

HOUSE FLOOR SUBSTITUTE FOR
HOUSE BILL 359

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; ENACTING THE TEACHER
HOUSING REVENUE BOND ACT; ALLOWING FEDERAL FUNDS TO BE PLEDGED
FOR TEACHER HOUSING REVENUE BONDS EVEN IF SUBJECT TO ANNUAL
APPROPRIATION; PROVIDING FOR DEBT SERVICE RESERVE FUNDS.

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

Section 1. A new section of the Public School Code is
enacted to read:

"NEW MATERIAL SHORT TITLE. -- This act may be cited as
the "Teacher Housing Revenue Bond Act". "

Section 2. A new section of the Public School Code is
enacted to read:

"NEW MATERIAL DEFINITIONS. -- As used in the Teacher
Housing Revenue Bond Act:

A. "bonds" means teacher housing revenue bonds;

1 B. "federal payment" means a payment, grant,
2 subsidy, contribution or other money from the United States or
3 any of its agencies or instrumentalities that is not otherwise
4 restricted as to use and that the federal government allows to
5 be pledged or used to pay debt service on bonds; provided that
6 for federal forest reserve or P.L. 874 funds, "federal
7 payment" means that portion of the funds for which the state
8 does not take credit for the state equalization guarantee
9 pursuant to Section 22-8-25 NMSA 1978;

10 C. "housing project" means a residential housing
11 facility for teachers, including land and land improvements;

12 D. "net income from the housing project" means all
13 income derived from a housing project less the operating costs
14 of the housing project;

15 E. "operating costs" means expenses of operating,
16 maintaining and keeping in repair a housing project, including
17 the cost of utilities, insurance, service employees and
18 equipment replacement; and

19 F. "pledgeable revenue" means net income from the
20 housing project and federal payments. "

21 Section 3. A new section of the Public School Code in
22 enacted to read:

23 "[NEW MATERIAL] BONDS NOT GENERAL OBLIGATIONS OF SCHOOL
24 DISTRICT OR STATE. --

25 A. A local school board may issue bonds to finance

1 the purchase, construction, renovation, equipping and
2 furnishing of a housing project and may irrevocably pledge any
3 or all pledgeable revenue to the payment of those bonds and to
4 the debt service reserve fund if one is established for the
5 bonds.

6 B. Bonds shall be payable solely from pledgeable
7 revenue and shall not constitute an indebtedness or general
8 obligation of the school district, the state or other
9 political subdivisions of the state. "

10 Section 4. A new section of the Public School Code is
11 enacted to read:

12 "[NEW MATERIAL] DETERMINATION BY LOCAL SCHOOL BOARD--
13 FEDERAL PAYMENTS. --

14 A. Prior to issuing bonds to finance the purchase,
15 construction, renovation, equipping or furnishing of a housing
16 project, a local school board shall make a determination that
17 the housing project is necessary and that estimated pledgeable
18 revenue pledged to the bonds is sufficient to repay the bonds.

19 B. Revenue from federal payments may be pledged
20 even if the federal payments are subject to annual
21 appropriation. Federal payments shall not be pledged unless
22 such use is allowed by federal law. The local school board
23 shall include in its determination a statement as to the
24 legality of pledging the federal payments and what other
25 revenue will be available to make bond payments if federal

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1 payments are not appropriated. "

2 Section 5. A new section of the Public School Code is
3 enacted to read:

4 "[NEW MATERIAL] REPORT TO STATE BOARD-- STATE BOARD
5 APPROVAL. --

6 A. Prior to issuing bonds to finance a housing
7 project, a local school board shall furnish to the state board
8 the following information:

9 (1) a detailed description of the housing
10 project;

11 (2) an explanation of the necessity for the
12 housing project;

13 (3) an estimate of the total cost of the
14 housing project;

15 (4) an estimate of the net income from the
16 housing project and other revenues that will be pledged to pay
17 for the housing project; and

18 (5) an estimate of the yearly operating cost
19 of the housing project.

20 B. A local school board shall obtain written
21 approval of the state board before it issues bonds to finance
22 a housing project pursuant to the Teacher Housing Revenue Bond
23 Act.

24 C. Prior to giving written approval to a housing
25 project, the state board shall determine that the housing

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1 project is necessary and that estimated pledgeable revenue
2 pledged to the bonds is sufficient to repay the bonds."

3 Section 6. A new section of the Public School Code is
4 enacted to read:

5 "[NEW MATERIAL] RECORDS--RESTRICTION ON USE OF INCOME.--

6 A. A local school board shall retain complete and
7 accurate records of:

- 8 (1) the net income from the housing project;
- 9 (2) receipt and amount of federal payments
10 pledged to the repayment of the bonds; and
- 11 (3) the operating costs of the housing
12 project.

13 B. Pledgeable revenue that is pledged to the
14 repayment of bonds shall first be used to pay the principal,
15 interest and service charges on the bonds issued pursuant to
16 the Teacher Housing Revenue Bond Act and to fund a debt
17 service reserve fund, if applicable."

18 Section 7. A new section of the Public School Code is
19 enacted to read:

20 "[NEW MATERIAL] BONDS--PLEDGE OF INCOME.--

21 A. Bonds shall be payable solely from any or all
22 pledgeable revenue, and the local school board shall
23 irrevocably pledge that revenue to the prompt payment of the
24 principal, interest and service charges on the bonds. The
25 bonds shall be equally and ratably secured, without priority,

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1 by this pledge of pledgeable revenue.

2 B. If the bonds are payable solely from the net
3 income of the housing project being financed, the local school
4 board shall operate the housing project so as to ensure a
5 sufficient income to promptly pay the principal, interest and
6 service charges as they become due on the bonds. "

7 Section 8. A new section of the Public School Code is
8 enacted to read:

9 "[NEW MATERIAL] PROCEEDS OF BOND SALES--RETIREMENT FUND--
10 RESERVE FUND. --

11 A. Proceeds from the sale of bonds shall be
12 deposited into a separate account to be used solely for the
13 specific purposes for which the bonds were issued, including a
14 debt service reserve fund. All costs incident to issuing and
15 selling the bonds may be paid out of the proceeds of the
16 bonds.

17 B. The local school board shall establish a "debt
18 service fund" to be used solely for the payment of principal,
19 interest and service charges on the bonds. Sufficient amounts
20 from the pledged revenue shall be deposited in the debt
21 service fund at least annually so that timely payments of
22 principal, interest and service charges may be made. All
23 proceeds remaining after completion of the housing project
24 shall be deposited into the debt service fund.

25 C. The local school board may establish a "debt

1 service reserve fund" to be used to pay bond payments in case
2 the pledged revenue is insufficient. "

3 Section 9. A new section of the Public School Code is
4 enacted to read:

5 "[NEW MATERIAL] BONDS--FORM-REQUIREMENTS.--All bonds
6 issued pursuant to the Teacher Housing Revenue Bond Act shall:

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

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

11 C. have interest, appreciated principal value or
12 any part thereof payable at intervals or at maturity as
13 determined by the local school board;

14 D. be sold at a price that does not result in a
15 net effective interest rate in excess of twelve percent a year
16 unless a higher rate of interest is approved by the state
17 board of finance pursuant to the Public Securities Act;

18 E. have a principal maturity schedule as
19 determined by the local school board; and

20 F. be sold at public or private sale at, above or
21 below par. "

22 Section 10. A new section of the Public School Code is
23 enacted to read:

24 "[NEW MATERIAL] REFUNDING BONDS.--

25 A. A local school board may issue refunding bonds

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1 to refund outstanding bonds.

2 B. Except as otherwise provided in the Teacher
3 Housing Revenue Bond Act, refunding bonds shall conform to the
4 provisions of that act that provide for the issuance of
5 teacher housing revenue bonds by a local school board.

6 C. A refunding bond issued by a local school board
7 may have the same security or source of payment as was pledged
8 for the payment of the bond being refunded, but no source of
9 payment shall be pledged that is not authorized by the Teacher
10 Housing Revenue Bond Act.

11 D. A refunding bond may be delivered in exchange
12 for a bond authorized to be refunded, sold at a public or
13 private sale or sold in part and exchanged in part as provided
14 in the Supplemental Public Securities Act. If the refunding
15 bond is sold, the proceeds shall be immediately applied to the
16 retirement of the bond to be refunded or the proceeds shall be
17 placed in trust to be held and applied to payment of the bonds
18 to be refunded. "

19 Section 11. A new section of the Public School Code is
20 enacted to read:

21 "[NEW MATERIAL] REFUNDING BONDS--ISSUANCE--SALE--
22 PROCEEDS.--

23 A. A bond shall not be refunded unless it matures
24 or is callable for prior redemption under its terms within
25 fifteen years from the date of issuance of the refunding bond

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

3 B. Outstanding bonds of more than one issue may be
 4 refunded by refunding bonds of one or more issue. Bonds and
 5 refunding bonds may be issued separately or in combinations of
 6 one or more series.

7 C. When a refunding bond is sold, the net proceeds
 8 may, in the discretion of the local school board, be invested
 9 in obligations of the federal government or an agency of the
 10 federal government or in obligations fully guaranteed by the
 11 federal government, but the obligations purchased shall have a
 12 maturity and bear a rate of interest payable at times to
 13 ensure the existence of sufficient money to pay the bond to be
 14 refunded when it becomes due or redeemable pursuant to a call
 15 for redemption, together with interest and redemption
 16 premiums, if any.

17 D. All obligations purchased with the net proceeds
 18 from refunding bonds shall be deposited in trust with a bank
 19 that has trust powers and that is a member of the federal
 20 deposit insurance corporation. The obligations shall be held,
 21 liquidated and the proceeds of the liquidation paid out for
 22 payment of the principal, interest and redemption premium of
 23 the bonds to be refunded as the bonds to be refunded become
 24 due or where the bonds are subject to redemption under a call
 25 for redemption previously made or where there is a voluntary

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1 surrender with the approval of the local school board.

2 E. The determination of the local school board
3 issuing refunding bonds that the issuance has been in
4 compliance with the Teacher Housing Revenue Bond Act is
5 conclusively presumed correct in the absence of fraud or
6 arbitrary and gross abuse of discretion.

7 F. As used in this section, "net proceeds" means
8 the gross proceeds of the refunding bonds after deducting all
9 accrued interest and expenses incurred in connection with the
10 authorization and issuance of the refunding bonds and the
11 refunding of outstanding bonds, including fiscal agent fees,
12 commissions and all discounts incurred in the resale of the
13 refunding bonds to the original purchaser. "

14 Section 12. A new section of the Public School Code is
15 enacted to read:

16 "[NEW MATERIAL] TAX EXEMPTION--NO CHARGE AGAINST STATE. --
17 Bonds are exempt from taxation by the state or any of its
18 political subdivisions. No obligation created pursuant to the
19 Teacher Housing Revenue Bond Act shall be a charge against or
20 a debt of the state or any of its political subdivisions. "

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