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SENATE BILL 814

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Leonard Tsosie

AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING THE SCHOOL REVENUE BOND ACT; DECLARING AN EMERGENCY.

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

Section 1. Section 22-19-1 NMSA 1978 (being Laws 1967, Chapter 16, Section 240) is amended to read:

"22-19-1. SHORT TITLE. -- [~~Sections 77-16-1 through 77-16-16 New Mexico Statutes Annotated, 1953 Compilation~~] Chapter 22, Article 19 NMSA 1978 may be cited as the "School Revenue Bond Act". "

Section 2. Section 22-19-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 241) is amended to read:

"22-19-2. DEFINITIONS. -- As used in the School Revenue Bond Act:

A. "additional income" means net income from an

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1 existing building, improvement or other facility;

2 B. "federal grants" means grants, subsidies or
3 contributions from the United States or any of its agencies or
4 instrumentalities;

5 ~~[A-]~~ C. "income project" means purchasing,
6 erecting, improving, repairing or furnishing a building,
7 improvement or facility, including housing for teachers,
8 and including the land upon which it is situated, [which] that
9 will produce an income to the school district;

10 ~~[B-]~~ D. "net income from the income project" means
11 all income derived from an income project, including the
12 income pledged pursuant to the School Revenue Bond Act, less
13 the operating costs of the income project; ~~[and~~

14 ~~E-]~~ E. "operating costs" means expenses of
15 operating, maintaining and keeping in repair an income
16 project, including the cost of heating, electricity,
17 insurance, service employees and equipment replacement; and

18 F. "pledgeable revenue" means all or a portion of
19 net income from the income project, additional income and
20 federal grants or any combination of those. "

21 Section 3. Section 22-19-4 NMSA 1978 (being Laws 1967,
22 Chapter 16, Section 243) is amended to read:

23 "22-19-4. BONDS ~~[MORTGAGES]~~.--

24 A. A local school board may issue bonds or other
25 special obligations to finance ~~[the repayment of all money~~

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1 ~~borrowed for an income project]~~ one or more income projects
2 pursuant to the School Revenue Bond Act and irrevocably pledge
3 all or any combination of the pledgeable revenues to the
4 repayment thereof including funding of any debt service
5 reserve fund.

6 B. ~~[A local school board may execute a mortgage,~~
7 ~~deed of trust or a security agreement upon the income project~~
8 ~~to secure payment of any bonds or other special obligations~~
9 ~~issued pursuant to the School Revenue Bond Act.]~~ Such bonds
10 or other special obligations shall be payable solely from the
11 pledgeable revenues pledged to the payment of the obligation
12 and shall not constitute an indebtedness, debt or general
13 obligation of the school district, the state or any agency,
14 instrumentality or political subdivision of the state."

15 Section 4. Section 22-19-5 NMSA 1978 (being Laws 1967,
16 Chapter 16, Section 244) is amended to read:

17 "22-19-5. DETERMINATION BY LOCAL SCHOOL BOARD.--Prior to
18 borrowing money and issuing evidences of indebtedness to
19 finance an income project, a local school board shall make a
20 determination that the income project is necessary and that
21 ~~[sufficient income will be produced by the income project]~~ the
22 pledgeable revenues pledged to the repayment of the bonds or
23 other special obligations are reasonably expected to be
24 sufficient to repay all money borrowed and to discharge any
25 bonds or other special obligations issued for ~~[the repayment~~

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1 ~~of the money borrowed]~~ such income project or projects;
2 provided that such expectations may assume that any federal
3 grants will be available over the life of such bonds or other
4 special obligations even if such federal grants are subject to
5 annual appropriation. "

6 Section 5. Section 22-19-6 NMSA 1978 (being Laws 1967,
7 Chapter 16, Section 245) is amended to read:

8 "22-19-6. REPORT TO STATE BOARD. --Prior to borrowing any
9 money to finance an income project, a local school board shall
10 furnish to the state board the following information:

- 11 A. a detailed description of the income project;
- 12 B. an explanation of the necessity for the income
13 project;
- 14 C. an estimate of the total cost of the income
15 project;
- 16 D. an estimate of the amount of income anticipated
17 from the income project, additional income and any applicable
18 federal grants that may be pledged to the payment of the bonds
19 or other special obligations;
- 20 E. an estimate of the amount of income from
21 existing buildings, improvements or facilities that will be
22 pledged to pay for the income project;
- 23 F. an estimate of the yearly operating cost of the
24 income project; and
- 25 G. an estimate of the anticipated yearly net

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1 income from the income project, additional income and any
2 applicable federal grants that may be pledged to the payment
3 of the bonds or other special obligations. "

4 Section 6. Section 22-19-7 NMSA 1978 (being Laws 1967,
5 Chapter 16, Section 246) is amended to read:

6 "22-19-7. STATE BOARD APPROVAL-- DETERMINATION BY STATE
7 BOARD. --

8 A. A local school board shall obtain written
9 approval of the state board before it borrows money, issues
10 bonds or other special obligations [~~or executes mortgages,~~
11 ~~deeds of trust or security agreements~~] for financing an income
12 project pursuant to the School Revenue Bond Act.

13 B. Prior to giving written approval to an income
14 project, the state board shall determine that the income
15 project is necessary and that sufficient income will be
16 produced by the [~~income project~~] pledgeable revenues
17 pledged to repay all money borrowed and to discharge any bonds
18 or other special obligations issued for the repayment of the
19 money borrowed; provided that in making such determination,
20 the state board may assume that any federal grants will be
21 available over the life of the bonds or other special
22 obligations even if the federal grants are subject to annual
23 appropriation. "

24 Section 7. Section 22-19-8 NMSA 1978 (being Laws 1967,
25 Chapter 16, Section 247) is amended to read:

. 136794. 1

1 "22-19-8. RECORDS--RESTRICTION ON USE OF INCOME. --

2 A. A local school board shall retain complete and
3 accurate records of:

4 (1) the net income from the income project;
5 [~~and~~]

6 (2) the operating costs of the income
7 project; and

8 (3) all other pledgeable revenues pledged to
9 such bonds or other special obligations.

10 B. If net income from the income project is
11 pledged to the bonds or other special obligations, all income
12 from the income project shall be used solely for the following
13 purposes:

14 (1) to pay the principal, interest and
15 service charges on any bonds or other special obligations
16 issued pursuant to the School Revenue Bond Act, including the
17 funding of any debt service reserve fund; and

18 (2) to pay the operating costs of the income
19 project. "

20 Section 8. Section 22-19-9 NMSA 1978 (being Laws 1967,
21 Chapter 16, Section 248) is amended to read:

22 "22-19-9. BONDS--PLEDGE OF INCOME--SATISFACTION OF
23 [~~INDEBTEDNESS~~] OBLIGATIONS. --

24 A. Bonds or other special obligations issued
25 pursuant to the School Revenue Bond Act shall be payable

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1 solely from, and the local school board shall irrevocably
2 pledge, for the prompt payment of the principal, interest and
3 service charges thereof, [~~the net income from the income~~
4 ~~project for which the bonds or other special obligations were~~
5 ~~issued~~] all or any combination of the pledgeable revenues.

6 The bonds or other special obligations shall be equally and
7 ratably secured, without priority, by this pledge of the [~~net~~
8 ~~income from the income project~~] pledgeable revenues pledged.

9 B. If the bonds or other special obligations are
10 payable solely from the income project being financed, a local
11 school board shall operate the income project so as to insure
12 a sufficient income to promptly pay the principal, interest
13 and service charges as they become due on the bonds or other
14 special obligations issued after the payment of operating
15 costs of the income project. [~~A local school board shall~~
16 ~~establish a reserve fund not exceeding ten thousand dollars~~
17 ~~(\$10,000) to be used for the repayment of any money borrowed.~~

18 C. ~~Satisfaction of any indebtedness created by any~~
19 ~~bonds or other special obligations issued pursuant to the~~
20 ~~School Revenue Bond Act shall be limited solely to foreclosure~~
21 ~~of the income project upon which a mortgage, deed of trust or~~
22 ~~security agreement was executed, without the right to a~~
23 ~~deficiency judgement.] "~~

24 Section 9. Section 22-19-10 NMSA 1978 (being Laws 1967,
25 Chapter 16, Section 249) is amended to read:

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1 "22-19-10. PROCEEDS OF BOND SALES--RETIREMENT FUND. --

2 A. Proceeds from the sale of bonds or other
3 special obligations issued by a local school board pursuant to
4 the School Revenue Bond Act shall be deposited into [~~a~~] one or
5 more separate [~~account~~] accounts to be used solely for the
6 specific purposes for which the money was borrowed and may be
7 deposited into a debt service reserve fund that may be
8 established by the local school board. All costs incident to
9 issuing and selling bonds or other special obligations may be
10 paid out of the proceeds of [~~this account~~] these accounts.

11 B. A local school board at the time of issuing any
12 bonds or other special obligations shall establish a fund or
13 account to be known as the "retirement fund" for the payment
14 of the principal of and interest on bonds or other special
15 obligations and may establish a debt service reserve fund for
16 their payment and sufficient amounts from the pledgeable
17 revenues pledged to payment of the principal and interest
18 shall be deposited in or credited to the retirement fund at
19 least annually so that timely payments of the principal and
20 interest may be made. All [~~net income from the income project~~
21 ~~and all~~] proceeds remaining after completion of the income
22 project shall be deposited into the retirement fund, the
23 reserve fund or any combination of those. All proceeds in the
24 retirement fund shall be used solely for the purpose of
25 repaying the principal, interest and service charges on any

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1 bonds or other special obligations issued for the income
2 project. "

3 Section 10. Section 22-19-11 NMSA 1978 (being Laws 1967,
4 Chapter 16, Section 250) is amended to read:

5 "22-19-11. BONDS--FORM-REQUIREMENTS.--All bonds or
6 other special obligations issued pursuant to the School
7 Revenue Bond Act shall:

8 A. be fully negotiable within the provisions of
9 the Uniform Commercial Code;

10 B. have a duration of time not to exceed forty
11 years from their date of issuance;

12 C. bear interest at a rate [~~not to exceed a net of~~
13 ~~six percent a year, interest~~] payable annually or
14 semiannually;

15 D. be sold at a price [~~which does not result in an~~
16 ~~actual net interest cost to maturity, computed on the basis of~~
17 ~~standard tables of bond values, in excess of six percent a~~
18 ~~year~~] that results in a net effective interest rate that does
19 not exceed the maximum net effective interest rate permitted
20 by the Public Securities Act;

21 E. have the principal thereof paid in yearly
22 amounts beginning not later than two years from their date of
23 issuance; and

24 F. be sold at public or private sale [~~with or~~
25 ~~without a discount, as provided by Subsection D of this~~

. 136794. 1

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1 ~~section]~~ at, above or below par as permitted by and subject to
2 the provisions of the Public Securities Act. "

3 Section 11. Section 22-19-12 NMSA 1978 (being Laws 1967,
4 Chapter 16, Section 251) is amended to read:

5 "22-19-12. PLEDGE OF ADDITIONAL REVENUE. -- A local school
6 board may pledge as security for the payment of the principal
7 and interest on any bonds or other special obligations issued
8 pursuant to the School Revenue Bond Act a part or the whole
9 amount of the net income derived from an existing building,
10 improvement or other facility subject to the control of the
11 local school board. A local school board may pledge this net
12 income whether or not the existing building, improvement or
13 facility is to be improved, repaired or furnished by the
14 proceeds of the bonds or other special obligations. "

15 Section 12. Section 22-19-13 NMSA 1978 (being Laws 1967,
16 Chapter 16, Section 252) is amended to read:

17 "22-19-13. REFUNDING BONDS. --

18 A. A local school board may issue refunding bonds
19 for the purpose of refunding [~~for not less than the principal~~
20 ~~amount thereof~~] bonds issued pursuant to the provisions of the
21 School Revenue Bond Act or any act repealed [~~thereby~~] by that
22 act or for the purpose of providing additional funds for any
23 income project [~~for which bonds have been~~] authorized by a
24 local school board, or for both purposes.

25 B. Except as otherwise provided in the School

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1 Revenue Bond Act, refunding bonds shall conform to the
2 provisions of the School Revenue Bond Act which provide for
3 the issuance of other revenue bonds by a local school board.

4 C. A refunding bond issued by a local school board
5 may have the same security or source of payment as was pledged
6 for the payment of the bond being refunded or all or any
7 combination of the pledgeable revenues, but no source of
8 payment shall be pledged which is not authorized by the School
9 Revenue Bond Act.

10 D. A refunding bond may be delivered in exchange
11 for a bond authorized to be refunded, sold at a public or
12 private sale [~~for not less than the par value of the bond~~] at,
13 above or below par as provided by the Public Securities Act or
14 sold in part and exchanged in part. If the refunding bond is
15 sold, the proceeds shall be immediately applied to the
16 retirement of the bond to be refunded, or the proceeds or the
17 obligations in which the proceeds are permitted by law to be
18 invested shall be placed in trust to be held and applied to
19 payment of the bond to be refunded. "

20 Section 13. Section 22-19-14 NMSA 1978 (being Laws 1967,
21 Chapter 16, Section 253) is amended to read:

22 "22-19-14. REFUNDING BONDS--ISSUANCE--SALE--PROCEEDS.--

23 A. No bond shall be refunded pursuant to the
24 School Revenue Bond Act unless it matures or is callable for
25 prior redemption under its terms within fifteen years from the

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1 date of issuance of the refunding bond or unless the holder of
2 the bond voluntarily surrenders it for exchange or payment.

3 B. Outstanding bonds of more than one issue may be
4 refunded by refunding bonds of one or more issue. Refunding
5 bonds and any other bonds authorized pursuant to the School
6 Revenue Bond Act may be issued separately or in combinations
7 of one or more series.

8 C. If any officer whose signature or facsimile
9 signature appears on any bond or coupon authorized by the
10 School Revenue Bond Act ceases to hold office before delivery
11 of the bond, the signature or facsimile signature shall be
12 valid for all purposes as if he had remained in office until
13 delivery; provided, however, it is recognized that such bonds
14 may be issued in any form permitted by the Supplemental Public
15 Securities Act that applies to the School Revenue Bond Act.

16 D. When a refunding bond is sold, the net proceeds
17 may, in the discretion of the local school board, be invested
18 in obligations of the federal government or any agency of the
19 federal government or in obligations fully guaranteed by the
20 federal government, but the obligations purchased [~~must~~] shall
21 have a maturity and bear a rate of interest payable at times
22 to ensure the existence of sufficient money to pay the bond to
23 be refunded when it becomes due or redeemable pursuant to a
24 call for redemption, together with interest and redemption
25 premiums, if any.

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1 E. All obligations purchased with the net proceeds
2 from refunding bonds shall be deposited in trust with a bank
3 [~~doing business in~~] that is located within or without the
4 state that has and is exercising trust powers and [~~which~~] that
5 is a member of the federal deposit insurance corporation. The
6 obligations shall be held, liquidated and the proceeds of the
7 liquidation paid out for payment of the principal, interest
8 and redemption premium of the bonds to be refunded as the
9 bonds to be refunded become due or where the bonds are subject
10 to redemption under a call for redemption previously made or
11 where there is a voluntary surrender with the approval of the
12 local school board.

13 F. The determination of the local school board
14 issuing refunding bonds that the issuance has been in
15 compliance with the School Revenue Bond Act is conclusively
16 presumed correct in the absence of fraud or arbitrary and
17 gross abuse of discretion.

18 G. As used in the section, "net proceeds" means
19 the gross proceeds of the refunding bonds after deducting all
20 accrued interest and expenses incurred in connection with the
21 authorization and issuance of the refunding bonds and the
22 refunding of outstanding bonds, including fiscal agent fees,
23 commissions and all discounts incurred in the resale of the
24 refunding bonds to the original purchaser.

25 H. As used in this section and Section 22-19-13

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1 NMSA 1978, "bond" means a bond or other special obligation."

2 Section 14. SEVERABILITY.--if any part or application of
3 this act is held invalid, the remainder or its application to
4 other situations or persons shall be not affected.

5 Section 15. EMERGENCY.--It is necessary for the public
6 peace, health and safety that this act take effect
7 immediately.

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