (a) bear interest at ~~the~~ a rate or rates₇;

29 (b) be in ~~the~~ denominations₇;

30 (c) be in the proper registered or bearer form₇;

1 (d) be executed in ~~the~~ a manner;

2 (e) be payable in ~~the~~ a medium of payment, and ~~at the~~ a place or places, ~~and~~; and

3 (f) be subject to ~~the~~ terms of redemption that the authority may provide.

4 (3) All bonds, regardless of form or character, are negotiable instruments for all purposes of the
5 Uniform Commercial Code, subject to requirements as to registration.

6 (4) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the
7 time or times ~~which~~ that the authority may determine.

8 (5) Before the issuance of any bonds, the authority shall make provisions, by lease or other
9 agreement, regarding the facility or facilities being financed by the issue of the bonds, for rentals or other
10 considerations sufficient, in the judgment of the authority, to:

11 (a) pay the principal of and interest on the bonds as they become due;

12 (b) create and maintain the reserves for payment of the principal and interest;

13 (c) meet all obligations in connection with the lease or other agreement; and

14 (d) meet all costs necessary to service the bonds unless the lease or agreement provides that the
15 obligations are to be met or costs are to be paid by a party other than the authority.

16 (6) The authority, before issuing any bonds, shall certify that an applicant has submitted a
17 statement that indicates that any contract let for a project costing more than \$25,000 and financed from
18 the proceeds of bonds issued under this part on or after July 1, 1993, will contain a provision requiring the
19 contractor to pay the standard prevailing wage rate in effect and applicable to the district in which the work
20 is being performed unless the contractor performing the work has entered into a collective bargaining
21 agreement covering the work to be performed.

22 (7) The authority may combine, for the purposes of a single offering, bonds financing more than
23 one facility under this chapter."

24

25 ~~Section 8. Section 90-7-305, MCA, is amended to read:~~

26 ~~"90-7-305. Trust agreement to secure bonds. In the discretion of the authority, any bonds issued~~
27 ~~under this chapter may be secured by a trust agreement between the authority and a corporate trustee,~~
28 ~~which may be any trust company or bank having the powers of a trust company in Montana or outside of~~
29 ~~Montana, if it is determined by the authority to be in the best interest of financing the bonds. The trust~~
30 ~~agreement or the resolution providing for the issuance of such the bonds may pledge or assign the revenues~~

~~1 to be received or the proceeds of any contract or contracts pledged and may convey or mortgage the~~
~~2 project or any portion thereof of the project. The trust agreement or resolution providing for the issuance~~
~~3 of such the bonds may contain such provisions for protecting and enforcing the rights and remedies of the~~
~~4 bondholders as may be reasonable and proper and not in violation of law, including particularly such any~~
~~5 provisions as that have been specifically authorized to be included in any a resolution of the authority~~
~~6 authorizing bonds. Any A bank or trust company incorporated under the laws of this state, which that may~~
~~7 act as depository of the proceeds of bonds or of revenues or other money, may furnish such indemnifying~~
~~8 bonds or pledge such securities as that may be required by the authority. Any such A trust agreement may~~
~~9 set forth the rights and remedies of the bondholders and of the trustee or trustees and may restrict the~~
~~10 individual right of action by bondholders. In addition, any such a trust agreement or resolution may contain~~
~~11 such other provisions as that the authority may consider reasonable and proper for the security of the~~
~~12 bondholders. All expenses incurred in carrying out such the trust agreement or resolution may be treated~~
~~13 as a part of the cost of the operation of an eligible health facility."~~

14

15 **Section 8.** Section 90-7-317, MCA, is amended to read:

16 **"90-7-317. Capital reserve account.** (1) There is a capital reserve account in the enterprise fund
 17 provided for in 90-7-202(17).

18 (2) The authority shall deposit into the capital reserve account:

19 (a) funds from state appropriations received for deposit into the account, as provided in 90-7-319,
 20 for bonds issued to finance capital projects for community health facilities that contract with the state to
 21 provide health care services or bonds issued to finance the facilities described in 90-7-220 and 90-7-221;
 22 and

23 (b) proceeds from the sale of bonds or notes to the extent provided in the resolutions or indentures
 24 of the authority authorizing their issuance;

25 (3) The authority may also deposit into the capital reserve account:

26 ~~(a)~~ (a) revenue from fees and charges imposed by the authority;

27 ~~(b)~~ (b) income from the investment of funds belonging to the authority; and

28 ~~(c)~~ (c) any other funds that may be available to the authority for the purpose of the account from
 29 any other source, including loans authorized under 90-7-320."

30

-END-

1 HOUSE BILL NO. 149

2 INTRODUCED BY R. JOHNSON

3 BY REQUEST OF THE DEPARTMENT OF COMMERCE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS RELATED TO THE HEALTH FACILITY
6 AUTHORITY; REVISING DEFINITIONS TO INCLUDE ADDITIONAL VARIATIONS OF HEALTH INSTITUTIONS;
7 CLARIFYING AUTHORITY TO MAKE DIRECT LOANS FROM THE AUTHORITY'S FUNDS; CLARIFYING
8 FUNDING OF THE CAPITAL RESERVE ACCOUNT; PROVIDING THAT THE AUTHORITY MAY MAKE
9 CERTAIN DEPOSITS INTO THE CAPITAL RESERVE ACCOUNT; CLARIFYING THAT THE AUTHORITY'S
10 MEETINGS ARE COVERED UNDER THE OPEN MEETING LAW; AND AMENDING SECTIONS 90-7-102,
11 90-7-104, 90-7-201, 90-7-202, 90-7-211, 90-7-213, 90-7-302, ~~90-7-305~~, 90-7-305, AND 90-7-317,
12 MCA."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
1516 **Section 1.** Section 90-7-102, MCA, is amended to read:17 "**90-7-102. Definitions.** As used in this chapter, unless the context requires otherwise, the
18 following definitions apply:

19 (1) "Authority" means the Montana health facility authority created in 2-15-1815.

20 (2) "Capital reserve account" means the account established in 90-7-317.

21 (3) "Costs" means costs allowed under 90-7-103.

22 (4) "Health facility" means any facility provided for in 90-7-104.

23 (5) (a) "Health institution" means any public or private, nonprofit hospital, corporation, or other
24 organization authorized to provide or operate a health facility in this state.25 (b) The term also includes the following, provided that the entity is a nonprofit entity or is
26 controlled by one or more nonprofit entities:27 (i) a network of health care providers, regardless of how it is organized;28 (ii) an integrated health care delivery system;29 (iii) a joint venture or partnership between or among health care providers;30 (iv) a ~~health care~~ purchasing alliance COMPOSED OF HEALTH CARE PROVIDERS;

1 (v) any health insurers and third-party administrators that are participants in a system, network,
 2 joint venture, or partnership that provides health services to THROUGH one or more health institutions
 3 FACILITIES.

4 (6) "Participating health institution" means a health institution that undertakes the financing,
 5 refunding, or refinancing of obligations on the construction or acquisition of a health facility pursuant to
 6 the provisions of this chapter.

7 (7) "Revenues" means, with respect to facilities, the rents, fees, charges, interest, principal
 8 repayments, and other income received or to be received by the authority from any source on account of
 9 ~~such~~ the facilities."

10
 11 **Section 2.** Section 90-7-104, MCA, is amended to read:

12 **"90-7-104. Eligible health facility.** (1) ~~Eligible health facility~~ The term "eligible health facility"
 13 means any structure or building used suitable for use as:

14 (a) a hospital, clinic, nursing home, or other health care facility as defined in 50-5-101;

15 (b) ~~center a facility~~ for persons with developmental disabilities;

16 (c) ~~center a facility~~ for the handicapped;

17 (d) a chemical dependency treatment center;

18 (e) a nursing school;

19 (f) a medical teaching facility;

20 (g) a laboratory;

21 (h) a dental care facility;

22 (i) a diagnostic, treatment, or surgical center; or

23 (j) ~~either a~~ structure or facility related to any of the foregoing uses enumerated in subsections (1)(a)
 24 through (1)(i) or required or useful for the operation of a health facility. These related facilities include
 25 supporting service structures and all necessary, useful, and related equipment, furnishings, and
 26 appurtenances and include without limitation the acquisition, preparation, and development of all lands and
 27 real and personal property necessary or convenient as a site for any of the foregoing uses enumerated in
 28 subsections (1)(a) through (1)(i).

29 (2) An eligible health facility does not include; ~~such~~

30 (a) items such as food, fuel, supplies, or other items that are customarily considered as current

1 operating expenses; and ~~eligible health facility does not include~~

2 (b) a structure used or to be used primarily for sectarian instruction or study or as a place for
3 devotional activities or religious worship."

4

5 **Section 3.** Section 90-7-201, MCA, is amended to read:

6 **"90-7-201. Authority -- quorum -- mode of action -- expenses.** (1) Four members of the authority
7 constitute a quorum for the purpose of conducting business. Action may be taken by the authority upon
8 the affirmative vote of at least four of its members. ~~No~~ A vacancy in the membership of the authority
9 ~~impairs~~ does not impair the right of a quorum to exercise all the rights and perform all the duties of the
10 authority.

11 (2) Each meeting of the authority for any purpose must be open to the public. ~~Notice of meetings~~
12 ~~must be as provided in the bylaws of the authority~~ as provided for in Title 2, chapter 3, part 2. Resolutions
13 need not be published or posted.

14 (3) Each member is entitled to be paid \$50 for each day ~~he~~ that the member is actually and
15 necessarily engaged in the performance of board duties plus cost of travel, lodging, and meals as provided
16 in 2-18-501 through 2-18-503."

17

18 **Section 4.** Section 90-7-202, MCA, is amended to read:

19 **"90-7-202. Powers of authority.** The authority may:

20 (1) sue and be sued;

21 (2) have a seal;

22 (3) adopt all procedural and substantive rules necessary for the administration of this chapter;

23 (4) issue bonds or incur other debt as described in this chapter, including the issuance of notes or
24 refunding bonds;

25 (5) invest any funds ~~obtained from the issuance of bonds and notes which~~ that are not required
26 for immediate use, subject to any agreements with its bondholders and noteholders, as provided in Title
27 17, chapter 6, except that all investment income from funds invested by the authority, less the cost for
28 investment, must be deposited in an enterprise fund to the credit of the authority to be used to carry out
29 the purposes of this chapter;

30 (6) contract in its own name for the investment of funds, borrowing of funds, or any other

1 purposes it considers appropriate to carry out the purposes of this chapter;

2 (7) participate with any financial institution in the purchase or guarantee of any loan or obligation;

3 (8) issue bond anticipation notes or any other anticipatory financial obligations to secure funding
4 of eligible facilities;

5 (9) enter into agreements or make advance commitments to insure repayments required by loan
6 agreements made by a lender. ~~Such~~ These agreements are subject to terms and conditions established by
7 the authority.

8 (10) establish programs to make, sell, purchase, or insure loans to finance the costs of eligible
9 facilities from any funds;

10 (11) accept gifts, grants, or loans from a federal agency, an agency or instrumentality of the state,
11 a municipality, or any other source;

12 (12) enter into contracts or other transactions with a federal agency, an agency or instrumentality
13 of the state, a municipality, a private organization, or any other entity consistent with the exercise of any
14 power under this chapter;

15 (13) with regard to property:

16 (a) acquire real or personal property or any right, interest, or easement ~~therein~~ in real or personal
17 property by gift, purchase, transfer, foreclosure, lease, or otherwise;

18 (b) hold, sell, assign, lease, encumber, mortgage, or otherwise dispose ~~thereof~~ of property;

19 (c) hold, sell, assign, or otherwise dispose of any mortgage or loan owned by it or in its control
20 or custody;

21 (d) release or relinquish any right, title, claim, interest, easement, or demand, however acquired,
22 including any equity or right of redemption;

23 (e) make any disposition by public or private sale, with or without public bidding;

24 (f) commence any action to protect or enforce any right conferred upon it by any law, mortgage,
25 contract, or other agreement;

26 (g) bid for and purchase property at any foreclosure or other sale or acquire or take possession of
27 it in lieu of foreclosure; and

28 (h) operate, manage, lease, dispose of, and otherwise deal with ~~such~~ property in any manner
29 necessary or desirable to protect its interests or the holders of its bonds or notes if ~~such~~ that action is
30 consistent with any agreement with ~~such~~ the holders;

1 (14) service, contract, and pay for the servicing of loans;

2 (15) provide general technical services in the analysis, planning, design, processing, construction,
3 rehabilitation, and management of eligible health facilities whenever considered appropriate;

4 (16) consent, whenever it considers necessary or desirable in fulfilling its purposes, to the
5 modification of the rate of interest, time, or payment of any installment of principal, interest, or security
6 or any other term of any contract, lease agreement, loan agreement, mortgage, mortgage loan, mortgage
7 loan commitment, construction loan, advance contract, or agreement of any kind, subject to any agreement
8 with bondholders and noteholders;

9 (17) collect reasonable interest, fees, and charges from participating institutions in connection with
10 making and servicing its lease agreements, loan agreements, mortgage loans, notes, bonds, commitments,
11 and other evidences of indebtedness. The interest, fees, and charges ~~shall~~ must be deposited to an
12 enterprise fund to the credit of the authority. Interest, fees, and charges are limited to the amounts required
13 to pay the costs of the authority, including operating and administrative expenses, ~~and~~ reasonable
14 allowances for losses that may be incurred, and bond financing costs, and to provide funds to make loans
15 to finance the costs of eligible facilities.

16 (18) perform any other acts necessary and convenient to carry out the purposes of this chapter."
17

18 **Section 5.** Section 90-7-211, MCA, is amended to read:

19 **"90-7-211. Necessary expenses -- fees.** (1) All expenses of the authority incurred in carrying out
20 the provisions of this chapter are payable solely from funds provided under the authority of this chapter,
21 ~~and no liability.~~ Liability may not be incurred by the authority beyond the extent to which money has been
22 provided under this chapter, except for the purposes of meeting the necessary expenses of initial
23 organization and operation and until ~~such the date as~~ that the authority derives money from funds provided
24 under this chapter. The authority may borrow money for necessary expenses of organization and operation.
25 ~~Such~~ The borrowed money must be repaid within a reasonable time after the authority receives funds
26 provided for under this chapter.

27 (2) When an application is made to the authority by any participating health institution for financial
28 assistance to provide for its facilities, the application may be accompanied by an initial planning service fee
29 in an amount determined by the authority. ~~Such~~ The initial planning service fee may be included in the cost
30 of the facilities to be financed ~~and is not refundable by the authority, whether or not any application is~~

1 ~~approved~~. In addition to the initial fee, an annual planning service fee may be paid to the authority by each
 2 participating health institution in an amount determined by the authority. The annual planning service fee
 3 may be paid on ~~such the~~ dates or in installments ~~as may be that are~~ satisfactory to the authority. The fees
 4 must be used for:

5 (a) necessary expenses to determine the need for facilities in the area concerned, and to that end
 6 the authority may utilize recognized voluntary and official health planning organizations and agencies at
 7 local, regional, and state levels;

8 (b) necessary administrative, operating, and financing expenses; ~~and~~

9 (c) reserves for anticipated future expenses or loan losses; and

10 (d) loans to finance the costs of eligible facilities.

11 (3) The authority may, for a negotiated fee, retain the services of any other public or private
 12 person, firm, partnership, association, or corporation for the furnishing of services and data for use by the
 13 authority in determining the need for and location of any eligible health facility for which application is being
 14 made or for ~~such~~ other services or surveys ~~as that~~ the authority considers necessary to carry out the
 15 purposes of this chapter."
 16

17 **Section 6.** Section 90-7-213, MCA, is amended to read:

18 "**90-7-213. Loan limitation.** ~~No~~ A loan made by the authority may not exceed the total cost or
 19 appraised value of the eligible health facility being financed ~~as such the cost or appraised value~~ is
 20 determined by the participating institution and approved by the authority."
 21

22 **Section 7.** Section 90-7-302, MCA, is amended to read:

23 "**90-7-302. Bonds and notes of the authority.** (1) The authority may in each biennium borrow
 24 money and issue bonds and notes in an aggregate principal amount not to exceed ~~\$150~~ \$250 million,
 25 exclusive of bonds or notes issued to refund ~~its~~ outstanding bonds or notes.

26 (2) Bonds must be authorized₇. The authority may specify that the bonds must be dated₇ and must
 27 mature ~~as the authority may specify~~, except that a bond may not mature more than 40 years from the date
 28 of its issue. Bonds must:

29 (a) bear interest at ~~the~~ a rate or rates₇;

30 (b) be in ~~the~~ denominations₇;

1 (c) be in the proper registered or bearer form;

2 (d) be executed in ~~the~~ a manner;

3 (e) be payable in ~~the~~ a medium of payment, and at ~~the~~ a place or places, and; and

4 (f) be subject to ~~the~~ terms of redemption that the authority may provide.

5 (3) All bonds, regardless of form or character, are negotiable instruments for all purposes of the
6 Uniform Commercial Code, subject to requirements as to registration.

7 (4) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the
8 time or times ~~which~~ that the authority may determine.

9 (5) Before the issuance of any bonds, the authority shall make provisions, by lease or other
10 agreement, regarding the facility or facilities being financed by the issue of the bonds, for rentals or other
11 considerations sufficient, in the judgment of the authority, to:

12 (a) pay the principal of and interest on the bonds as they become due;

13 (b) create and maintain the reserves for payment of the principal and interest;

14 (c) meet all obligations in connection with the lease or other agreement; and

15 (d) meet all costs necessary to service the bonds unless the lease or agreement provides that the
16 obligations are to be met or costs are to be paid by a party other than the authority.

17 (6) The authority, before issuing any bonds, shall certify that an applicant has submitted a
18 statement that indicates that any contract let for a project costing more than \$25,000 and financed from
19 the proceeds of bonds issued under this part on or after July 1, 1993, will contain a provision requiring the
20 contractor to pay the standard prevailing wage rate in effect and applicable to the district in which the work
21 is being performed unless the contractor performing the work has entered into a collective bargaining
22 agreement covering the work to be performed.

23 (7) The authority may combine, for the purposes of a single offering, bonds financing more than
24 one facility under this chapter."

25

26 ~~Section 8. Section 90-7-305, MCA, is amended to read:~~

27 ~~"90-7-305. Trust agreement to secure bonds. In the discretion of the authority, any bonds issued~~
28 ~~under this chapter may be secured by a trust agreement between the authority and a corporate trustee,~~
29 ~~which may be any trust company or bank having the powers of a trust company in Montana or outside of~~
30 ~~Montana, if it is determined by the authority to be in the best interest of financing the bonds. The trust~~

1 ~~agreement or the resolution providing for the issuance of such the bonds may pledge or assign the revenues~~
 2 ~~to be received or the proceeds of any contract or contracts pledged and may convey or mortgage the~~
 3 ~~project or any portion thereof of the project. The trust agreement or resolution providing for the issuance~~
 4 ~~of such the bonds may contain such provisions for protecting and enforcing the rights and remedies of the~~
 5 ~~bondholders as may be reasonable and proper and not in violation of law, including particularly such any~~
 6 ~~provisions as that have been specifically authorized to be included in any a resolution of the authority~~
 7 ~~authorizing bonds. Any A bank or trust company incorporated under the laws of this state, which that may~~
 8 ~~act as depository of the proceeds of bonds or of revenues or other money, may furnish such indemnifying~~
 9 ~~bonds or pledge such securities as that may be required by the authority. Any such A trust agreement may~~
 10 ~~set forth the rights and remedies of the bondholders and of the trustee or trustees and may restrict the~~
 11 ~~individual right of action by bondholders. In addition, any such a trust agreement or resolution may contain~~
 12 ~~such other provisions as that the authority may consider reasonable and proper for the security of the~~
 13 ~~bondholders. All expenses incurred in carrying out such the trust agreement or resolution may be treated~~
 14 ~~as a part of the cost of the operation of an eligible health facility."~~

15
 16 **SECTION 8. SECTION 90-7-305, MCA, IS AMENDED TO READ:**

17 **"90-7-305. Trust agreement to secure bonds.** In the discretion of the authority, any bonds issued
 18 under this chapter may be secured by a trust agreement between the authority and a corporate trustee,
 19 which may be any trust company or bank having the powers of a trust company in Montana or outside of
 20 Montana, if it is determined by the authority to be in the best interest of financing the bonds. The trust
 21 agreement or the resolution providing for the issuance of ~~such~~ the bonds may pledge or assign the revenues
 22 to be received or the proceeds of any contract or contracts pledged and may convey or mortgage the
 23 project or any portion thereof of the project. The trust agreement or resolution providing for the issuance
 24 of ~~such~~ the bonds may contain ~~such~~ provisions for protecting and enforcing the rights and remedies of the
 25 bondholders as may be reasonable and proper and not in violation of law, including particularly ~~such~~ any
 26 provisions ~~as~~ that have been specifically authorized to be included in ~~any~~ a resolution of the authority
 27 authorizing bonds. ~~Any~~ A bank or trust company incorporated under the laws of this state, ~~which~~ that may
 28 act as depository of the proceeds of bonds or of revenues or other money, may furnish ~~such~~ indemnifying
 29 bonds or pledge ~~such~~ securities ~~as~~ that may be required by the authority. ~~Any~~ ~~such~~ A trust agreement may
 30 set forth the rights and remedies of the bondholders and of the trustee or trustees and may restrict the

1 individual right of action by bondholders. In addition, ~~any such a~~ trust agreement or resolution may contain
 2 ~~such~~ other provisions ~~as that~~ the authority may consider reasonable and proper for the security of the
 3 bondholders. All expenses incurred in carrying out ~~such the~~ trust agreement or resolution may be treated
 4 as a part of the cost of the operation of an eligible health facility."

5

6 **Section 9.** Section 90-7-317, MCA, is amended to read:

7 **"90-7-317. Capital reserve account.** (1) There is a capital reserve account in the enterprise fund
 8 provided for in 90-7-202(17).

9 (2) The authority shall deposit into the capital reserve account:

10 (a) funds from state appropriations received for deposit into the account, as provided in 90-7-319,
 11 for bonds issued to finance capital projects for community health facilities that contract with the state to
 12 provide health care services or bonds issued to finance the facilities described in 90-7-220 and 90-7-221;
 13 and

14 (b) proceeds from the sale of bonds or notes to the extent provided in the resolutions or indentures
 15 of the authority authorizing their issuance;

16 (3) The authority may also deposit into the capital reserve account:

17 ~~(a)~~ revenue from fees and charges imposed by the authority;

18 ~~(b)~~ income from the investment of funds belonging to the authority; and

19 ~~(c)~~ any other funds that may be available to the authority for the purpose of the account from
 20 any other source, including loans authorized under 90-7-320."

21

-END-