

TITLE 39
HEALTH AND SAFETY

CHAPTER 14
HEALTH FACILITIES

39-1401. SHORT TITLE. This act may be cited as the "Health Facilities Construction Act."

[39-1401, added 1947, ch. 220, sec. 1, p. 526; am. 1965, ch. 123, sec. 1, p. 240.]

39-1402. DEFINITIONS. As used in this act:

- (a) "Agency" means the department of health and welfare;
- (b) "Federal act" shall mean, when applicable, either (1) Public Law 725 of the 79th Congress, approved August 13, 1946, entitled the Hospital Survey and Construction Act and amendments thereto or (2) Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, Public Law 88-164, and amendments thereto or (3) Public Law 91-517 of the 91st Congress, and amendments thereto;
- (c) "Surgeon general" means the surgeon general of the United States department of health and human services;
- (d) "Health facilities" shall mean any of the following:
 - (1) "Hospital" means a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than twenty-four (24) hours in any week of two (2) or more nonrelated individuals suffering from illness, disease, injury, deformity, or requiring care because of old age, or a place devoted primarily to providing for not less than twenty-four (24) hours in any week of obstetrical or other medical or nursing care for two (2) or more nonrelated individuals. The term hospital includes public health centers in general, tuberculosis, mental, chronic disease and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals;
 - (2) A facility for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with said facility;
 - (3) A facility specially designed for the diagnosis, treatment, education, training, or custodial care of people with intellectual disabilities, including facilities for training specialists and sheltered workshops for people with intellectual disabilities, but only if such workshops are part of facilities which provide or will provide comprehensive services for people with intellectual disabilities;
 - (4) A facility providing services for the prevention or diagnosis of mental illness, or care and treatment of mentally ill patients, or rehabilitation of such persons, which services are provided principally for persons residing in a particular community or communities in or near which the facility is situated or at a statewide facility;
- (e) "Secretary" means the secretary of health and human services of the United States, or his delegate to administer the federal act;
- (f) "Nonprofit facility" means a facility which is owned and operated by one (1) or more nonprofit corporations or associations no part of the net

earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

[39-1402, added 1947, ch. 220, sec. 2, p. 526; am. 1965, ch. 123, sec. 2, p. 240; am. 1972, ch. 327, sec. 1, p. 812; am. 1974, ch. 23, sec. 122, p. 633; am. 2010, ch. 235, sec. 25, p. 563; am. 2015, ch. 244, sec. 22, p. 1020.]

39-1403. ADMINISTRATION -- DIVISION OF HEALTH FACILITIES SURVEY AND CONSTRUCTION. There is hereby established in the state department of health and welfare a division of health facilities survey and construction which shall be administered by a full time salaried director under the supervision and direction of the agency.

[39-1403, added 1947, ch. 220, sec. 3, p. 526; am. 1965, ch. 123, sec. 3, p. 240; am. 1972, ch. 327, sec. 2, p. 812.]

39-1404. GENERAL POWERS AND DUTIES. In carrying out the purposes of the act, the agency is authorized and directed:

(a) To require such reports, inspections and investigations and prescribe such regulations as it deems necessary;

(b) To provide such methods of administration, appoint a director and other personnel of the division on a merit basis and take such other action as may be necessary to comply with the requirements of the federal act and the regulations thereunder;

(c) To procure in its discretion the temporary or intermittent services of experts or consultants or organizations thereof, by contract, when such services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

(d) To the extent that it considers desirable to effectuate the purposes of this act, to enter into agreements for the utilization of the facilities and services of other departments, agencies, and institutions, public or private;

(e) To accept on behalf of the state and to deposit with the state treasury any grant, gift or contribution made to assist in meeting the cost of carrying out the purposes of this act as herein provided;

(f) To make a bi-annual report to the legislature on activities and expenditures pursuant to this act, including recommendations for such additional legislation as the agency considers appropriate to furnish adequate health facilities to the people of this state;

(g) To do all other things on behalf of the state necessary to obtain full benefits under the federal act as now and hereafter amended.

[39-1404, added 1947, ch. 220, sec. 4, p. 525; am. 1965, ch. 123, sec. 4, p. 240; am. 1972, ch. 327, sec. 3, p. 812.]

39-1405. ADVISORY COUNCIL. The governor shall appoint such advisory councils to advise and consult with the agency charged with the carrying out of the administration of this act and shall also appoint the chairmen of all such advisory councils.

Members of the councils hereinafter created shall hold office for a term of six (6) years, their terms expiring successively on the second Monday in January in the odd-numbered years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and the terms of office of the members first taking office shall expire, as desig-

nated at the time of appointment, at least one-third (1/3) thereof at the end of the second year, at least one-third (1/3) thereof at the end of the fourth year, and at least one-third (1/3) thereof at the end of the sixth year after the date of appointment. Council members while serving on the business of the councils shall be compensated as provided by section 59-509(d), Idaho Code. The councils shall meet as frequently as the chairman deems necessary, but not less than once each year. Upon request by a majority of the members of a specific council, it shall be the duty of the chairman to call a meeting of that council.

The agency shall assist the governor in establishing the necessary guidelines and qualifications of appointees and direct to the attention of the governor the mandatory requirements of any federal statutes, regulations and standards concerning the number, representative capacity, professional background, and such other matters concerning membership and organization of said councils to insure state compliance with federal laws, regulations and standards.

[39-1405, added 1947, ch. 220, sec. 5, p. 526; am. 1965, ch. 123, sec. 5, p. 240; am. 1972, ch. 327, sec. 4, p. 812; am. 1980, ch. 247, sec. 35, p. 607.]

39-1406. SURVEY AND PLANNING ACTIVITIES. The agency is authorized and directed to make an inventory of existing health facilities, including public, nonprofit and proprietary, to survey the need for construction of health facilities, and, on the basis of such inventory and survey, to develop a program for the construction of such public and other nonprofit facilities as will, in conjunction with existing facilities, afford the necessary physical facilities for furnishing adequate health facilities and similar services to all the people of the state.

[39-1406, added 1947, ch. 220, sec. 6, p. 526; am. 1965, ch. 123, sec. 6, p. 240; am. 1972, ch. 327, sec. 5, p. 812.]

39-1407. CONSTRUCTION PROGRAM. The construction program shall provide, in accordance with regulations prescribed under the federal act, for adequate health facilities for the people residing in this state and insofar as possible shall provide for their distribution throughout the state in such manner as to make all types of health facilities reasonably accessible to all persons in the state.

[39-1407, added 1947, ch. 220, sec. 7, p. 526; am. 1965, ch. 123, sec. 7, p. 240; am. 1972, ch. 327, sec. 6, p. 812.]

39-1408. APPLICATION FOR FEDERAL FUNDS FOR SURVEY AND PLANNING -- EXPENDITURE. The agency is authorized to make application for and receive federal funds to assist in carrying out the activities herein provided. Such funds shall be delivered to the state treasurer and by him deposited in the funds hereinafter created. Such funds are hereby appropriated to the state board of health for expenditure for carrying out the activities authorized by this act. Any such funds received and not expended for such purposes shall be disposed of pursuant to the federal act.

[39-1408, added 1947, ch. 220, sec. 8, p. 526; am. 1965, ch. 123, sec. 8, p. 240; am. 1972, ch. 327, sec. 7, p. 812.]

39-1409. STATE PLAN. The agency shall prepare and submit to the surgeon general and/or secretary a state plan which shall include the health facil-

ities construction program developed under this act and which shall provide for the establishment, administration, and operation of health facilities construction activities in accordance with the requirements of the federal act and regulations thereunder. The agency shall, prior to the submission of such plan to the surgeon general and/or secretary, give publicity to a general description of all the provisions proposed to be included therein and cause a public hearing to be held at which all persons or organizations with a legitimate interest in such plan may be given an opportunity to express their views. After approval of the plan by the surgeon general and/or secretary, the agency shall publish a general description of the provisions thereof in such newspapers as will give circulation in each county in the state and shall make the plan, or a copy thereof, available upon request to all interested persons or organizations. The agency as required shall review the health facilities construction program and submit to the surgeon general and/or secretary any modifications thereof which he [it] may find necessary and may submit to the surgeon general and/or secretary such modifications of the state plan, not inconsistent with the requirements of the federal act, as it may deem advisable.

[39-1409, added 1947, ch. 220, sec. 9, p. 526; am. 1965, ch. 123, sec. 9, p. 240; am. 1972, ch. 327, sec. 8, p. 812.]

39-1410. MINIMUM STANDARDS FOR MAINTENANCE AND OPERATION OF FACILITIES. The agency shall by regulation prescribe minimum standards for the maintenance and operation of health facilities which receive federal aid for construction under the state plan.

[39-1410, added 1947, ch. 220, sec. 10, p. 526; am. 1965, ch. 123, sec. 10, p. 240; am. 1972, ch. 327, sec. 9, p. 812.]

39-1411. PRIORITY OF PROJECTS. The state plan shall set forth the relative need for the several projects included in the construction program determined in accordance with regulations prescribed pursuant to the federal act and provide for the construction, insofar as financial resources available therefor and for maintenance and operations make possible, in the order of such relative need.

[39-1411, added 1947, ch. 220, sec. 11, p. 526.]

39-1412. CONSTRUCTION PROJECTS -- APPLICATIONS. Applications for health facilities construction projects for which federal funds are requested shall be submitted to the agency and may be submitted by the state or any political subdivision thereof or by any public or nonprofit agency authorized to construct and operate health facilities. Each application for a construction project shall conform to federal and state requirements.

[39-1412, added 1947, ch. 220, sec. 12, p. 526; am. 1965, ch. 123, sec. 11, p. 240; am. 1972, ch. 327, sec. 10, p. 812.]

39-1413. CONSIDERATION AND FORWARDING OF APPLICATIONS. The agency shall afford to every applicant for a construction project an opportunity for a fair hearing. If the agency, after affording reasonable opportunity for development and presentation of applications in the order of relative need, finds that a project application complies with the requirements of section 39-1412[, Idaho Code,] and is otherwise in conformity with the state plan, it shall approve such application and shall recommend and forward it to the surgeon general and/or secretary.

[39-1413, added 1947, ch. 220, sec. 13, p. 526; am. 1972, ch. 327, sec. 11, p. 812.]

39-1414. INSPECTION OF PROJECTS. From time to time the agency shall cause each construction project approved by the surgeon general and/or secretary to be inspected, and if the inspection so warrants, the agency shall certify to the surgeon general and/or secretary that work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment of federal funds is due to the applicant.

[39-1414, added 1947, ch. 220, sec. 14, p. 526; am. 1972, ch. 327, sec. 12, p. 812.]

39-1415. CONSTRUCTION FUNDS. There is hereby created an account in the trust and agency fund in the state treasury, and all moneys deposited therein are perpetually appropriated for construction projects under this act. All federal funds received from the federal government for a construction project approved by the surgeon general and/or secretary shall be delivered to the state treasurer and by him deposited in the health facilities construction account. Such money shall be used solely for payments due applicants for work performed, or purchases made, in carrying out approved projects.

[39-1415, added 1947, ch. 220, sec. 15, p. 526; am. 1965, ch. 123, sec. 12, p. 240; am. 1972, ch. 327, sec. 13, p. 812; am. 1974, ch. 23, sec. 123, p. 633; am. 1976, ch. 51, sec. 13, p. 178.]

39-1416. FEDERAL, STATE AND OTHER MONEYS -- JOINT MUNICIPAL OR COUNTY FACILITIES. Every county and municipality is authorized to accept, receive, receipt for, disburse, and expend federal and state moneys and all other moneys, public or private, made available by grant, loan, gift or devise for public health purposes, including the construction, alteration, equipping, operation and maintenance of projects authorized by this act and the federal act, subject only to the terms of such grant.

Any two (2) or more municipalities and/or counties may join together for the owning, construction, alteration, repair, equipping, operation and/or maintenance of a health facility, which may be located within or without any such municipality or county, and the funds therefor shall be contributed by each such municipality and/or county as the participating municipalities and counties may mutually agree.

Any municipality or county may enter into a contract or other arrangement with any other municipality or county to obtain health facilities or similar services, and pay for the same out of municipal or county funds.

[39-1416, added 1947, ch. 220, sec. 16, p. 526; am. 1965, ch. 123, sec. 13, p. 240; am. 1972, ch. 327, sec. 14, p. 812.]

39-1417. SEPARABILITY. If any provision of this act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of the act are declared to be severable.

[39-1417, added 1947, ch. 220, sec. 17, p. 526.]

39-1441. SHORT TITLE. This act may be referred to and cited as the "Idaho health facilities authority act."

[39-1441, added 1972, ch. 134, sec. 1, p. 286.]

39-1442. DECLARATION OF NECESSITY AND PURPOSE -- LIBERAL CONSTRUCTION. It is hereby determined and declared that for the benefit of the people of the state of Idaho and the improvement of their health, welfare and living conditions, it is essential that the people of this state have adequate medical care and health facilities; that it is essential that health institutions within the state be provided with appropriate additional means to assist in the development and maintenance of public health, health care, hospitals and related facilities; that it is the purpose of this act to provide a measure of assistance and alternative methods to enable health institutions in the state to refund or refinance outstanding indebtedness incurred for health facilities and to provide additional facilities and structures which are sorely needed to accomplish the purposes of this act, all to the public benefit and good as more fully provided herein; and it is the intent of the legislature by the passage of this act to create the Idaho health facilities authority to lend money to health institutions and to authorize the authority to acquire, construct, reconstruct, repair, alter, improve, extend, own, lease and dispose of properties to the end that the authority may be able to promote the health and welfare of the people of this state and to vest such authority with all powers to enable such authority to accomplish such purpose; it is not intended by this act that the authority shall itself be authorized to operate any such health facility. This act shall be liberally construed to accomplish the intentions expressed herein.

[39-1442, added 1972, ch. 134, sec. 2, p. 286; am. 1973, ch. 178, sec. 1, p. 393.]

39-1443. DEFINITIONS. In this act, unless the context otherwise clearly requires, the terms used herein shall have the meanings ascribed to them as follows:

(a) "Authority" means the Idaho health facilities authority created by this act.

(b) "Bonds," "notes" or "bond anticipation notes" and "other obligations" means any bonds, notes, debentures, interim certificates or other evidences of financial indebtedness, respectively, issued by the authority pursuant to this act.

(c) "Health institution" means any:

- (i) private not for profit hospital, corporation or institution, or
- (ii) public hospital or institution,

authorized by law to provide or operate health facilities whether directly or indirectly through one (1) or more affiliates in the state of Idaho; and "participating health institution" means a health institution which, pursuant to the provisions of this act, shall undertake the financing and construction or acquisition of health facilities or shall undertake the refunding or refinancing of outstanding obligations as provided in and permitted by this act.

(d) "Health facilities" or "facilities," in the case of a participating health institution, means a structure or building suitable for use as a hospital, clinic, nursing home, or other health care facility, laboratory, laundry, nurses', doctors' or interns' residence, administration building, research facility, maintenance, storage or utility facility,

auditorium, dining hall, food service and preparation facility, mental and physical health care facility, dental care facility, nursing school, medical teaching facility, or other structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, including, without limitation, offices, parking lots and garages and other supporting service structures, and all necessary, useful and related equipment, furnishings and appurtenances and including without limitation the acquisition, preparation and development of all lands, real and personal property, necessary or convenient as a site or sites for any of the foregoing; but shall not include such items as food, fuel, supplies or other items which are customarily considered as a current operating charge; facilities shall not include any property used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Costs" as applied to facilities financed in whole or in part under the provisions of this act means and includes the sum total of all reasonable or necessary costs incidental to the acquisition, construction, reconstruction, repair, alteration, equipment, enlargement, improvement and extension of such facilities and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interest acquired, necessary, used for or useful for or in connection with a facility and all other undertakings which the authority deems reasonable or necessary for the development of a facility including, but not limited to, the cost of demolishing or removing any building or structures on land so acquired, the cost of acquiring any lands to which such building or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction, and if judged advisable by the authority, for a period after completion of such construction, the cost of financing facilities, including interest on bonds and notes issued by the authority to finance facilities; reserves for principal and interest and for extensions, enlargements, additions and improvements; including without limitation the cost of studies and surveys; the costs for land title and mortgage guaranty policies; plans, specifications, architectural and engineering services; legal, organization, marketing or other special services; financing, acquisition, demolition, construction, equipment and site development of new and rehabilitated buildings; rehabilitation, reconstruction, repair or remodeling of existing buildings and all other necessary and incidental expenses to the construction and acquisition of facilities, the financing of such construction, and acquisition and the placing of facilities in operation.

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

(g) "Refinancing of outstanding obligations" means liquidation, with the proceeds of bonds or notes issued by the authority, of any indebtedness of a participating health institution incurred to finance or aid in financing a lawful purpose of such health institution not financed pursuant to this act which would constitute a facility had it been undertaken and financed by the authority, or consolidation of such indebtedness with indebtedness of the authority incurred for a facility related to the purpose for which the indebtedness of the health institution was incurred.

[39-1443, added 1972, ch. 134, sec. 3, p. 286; am. 1973, ch. 178, sec. 2, p. 393; am. 1976, ch. 183, sec. 1, p. 657; am. 2004, ch. 382, sec. 1, p. 1143.]

39-1444. AUTHORITY -- CREATION -- MEMBERSHIP -- APPOINTMENT -- TERMS OF OFFICE -- FILLING VACANCIES AND REMOVALS. There is hereby created an independent public body politic and corporate to be known as the "Idaho health facilities authority." Said authority is constituted a public instrumentality and the exercise by the authority of the powers conferred by this act shall be deemed and held to be the performance of an essential public function. The authority shall consist of seven (7) members to be appointed by the governor who shall be residents of the state. Not more than four (4) of said seven (7) members of the authority shall be of the same political party. At least one (1) of the members to be appointed by the governor shall be or shall have been a trustee, director, comptroller or other employee of a public or not for profit hospital knowledgeable in hospital and health care construction and financing. At least one (1) such appointed member shall be a person experienced in and having a favorable reputation for skill, knowledge and experience in the field of state and municipal finance. At least one (1) of such appointed members shall be a person experienced in and having a favorable reputation for skill, knowledge and experience in the field of health facility architecture. In making appointments the governor shall take into consideration nominees recommended to him for appointment by professional organizations of hospitals, long term care facilities, investment banking and architects. The members of the authority first appointed by the governor shall serve for terms to be designated by the governor expiring on June 30, as follows: two (2) in 1973 and 1974 and one (1) each in 1975, 1976, and 1977, respectively. Upon the expiration of the term of any appointed member his successor shall be appointed for a term of five (5) years and until his successor has been appointed and has qualified. Any member shall be eligible for reappointment. The governor shall fill any vacancy for the remainder of any unexpired term. Any member of the authority may be removed by the governor for misfeasance, malfeasance or willful neglect of duty or other cause after notice and a public hearing unless such notice or hearing shall be expressly waived in writing.

[39-1444, added 1972, ch. 134, sec. 4, p. 286; am. 1973, ch. 178, sec. 3, p. 393.]

39-1445. QUORUM -- MODE OF ACTION -- EXPENSES. Four (4) members of the authority shall constitute a quorum for the purpose of conducting business and exercising its powers. Action may be taken by the authority upon the affirmative vote of at least four (4) of its members. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Each meeting of the authority for any purpose whatsoever shall be open to the public. Notice of meetings shall be as provided in the by-laws of the authority. Resolutions need not be published or posted. Members of the authority shall receive no compensation for services but shall be entitled to the necessary expenses including traveling and lodging expenses incurred in the discharge of their duties. Any payments for compensation and expenses shall be paid from funds of the authority.

[39-1445, added 1972, ch. 134, sec. 5, p. 286; am. 1973, ch. 178, sec. 4, p. 393.]

39-1446. ORGANIZATION MEETING -- CHAIRMAN -- EXECUTIVE DIRECTOR -- SURETY BOND AND CONFLICT OF INTEREST. A member of the authority designated by the governor shall call and convene the initial organizational meeting of the authority and shall serve as its chairman pro tem. At such meeting appropriate by-laws shall be presented for adoption. The by-laws may provide for the election or appointment of officers and the delegation of certain powers and duties and such other matters as the authority deems proper. At such meeting and annually thereafter the authority shall elect one (1) of its members as chairman and one (1) as vice chairman. It shall appoint an executive director or secretary and may appoint an associate executive director or associate secretary, who may but are not required to be members of the authority and who shall serve at its pleasure. They shall receive such compensation for special services as shall be fixed by the authority. The executive director or secretary or associate executive director or secretary, or other person designated by the authority, shall keep a record of the proceedings thereof and shall be custodian of all books, documents and papers filed with the authority, the minute books or journal thereof and its official seal. Said executive director or secretary or associate executive director or associate secretary or other person, may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies and all persons dealing with the authority may rely on such certificates. The authority may delegate by resolution to one (1) or more of its members or to its executive director or secretary or associate executive director or associate secretary such powers and duties as it may deem proper. The executive director or secretary shall execute a surety bond in the penal sum of one hundred thousand dollars (\$100,000) or, in lieu thereof, the chairman of the authority shall execute a blanket bond covering each member, the executive director or secretary and the employees or other officers of the authority, each surety bond to be conditioned upon the faithful performance of the duties of the office or offices covered, to be executed by a surety authorized to transact business in this state as surety. The cost of each such bond shall be paid by the authority. Notwithstanding any other law to the contrary it shall not constitute a conflict of interest for a trustee, director, officer or employee of any health institution, financial institution, investment banking firm, brokerage firm, commercial bank or trust company, architecture firm, insurance company or any other firm, person or corporation to serve as a member of the authority, provided such trustee, director, officer or employee shall abstain from deliberation, action and vote by the authority in each instance where the business affiliation of any such trustee, director, officer or employee is involved.

[39-1446, added 1972, ch. 134, sec. 6, p. 286.]

39-1447. POWERS. The authority shall have the following powers together with all powers incidental thereto or necessary for the performance thereof:

- (1) to have perpetual succession as a body politic and corporate;
- (2) to adopt by-laws for the regulation of its affairs and the conduct of its business;
- (3) to sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;
- (4) to have and to use a corporate seal and to alter the same at pleasure;

- (5) to maintain an office at such place or places as it may designate;
- (6) to determine the location and character of any facility to be financed under the provisions of this act to acquire, construct, reconstruct, renovate, improve, replace, maintain, repair, operate, lease as lessee or lessor and regulate the same, to enter into contracts for any and all of such purposes and for the management and operation of a facility to designate a participating health institution as its agent to determine the location and character of a facility undertaken by such participating health institution, under the provisions of this act and, as agent of the authority, to acquire, construct, reconstruct, renovate, replace, improve, maintain, repair, operate, lease as lessee or lessor and regulate the same, and, as agent of the authority, to enter into contracts for any and all of such purposes including contracts for the management and operation of such facility;
- (7) to lease to a participating health institution any or all of the facilities upon such terms and conditions as the authority shall deem proper, and to charge and collect rent therefor and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and to include in any such lease, if desired, provisions that the lessee thereof shall have options to renew the term of the lease for such period or periods and at such rent and upon such terms or conditions as shall be determined by the authority or to purchase any or all of the facilities or that upon payment of all of the indebtedness incurred by the authority for the financing of such facilities the authority may convey any or all of the facilities to the lessee or lessees thereof with or without consideration;
- (8) to borrow money and to issue bonds, notes, bond anticipation notes or other obligations for any of its corporate purposes and to refund the same, all as provided for in this act;
- (9) generally to fix and revise from time to time and charge and collect rates, rents, fees and charges for the use of and services furnished or to be furnished by facilities or any portion thereof and to contract with any person, association, partnership, firm or corporation or other body public or private in respect thereof;
- (10) to establish rules and regulations for the use of facilities and to designate a participating health institution as its agent, to establish rules and regulations for the use of the facilities undertaken or operated by such participating health institution; to employ or contract for consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgment and to fix their compensation;
- (11) to receive and accept from the federal government or the state of Idaho or any other public agency loans or grants for or in aid of the construction of facilities or any portion thereof, or for equipping the same, and to receive and accept grants, gifts or other contributions from any source;
- (12) to mortgage all or any portion of the facilities and the site or sites thereof, whether then owned or thereafter acquired, for the benefit of the holders of bonds issued to finance such facilities or any portion thereof;
- (13) to make loans to any participating health institution, for the cost of the facilities in accordance with an agreement between the authority and such participating health institution; provided that no such loan shall

exceed the total cost of such facilities as determined by such participating health institution, and approved by the authority;

(14) to make mortgage loans or other secured or unsecured loans to a participating health institution, to refund outstanding obligations, mortgages or advances issued, made or given by such institution for the cost of its facilities including the function to issue bonds and make loans to a participating health institution, to refinance outstanding obligations and indebtedness incurred for facilities undertaken and completed prior to or after the enactment of this act and when the authority finds that such financing is in the public interest and either alleviates the financial hardship upon the participating health institution or is in connection with other financing by the authority for such participating health institution or may be expected to result in a lesser cost of patient care and a saving to third parties, including state or federal governments, and to others who must pay for such health care, or any combination thereof;

(15) to do all things necessary and convenient to carry out the purposes of this act;

(16) to charge to and equitably apportion among participating health institutions its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this act;

(17) to make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this act.

The authority shall not have the power to operate the facilities as a business other than as a lessee or lessor. Any lease of the facilities entered into pursuant to the provisions of this act shall provide for rentals adequate to pay principal and interest on such bonds as the same fall due and to create and maintain such reserves and accounts for depreciation as the authority shall determine to be necessary.

[39-1447, added 1972, ch. 134, sec. 7, p. 286; am. 1973, ch. 178, sec. 5, p. 393; am. 1976, ch. 183, sec. 2, p. 659; am. 1985, ch. 72, sec. 1, p. 143.]

39-1447A. PUBLIC SECURITIES OF HEALTH INSTITUTIONS -- INTEREST EXCHANGE AGREEMENTS. (1) As used in this section:

(a) "Authorized entity" means any of the following entities: the authority, a county that has created a hospital board under chapter 36, title 31, Idaho Code, and that owns and operates a county hospital or health facility, or a hospital district created and existing under section 39-1331, et seq., Idaho Code, that owns and operates a hospital or health facility.

(b) "Public securities" means bonds, notes, debentures, interim certificates, bond anticipation notes, commercial paper, or other evidences of indebtedness, or lease, installment purchase, or other agreements, or certificates of participation therein, issued or entered into by or on behalf of an authorized entity in accordance with applicable law for the purpose of financing health institutions, and including specifically leases between the authority and counties authorized by section 31-836, Idaho Code; and between the authority and hospital districts authorized by section 39-1339, Idaho Code.

(2) An authorized entity that has issued or entered into, or proposes to issue or enter into, public securities may enter into an agreement for an exchange of payments based on interest rates or for a hedge of interest rates as

provided in this section if the authorized entity finds that such an agreement would be in the best interest of the authorized entity.

(3) An authorized entity may enter into an agreement to exchange payments based on interest rates or to hedge interest rates only if:

(a) The long-term debt obligations of the person or entity with whom the authorized entity enters into the agreement are rated in either of the two (2) highest rating categories of a nationally recognized rating agency, without regard to any modification of the rating; or

(b) The obligations pursuant to the agreement of the person or entity with whom the authorized entity enters into the agreement are either:

(i) Guaranteed by a person or entity whose long-term debt obligations are rated in either of the two (2) highest rating categories of a nationally recognized rating agency, without regard to any modification of the rating; or

(ii) Collateralized by obligations deposited with the authorized entity or an agent of the authorized entity which would: (A) be legal investment for such authorized entity and is in either of the two (2) highest rating categories of a nationally recognized rating agency, without regard to any modification of the rating; and (B) have a market value at least equal to the amount the person or entity would be required to pay to the authorized entity if the agreement was terminated before its final payment date, excluding any costs, legal fees or consequential damages.

(4) An authorized entity may agree, with respect to public securities that the authorized entity has issued or entered into, or proposes to issue or enter into, bearing interest at a variable rate, to pay sums equal to interest at a fixed rate or rates or at a different variable rate determined pursuant to a formula set forth in the agreement on an amount not to exceed the principal amount of the public securities with respect to which the agreement is made, in exchange for an agreement to pay sums equal to interest on the same principal amount at a variable rate determined pursuant to a formula set forth in the agreement.

(5) An authorized entity may agree, with respect to public securities that the authorized entity has issued or entered into, or proposes to issue or enter into, bearing interest at a fixed rate or rates, to pay sums equal to interest at a variable rate determined pursuant to a formula set forth in the agreement on an amount not to exceed the outstanding principal amount of the public securities with respect to which the agreement is made, in exchange for an agreement to pay sums equal to interest on the same principal amount at a fixed rate or rates set forth in the agreement.

(6) An authorized entity may, with respect to public securities that the authorized entity has issued or entered into, or proposes to issue or enter into, bearing interest at a fixed rate or rates or at a variable rate or rates, or with respect to securities with respect to which it has entered into an interest rate exchange agreement as described in subsection (4) or (5) of this section, enter into an interest rate hedge agreement to hedge future interest rates including, without limitation, an interest rate cap agreement, an interest rate floor agreement or any combination thereof, on a specified principal sum in exchange for a sum of money or an agreement to pay sums equal to interest on the same principal amount at a fixed rate or rates or variable rate or rates set forth in the agreement.

(7) The term of an agreement entered into pursuant to this section must not exceed the term of the public securities with respect to which the agreement was made.

(8) An agreement entered into pursuant to this section is not a debt or indebtedness or liability of the authorized entity for the purposes of any limitation upon the debt or indebtedness or liability of the authorized entity or any requirement for an election with regard to the issuance of debt or indebtedness or liability that is applicable to the authorized entity.

(9) Limitations upon the rate of interest on a public security do not apply to interest paid pursuant to an agreement entered into pursuant to this section.

(10) An authorized entity which has entered into an agreement pursuant to this section with respect to those public securities may treat the amount or rate of interest on the public securities as the amount or rate of interest payable after giving effect to the agreement for the purpose of calculating:

(a) Rates and charges of a revenue-producing enterprise whose revenues are pledged to or used to pay public securities of the authorized entity;

(b) Statutory requirements concerning revenue coverage that are applicable to public securities of the authorized entity;

(c) Tax levies to pay debt service on public securities of the authorized entity; and

(d) Any other amounts which are based upon the rate of interest of public securities of the authorized entity.

(11) Subject to covenants applicable to the public securities, any payments required to be made by the authorized entity under the agreement may be made from money pledged to pay debt service on the public securities with respect to which the agreement was made or from any other legally available source.

[39-1447A, added 2005, ch. 270, sec. 1, p. 832.]

39-1448. ACQUISITION OF PROPERTY. The authority is authorized and empowered directly or by or through a participating health institution, as its agent, to acquire by purchase, lease, gift, devise or otherwise such lands, structures, property, real or personal, rights of way, franchises, easements, and other interests in lands, including lands lying under water and riparian rights which are located within or without the state as it may deem necessary or convenient for the construction or acquisition or operation of facilities but upon such terms as may be considered by the authority to be reasonable, and to take title thereto in the name of the authority or in the name of such participating health institution, as its agent.

[39-1448, added 1972, ch. 134, sec. 8, p. 286.]

39-1448A. NOTES. The authority is authorized from time to time to issue its negotiable notes for any corporate purpose, including the payment of all or any part of the cost of any facility, and renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the authority or any issue thereof may contain any provisions which the authority is authorized to include in any resolution or resolutions authorizing bonds

of the authority or any issue thereof, and the authority may include in any notes any terms, covenants or conditions which it is authorized to include in any bonds. All such notes shall be payable from the proceeds of bonds or renewal notes or from the revenues of the authority or other moneys available therefor and not otherwise pledged, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

[I.C., sec. 39-1448A, as added by 1973, ch. 178, sec. 6, p. 393.]

39-1449. BONDS. (a) The authority is authorized from time to time to issue its bonds in such principal amount as the authority shall determine for the purpose of financing all or a part of the cost of any facilities authorized hereby or for the refinancing of outstanding obligations. In anticipation of the sale of such bonds, the authority may issue bond anticipation notes and may renew the same from time to time. Such notes shall be paid from any revenues of the authority or other moneys available therefor and not otherwise pledged, or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution of the authority may contain.

(b) The bonds may be issued as serial bonds or as term bonds or a combination of both types. All bonds issued by the authority shall be payable solely out of the revenues and receipts derived from the leasing, mortgaging or sale by the authority of the facilities concerned or of any part thereof as may be designated in the resolutions of the authority under which the bonds shall be authorized to be issued or as may be designated in a trust indenture authorized by the authority, which such trust indenture shall name a bank or trust company within or without the state of Idaho as trustee or from other moneys available therefor and not otherwise pledged. Such bonds may be executed and delivered by the authority at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in fully registered form or in bearer form registerable either as to principal or interest or both, may bear such conversion privileges and be payable in such instalments and at such time or times not exceeding forty (40) years from the date thereof, may be payable at such place or places whether within or without the state of Idaho, may bear interest at such rate or rates per annum as shall be determined by the authority and without regard to any interest rate limitation appearing in any other law, payable at such time or times and at such place or places and evidenced in such manner, may be executed by such officers of the authority, either manually or by facsimile, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of an authorized officer of the authority and may contain such provisions not inconsistent herewith, all as shall be provided in the resolutions of the authority whereunder the bonds shall be authorized to be issued or as shall be provided in a trust indenture authorized by the authority. Notwithstanding any provision of this section to the contrary, in the case of obligations maturing not later than one (1) year from the date of issuance thereof, the authority may authorize the executive director, associate executive director or any officer of the authority to fix principal amounts, maturity dates, interest rates, and purchase prices of any particular issue of such short-term obligations, subject to such limitations as to maximum term, maximum principal amount outstanding, and maximum interest rates as the authority shall prescribe by resolution. Any such authoriza-

tion shall remain effective for the period of time designated in the resolution, regardless of whether the composition of the authority changes in the interim.

(c) If deemed advisable by the authority there may be retained in the resolutions or the trust indenture under which any bonds of the authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such resolutions or in such trust indenture, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such resolutions or in such trust indenture, and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the authority the right or option to redeem any bonds except as may be provided in the resolutions or in such trust indenture under which they shall be issued.

(d) The bonds or notes of the authority may be sold at public or private sale for such price or prices and in such manner and from time to time as may be determined by the authority, and the authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance thereof. The power to fix the date of sale of bonds and notes, to receive bids or proposals, to award and sell bonds and notes, and to take all other necessary action to sell and deliver bonds and notes may be delegated to the executive director of the authority by resolution of the authority. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

(e) Issuance by the authority of one (1) or more series of bonds for one (1) or more purposes shall not preclude it from issuing other bonds in connection with the same facilities or any other facilities or any other purpose hereunder, but the resolutions or trust indenture whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the authority at any time outstanding may at any time and from time to time be refunded by the authority by the issuance of its bonds for such purpose in such amount as the authority may deem necessary and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a facility or any portion thereof.

Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby with the consent of the holders of the bonds so to be refunded, and regardless of whether or not the bonds to be refunded were issued in connection with the same facilities or separate facilities or for any other purpose hereunder, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or different dates or shall be due serially or otherwise. The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority. Any such escrowed proceeds, pending

such use, may be invested and reinvested in obligations determined by the authority. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds or notes to be so refunded, to the payment of principal or interest on the refunding bonds or may be used by the authority in any lawful manner. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner. The portion of the proceeds of any such bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a facility may be invested and reinvested in obligations determined by the authority. The interest, income and profits, if any, earned or realized on such investment may be applied to the payment of all or any part of such cost or may be used by the authority in any lawful manner. All such bonds shall be subject to the provisions of this act in the same manner and to the same extent as other bonds issued pursuant to this act. All bonds and the interest coupons applicable thereto are hereby made and shall be construed to be negotiable instruments within the meaning of and for all the purposes of article 8, uniform commercial code, subject only to the provisions of such bonds, notes or other obligations for registration.

[39-1449, added 1972, ch. 134, sec. 9, p. 286; am. 1973, ch. 178, sec. 7, p. 393; am. 1985, ch. 72, sec. 2, p. 145; am. 2000, ch. 125, sec. 1, p. 296.]

39-1450. SECURITY FOR BONDS AND NOTES. The principal of and interest on any bonds or notes issued by the authority may be secured by a pledge of, or security interest in, the revenues, rentals and receipts out of which the same may be made payable or from other moneys available therefor and not otherwise pledged or used as security and may be secured by a trust indenture or mortgage or deed of trust (including assignment of leases or other contract rights of the authority thereunder) covering all or any part of the facilities from which the revenues, rentals or receipts so pledged or used as security may be derived, including any enlargements of and additions to any such facilities thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture, mortgage or deed of trust may contain any agreements and provisions which shall be a part of the contract with the holders of the bonds or notes to be authorized as to:

(a) Pledging or providing a security interest in all or any part of the revenues of a facility or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or notes or of any particular issue of bonds, subject to such agreements with noteholders or bondholders as may then exist;

(b) Respecting the maintenance of the properties covered thereby;

(c) The fixing and collection of rents, fees, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(d) The setting aside, creation and maintenance of special and reserve funds and sinking funds and the use and disposition of the revenues;

(e) Limitations on the right of the authority or its agent to restrict and regulate the use of facilities;

(f) Limitations on the purpose to which the proceeds of sale of any issue of bonds or notes then or thereafter to be issued may be applied and pledging or providing a security interest in such proceeds to secure the payment of the bonds or notes or any issue of the bonds or notes;

(g) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;

(h) The procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which such consent may be given;

(i) Limitations on the amount of moneys derived from a facility to be expended for operating, administrative or other expenses of the authority;

(j) Defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default;

(k) The mortgaging of a facility and the site thereof for the purpose of securing the bondholders or noteholders; and

(l) Such other additional covenants, agreements, and provisions as are judged advisable or necessary by the authority for the security of the holders of such bonds or notes.

Any pledge made by the authority shall be valid and binding from the time when the pledge is made; the revenues, moneys, or property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded. Each pledge, agreement, lease, indenture, mortgage and deed of trust made for the benefit or security of any of the bonds of the authority shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid or provision for such payment duly made. In the event of default in such payment or in any agreements of the authority made as a part of the contract under which the bonds were issued, whether contained in the resolutions authorizing the bonds or in any trust indenture, mortgage or deed of trust executed as security therefor, said payment or agreement may be enforced by suit, mandamus, the appointment of a receiver in equity or by foreclosure of any mortgage and deed of trust, or any one (1) or more of said remedies.

In addition to the foregoing, bonds of the authority may be secured by a pooling of leases whereby the authority may assign its rights, as lessor, and pledge rents under two (2) or more leases of the facilities with two (2) or more participating health institutions, as lessees respectively, upon such terms as may be provided for in the resolutions of the authority or as may be provided for in a trust indenture authorized by the authority.

(m) Notwithstanding any other provision of chapter 9, title 28, Idaho Code, to the contrary, this section expressly governs the creation, perfection, priority and enforcement of a security interest created by the Idaho health facilities authority.

[39-1450, added 1972, ch. 134, sec. 10, p. 286; am. 1973, ch. 178, sec. 8, p. 393; am. 1976, ch. 183, sec. 3, p. 663; am. 2002, ch. 107, sec. 7, p. 304.]

39-1450A. PERSONAL LIABILITY. Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

[I.C., sec. 39-1450A, as added by 1973, ch. 178, sec. 9, p. 393.]

39-1450B. PURCHASE. The authority shall have power out of any funds available therefor to purchase its bonds or notes. The authority may hold, pledge, cancel or resell such bonds or notes, subject to and in accordance with agreements with bondholders or noteholders.

[I.C., sec. 39-1450B, as added by 1973, ch. 178, sec. 9, p. 393; am. 1976, ch. 183, sec. 4, p. 664.]

39-1450D. TRUST AGREEMENT TO SECURE BONDS. In the discretion of the authority any bonds issued under this act may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state of Idaho. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, and not in violation of law, including particularly such provisions as have been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any bank or trust company incorporated under the laws of this state, which may act as depository of the proceeds of bonds or of revenues or other moneys, may furnish such indemnifying bonds or pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out such trust agreement or resolution may be treated as a part of the cost of the operation of a facility.

[I.C., sec. 39-1450D, as added by 1973, ch. 178, sec. 9, p. 393; am. 1976, ch. 183, sec. 5, p. 664; am. 2000, ch. 125, sec. 2, p. 298.]

39-1451. PAYMENT OF BONDS -- NONLIABILITY OF STATE. Bonds and notes issued by the authority shall not constitute or become an indebtedness, or a debt or liability of the state, the legislature thereof, or of any county, city, town, township, board of education or school district, or other subdivision of the state, or of any other political subdivision or body corporate and politic of or municipality within the state and neither the state, the legislature thereof, nor any county, city, town, township, board of education or school district or other subdivision of the state shall be liable thereon nor shall such bonds or notes constitute the giving, pledging or loaning of the faith and credit of the state, the legislature thereof, or of any county, city, town, township, board of education or school district, or other subdivision of the state, or of any other political subdivision or body corporate and politic of or municipality within the state, but shall be payable solely from the funds herein provided therefor. The issuance of

bonds or notes under the provisions of this act shall not, directly or indirectly or contingently, obligate the state or any political subdivision thereof nor empower the authority, to levy or collect any form of taxes or assessments therefor or to create any indebtedness payable out of taxes or assessments or make any appropriation for their payment and such appropriation or levy is prohibited. Nothing in this section contained shall prevent or be construed to prevent the authority from pledging its full faith and credit or the full faith and credit of a participating health institution to the payment of bonds or notes authorized pursuant to this act. Nothing in this act shall be construed to authorize the authority to create a debt of the state within the meaning of the constitution or statutes of Idaho or authorize the authority to levy or collect taxes or assessments and all bonds issued by the authority pursuant to the provisions of this act are payable and shall state that they are payable solely from the funds pledged for their payment in accordance with the resolution authorizing their issuance or in any trust indenture or mortgage or deed of trust executed as security therefor and are not a debt or liability of the state of Idaho. The state shall not in any event be liable for the payment of the principal of or interest on any bonds of the authority or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the authority. No breach of any such pledge, mortgage, obligation or agreement shall impose any pecuniary liability upon the state or any charge upon its general credit or against its taxing power.

All expenses incurred in carrying out this act shall be payable solely from funds provided under the authority of this act and no liability or obligation shall be incurred by the authority beyond the extent to which moneys shall have been provided under this act.

[39-1451, added 1972, ch. 134, sec. 11, p. 286; am. 1973, ch. 178, sec. 10, p. 393; am. 1976, ch. 183, sec. 6, p. 665.]

39-1452. EXEMPTION FROM TAXATION -- SECURITIES LAW. The authority is hereby declared to be performing a public function for the benefit of the people of the state for the improvement of their health and living conditions and to be a public instrumentality of the state. Accordingly, the income or other revenues of the authority, and all properties at any time owned by the authority, and any bonds, notes, or other obligations issued under this act, their transfer and income therefrom, including any profit made on the sale thereof, shall be exempt at all times from all taxation in the state of Idaho. Also, bonds issued by the authority shall be exempt from the uniform securities act, chapter 14, title 30, Idaho Code, or any amendments thereto.

[39-1452, added 1972, ch. 134, sec. 12, p. 286; am. 1973, ch. 178, sec. 11, p. 393; am. 2004, ch. 45, sec. 5, p. 227.]

39-1453. RENTS AND CHARGES. The authority is authorized to fix, revise, charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by each facility and to contract with any person, partnership, association or corporation, or other body, public or private, in respect thereof. Such rates, rents, fees and charges shall be fixed and adjusted in respect of the aggregate of rates, rents, fees and charges from such facility so as to provide funds sufficient with other revenues or moneys available therefor, if any, to pay the cost of maintaining, repairing and operating the facility and each and every portion thereof, to the extent that the payment of such cost has not otherwise been adequately

provided for, to pay the principal of and the interest on outstanding bonds or notes of the authority issued in respect of such facility as the same shall become due and payable, and to create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such bonds or notes of the authority. Such rates, rents, fees and charges shall not be subject to supervision or regulation by any department, commission, board, body, bureau or agency of this state other than the authority. A sufficient amount of the revenues derived in respect of a facility, except such part of such revenues as may be necessary to pay the cost of maintenance, repair and operation and to provide reserves and for renewals, replacements, extensions, enlargements and improvements as may be provided for in the resolution authorizing the issuance of any bonds or notes of the authority or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds or notes as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees and charges and other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement nor any other agreement nor any lease by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the resolution authorizing the issuance of such bonds or notes or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking or other similar fund may be a fund for all such bonds or notes issued to finance facilities at a particular health institution without distinction or priority of one over another, provided the authority in any such resolution or trust agreement may provide that such sinking or other similar fund shall be the fund for a particular facility at a health institution and for the bonds issued to finance a particular facility and may, additionally, permit and provide for the issuance of bonds having a subordinate lien in respect of the security herein authorized to other bonds of the authority, and, in such case, the authority may create separate sinking or other similar funds in respect of such subordinate lien bonds.

[39-1453, added 1973, ch. 178, sec. 13, p. 393.]

39-1453A. FEES. All expenses of the authority incurred in carrying out the provisions of this act shall be payable solely from funds provided under the authority of this act and no liability shall be incurred by the authority beyond the extent to which moneys shall have been provided under this act, except that for the purposes of meeting the necessary expenses of initial organization and operation until such date as the authority derives moneys from funds provided hereunder, the authority shall be empowered to borrow moneys as may be required for such necessary expenses of organization and operation. Such borrowed moneys shall be repaid within a reasonable time after the authority receives funds provided for under this act. When any applica-

tion is made to the authority by any participating health institution for financial assistance to provide for its facilities, such application shall be accompanied by an "initial planning service fee" in an amount determined by the authority. Such initial planning service fees shall be included in the cost of the facilities to be financed and shall not be refundable by the authority whether or not any such application is approved. In addition to such initial fee, an "annual planning service fee" shall be paid to the authority by each participating health institution in an amount determined by the authority. Such annual planning service fee shall be paid on said dates or in installments as may be satisfactory to the authority. It is anticipated such fees shall be used for; (i) necessary expenses to determine the need of facilities in the area concerned and to that end the authority may utilize recognized voluntary and official health planning organizations and agencies at local, regional and state levels as well as the state statutory bodies having health planning responsibilities; (ii) necessary administrative expenses; and (iii) reserves for anticipated future expenses. In addition the authority may, for a negotiated fee, retain the services of any other public or private person, firm, partnership, association or corporation for the furnishing of services and data for use by the authority in determining the need and location of any such facilities for which application is being made or for such other services or surveys as the authority deems necessary to carry out the purposes of this act.

[39-1453A, added 1976, ch. 183, sec. 7, p. 666.]

39-1454. CONVEYANCE OF TITLE TO INSTITUTION. When the principal of (an) and interest on bonds issued by the authority to finance the cost of facilities or to refinance outstanding indebtedness of one or more participating health institutions, including any refunding bonds issued to refund and refinance such bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire the same, and all other conditions of the resolution, the lease, the trust indenture and the mortgage or deed of trust or any other form of security arrangement, if any, authorizing and securing the same have been satisfied and the lien of such mortgage or deed of trust or any other form of security arrangement has been released in accordance with the provisions thereof, the authority shall promptly do all things and execute such deeds and conveyances and other documents as are necessary and required to convey its right, title and interest in such facilities so financed, and any other facilities mortgaged or subject to deed of trust or any other form of security arrangement to secure the bonds, to such participating health institution or institutions.

[39-1454, added 1972, ch. 134, sec. 14, p. 286; am. 1976, ch. 183, sec. 8, p. 667.]

39-1455. POWERS NOT RESTRICTED -- LAW COMPLETE IN ITSELF. Neither this act nor anything herein contained shall be construed as a restriction or limitation upon any powers which the authority might otherwise have under any laws of this state, but shall be construed as cumulative of any such powers. No proceedings, referendum, notice or approval shall be required for the creation of the authority or the issuance of any bonds or any instrument as security therefor, except as herein provided, any other law to the contrary notwithstanding; provided, that nothing herein shall be construed to deprive the state and its governmental subdivisions of their respective police powers over properties of the authority, or to impair any power there-

over of any official or agency of the state and its governmental subdivisions which may be otherwise provided by law.

[39-1455, added 1972, ch. 134, sec. 15, p. 286.]

39-1456. FACILITIES GOVERNED BY LAWS OF LOCALITY. All facilities shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which any such facilities are to be situated.

[39-1456, added 1972, ch. 134, sec. 16, p. 286.]

39-1457. INVESTMENT OF FUNDS. The authority may invest the proceeds from the sale of a series of obligations or any funds related to the series in such securities and other investments, whether or not any such investment or reinvestment is authorized under any other law of the state, as may be provided in the proceedings under which the series of obligations are authorized to be issued. The authority may invest any other funds in obligations of the federal government, the state or of any municipality thereof or obligations of agencies of the federal government; in bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of the United States of America; in certificates of deposit or time deposits constituting direct obligations of any bank in Idaho; provided, however, that investments may be made only in those certificates of deposit or time deposits in banks which are insured by the federal deposit insurance corporation, if then in existence, and may exceed the maximum of such insurance; or in short term discount obligations of the federal national mortgage association. Any such securities may be purchased at the offering or market price thereof at the time of such purchase. The authority may invest any other funds with such maturities as the authority shall determine provided that such maturities are on a date or dates prior to the time when, in the judgment of the authority, the funds so invested will be required for expenditure. The express judgment of the authority as to the time when any such funds will be required for expenditure or be redeemable is final and conclusive.

[39-1457, added 1972, ch. 134, sec. 17, p. 286; am. 1973, ch. 178, sec. 14, p. 393; am. 1976, ch. 183, sec. 9, p. 668; am. 1985, ch. 72, sec. 4, p. 148.]

39-1457A. TRUST FUNDS. All moneys received pursuant to the authority of this act whether as proceeds from the sale of bonds, notes or other obligations or as revenues or receipts shall be deemed to be trust funds to be held and applied solely as provided in this act. Any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this act, subject to such regulations as this act and the resolution authorizing the bonds, notes or other obligations of any issue or the trust agreement securing such obligations shall provide.

[39-1457A, added 1976, ch. 183, sec. 10, p. 668.]

39-1457B. AGREEMENT OF THE STATE. The state does hereby pledge to and agree with the holders of any bonds, notes and other obligations issued under this act, and with those parties who may enter into contracts with the authority pursuant to the provisions of this act, that the state will not limit, alter, restrict or impair the rights hereby vested in the authority

to acquire, construct, reconstruct, maintain and operate any facility as defined in this act or to establish, revise, charge and collect rates, rents, fees and other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation thereof and to fulfill the terms of any agreements made with the holders of bonds, notes or other obligations authorized and issued by this act, and with the parties who may enter into contracts with the authority pursuant to this act, or in any way impair the rights or remedies of the holders of such bonds, notes or other obligations of such parties until the bonds, notes and such other obligations, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged and such contracts are fully performed on the part of the authority. Nothing in this act precludes such limitation or alteration if and when adequate provision is made by law for the protection of the holders of such bonds, notes or other obligations of the authority or those entering into such contracts with the authority. The authority is authorized to include this pledge and undertaking for the state in such bonds, notes or other obligations and in such contracts.

[(39-1457B) 39-1459B, as added by 1976, ch. 183, sec. 11, p. 669; am. and redesign. 2005, ch. 25, sec. 59, p. 104.]

39-1458. BONDS ELIGIBLE FOR INVESTMENT. The state and all counties, cities, villages, incorporated towns and other municipal corporations, political subdivisions and public bodies, and public officers of any thereof, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued pursuant to this act.

[39-1458, added 1972, ch. 134, sec. 18, p. 286.]

39-1459. EXEMPTION FROM CONSTRUCTION AND BIDDING REQUIREMENTS FOR PUBLIC BUILDINGS. The facilities are not subject to any requirements relating to public buildings, structures, grounds, works or improvements imposed by the laws of this state or any other similar requirements which may be lawfully waived by this section and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property of the authority is not applicable to any action taken under authority of this act.

[39-1459, added 1972, ch. 134, sec. 19, p. 286.]

39-1460. POWERS IN ADDITION TO THOSE GRANTED BY OTHER LAWS -- SEVERABILITY. The powers conferred by this act shall be in addition and supplementary to, and the limitations by this act shall not affect the powers conferred by any other law except as herein provided. Facilities may be acquired, purchased, constructed, reconstructed, improved, bettered and extended and bonds may be issued under this act for said purposes notwithstanding that any other law may provide for the acquisition, purchase, construction, reconstruction, improvement, betterment and extensions of like facilities, or the issuance of bonds for like purposes, and without regard to the requirements, restrictions, limitations or other provisions contained in

any other law. If any one or more sections or provisions of this act, or the application thereof to any person or circumstance, shall ever be held by any court of competent jurisdiction to be invalid, the remaining provisions of this act and the application thereof to persons or circumstances other than those to which it is held to be invalid, shall not be affected thereby, it being the intention of this general assembly to enact the remaining provisions of this act notwithstanding such invalidity.

[39-1460, added 1972, ch. 134, sec. 20, p. 286.]