

HOUSE BILL 1226

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO EDUCATION; PROVIDING FOR THE TIMELY PAYMENT OF
SCHOOL DISTRICT GENERAL OBLIGATIONS BY WITHHOLDING STATE
EQUALIZATION GUARANTEE DISTRIBUTIONS; DECLARING AN EMERGENCY.

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

Section 1. Section 22-18-13 NMSA 1978 (being Laws 2003,
Chapter 46, Section 1) is amended to read:

"22-18-13. TIMELY PAYMENT OF SCHOOL DISTRICT
OBLIGATIONS.--

A. Whenever a paying agent has not received payment
of principal or interest on school district general obligation
bonds on the business day immediately prior to the date on
which the payment is due, the paying agent shall so notify the
state treasurer, the department of finance and administration,
the department [~~of education~~] and the school district by

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1 telephone, facsimile or other similar communication, followed
2 by written verification, of the payment status. The state
3 treasurer shall immediately contact the school district and
4 determine whether the school district will make the payment by
5 the date on which it is due.

6 B. Except as provided in Subsection C of this
7 section, if the school district indicates that it will not make
8 the payment by the date on which it is due, the state treasurer
9 shall forward the amount in immediately available funds
10 necessary to make the payment due on the bonds to the paying
11 agent and shall withhold an equal amount from the next
12 succeeding payment of the state equalization guarantee
13 distribution. If the amount of the next succeeding payment is
14 insufficient to pay the amount due, the state treasurer shall
15 withhold amounts from each succeeding payment of the state
16 equalization guarantee distribution, including payments to be
17 made in succeeding fiscal years but not more than twelve
18 consecutive months of payments, until the total payment of
19 principal and interest due has been withheld.

20 C. For a payment due on a bond issued on or after
21 the effective date of this 2007 act, if the school district
22 indicates that it will not make the payment by the date on
23 which it is due, the state treasurer shall immediately make the
24 payment to the paying agent from the current fiscal year's
25 undistributed state equalization guarantee distribution to that

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1 school district and, if not otherwise repaid by the school
2 district from other legally available funds, withhold the
3 distributions from the school district until the amount has
4 been recouped by the treasurer, provided that, if the amount of
5 the undistributed state equalization guarantee distribution in
6 the current fiscal year is less than the payment due on the
7 bond, the state treasurer shall:

8 (1) immediately make the payment to the paying
9 agency of the total amount of undistributed state equalization
10 guarantee distribution and, if not otherwise repaid by the
11 school district from other legally available funds, withhold
12 all distributions to the school district for the remainder of
13 the fiscal year; and

14 (2) on July 1 of the following fiscal year,
15 pay the remaining amount due to the paying agent from that
16 year's state equalization guarantee distribution and, if not
17 otherwise repaid by the school district from other legally
18 available funds, withhold an equal amount from the distribution
19 to the school district until the amount paid has been recouped
20 in full.

21 [~~C.~~] D. The amounts forwarded to the paying agent
22 by the state treasurer shall be applied by the paying agent
23 solely to the payment of the principal or interest due on the
24 general obligation bonds of the school district. The state
25 treasurer shall notify the department [~~of education~~], the chief

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1 financial officer of the school district, the department of
2 finance and administration, the legislative finance committee
3 and the legislative education study committee of amounts
4 withheld and payments made pursuant to this section.

5 ~~[D-]~~ E. Upon the issuance of general obligation
6 bonds by a school district, the school district shall file with
7 the state treasurer a copy of the resolution that authorizes
8 the issuance of the bonds, a copy of the official statement or
9 other offering document for the bonds, the agreement, if any,
10 with the paying agent for the bonds and the name, address and
11 telephone number of the paying agent; provided, however, that
12 the failure of a school district to file the information shall
13 not affect the obligation of the state treasurer to withhold
14 the state equalization guarantee distribution pursuant to this
15 section.

16 ~~[E-]~~ F. The state hereby covenants with the
17 purchasers and holders of general obligation bonds issued by
18 school districts that it will not repeal, revoke or rescind the
19 provisions of this section or modify or amend the same so as to
20 limit or impair the rights and remedies granted by this
21 section; provided that nothing in this subsection shall be
22 deemed or construed to require the state to continue the
23 payment of a state equalization guarantee distribution to any
24 school district or to limit or prohibit the state from
25 repealing, amending or modifying any law relating to the amount

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1 of state equalization guarantee distributions to school
2 districts or the manner of payment or the timing thereof.
3 Nothing in this section shall be deemed or construed to create
4 a debt of the state with respect to the bonds within the
5 meaning of any state constitutional provision or to create any
6 liability except to the extent provided in this section.

7 ~~[F.]~~ G. Whenever the state treasurer is required by
8 this section to make a payment of principal or interest on
9 bonds on behalf of a school district, the department ~~[of~~
10 ~~education]~~ shall initiate an audit of the school district to
11 determine the reason for the nonpayment and to assist the
12 school district, if necessary, in developing and implementing
13 measures to ensure that future payments will be made when due.

14 ~~[G.]~~ H. Whenever the state treasurer makes a
15 payment of principal and interest on bonds or other obligations
16 of a school district and withholds amounts from the state
17 equalization guarantee distribution pursuant to this section
18 because of the failure to collect property taxes, the school
19 district may transfer delinquent property taxes later collected
20 out of the school district's bond redemption fund and into its
21 general fund.

22 ~~[H.]~~ I. This section applies to general obligation
23 bonds issued by a school district on or after July 1, 2003."

24 Section 2. EMERGENCY.--It is necessary for the public
25 peace, health and safety that this act take effect immediately.

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