

## CHAPTER 22

### CHAPTER 22, LAWS 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:

"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:

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

A. "bonds" means teacher housing revenue bonds;

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

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

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

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

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

Section 3. A new section of the Public School Code is

enacted to read:

"BONDS NOT GENERAL OBLIGATIONS OF SCHOOL DISTRICT OR STATE.--

A. A local school board may issue bonds to finance the purchase, construction, renovation, equipping and furnishing of a housing project and may irrevocably pledge any or all pledgeable revenue to the payment of those bonds and to the debt service reserve fund if one is established for the bonds.

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

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

"DETERMINATION BY LOCAL SCHOOL BOARD--FEDERAL PAYMENTS.--

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

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

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

"REPORT TO STATE BOARD--STATE BOARD APPROVAL.--

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

(1) a detailed description of the housing project;

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

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

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

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

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

C. Prior to giving written approval to a housing project, the state board shall determine that the housing project is necessary and that estimated pledgeable revenue pledged to the bonds is sufficient to repay the bonds."

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

"RECORDS--RESTRICTION ON USE OF INCOME.--

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

(1) the net income from the housing project;

(2) receipt and amount of federal payments pledged to the repayment of the bonds; and

(3) the operating costs of the housing project.

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

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

"BONDS--PLEDGE OF INCOME.--

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

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

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

"PROCEEDS OF BOND SALES--RETIREMENT FUND--RESERVE FUND.--

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

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

C. The local school board may establish a "debt service reserve fund" to be used to pay bond payments in case the pledged revenue is insufficient."

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

"BONDS--FORM--REQUIREMENTS.--All bonds issued pursuant to the Teacher Housing Revenue Bond Act shall:

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

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

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

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

Act;

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

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

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

"REFUNDING BONDS.--

A. A local school board may issue refunding bonds to refund outstanding bonds.

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

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

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

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

"REFUNDING BONDS--ISSUANCE--SALE--PROCEEDS.--

A. A bond shall not be refunded unless it matures or is callable for prior redemption under its terms within fifteen years from the date of issuance of the refunding bond or unless the holder of the bond voluntarily surrenders it for exchange or payment.

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

C. When a refunding bond is sold, the net proceeds may, in the discretion of the local school board,

be invested in obligations of the federal government or an agency of the federal government or in obligations fully guaranteed by the federal government, but the obligations purchased shall have a maturity and bear a rate of interest payable at times to ensure the existence of sufficient money to pay the bond to be refunded when it becomes due or redeemable pursuant to a call for redemption, together with interest and redemption premiums, if any.

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

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

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

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

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

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HOUSE FLOOR SUBSTITUTE FOR  
HOUSE BILL 359, WITH CERTIFICATE  
OF CORRECTION