

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 department of finance and administration, the department and the school district by telephone, facsimile or other similar communication, followed by written verification, of the payment status. The department of finance and administration shall immediately contact the school district and determine whether the school district will make the payment by the date on which it is due.

B. Except as provided in Subsection C of this section, if the school district indicates that it will not make the payment by the date on which it is due, the department of finance and administration shall forward the

amount in immediately available funds necessary to make the payment due on the bonds to the paying agent and shall withhold an equal amount from the next succeeding payment of the state equalization guarantee distribution. If the amount of the next succeeding payment is insufficient to pay the amount due, the department of finance and administration shall withhold amounts from each succeeding payment of the state equalization guarantee distribution, including payments to be made in succeeding fiscal years but not more than twelve consecutive months of payments, until the total payment of principal and interest due has been withheld.

C. For a payment due on a bond issued on or after the effective date of this 2007 act, if the school district indicates that it will not make the payment by the date on which it is due, the department of finance and administration shall forward the amount in immediately available funds necessary to make the payment due on the bonds to the paying agent from the current fiscal year's undistributed state equalization guarantee distribution to that school district and, if not otherwise repaid by the school district from other legally available funds, withhold the distributions from the school district until the amount has been recouped by the department of finance and administration, provided that, if the amount of the undistributed state equalization guarantee distribution in the current fiscal year is less than the

payment due on the bond, the department of finance and administration shall:

(1) forward in immediately available funds to the paying agent an amount equal to the total amount of the school district's undistributed state equalization guarantee distribution and, if not otherwise repaid by the school district from other legally available funds, withhold all distributions to the school district for the remainder of the fiscal year; and

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

D. The amounts forwarded to the paying agent by the department of finance and administration shall be applied by the paying agent solely to the payment of the principal or interest due on the general obligation bonds of the school district. The department of finance and administration shall notify the department, the chief financial officer of the school district, the department of finance and administration, the legislative finance committee and the legislative

education study committee of amounts withheld and payments made pursuant to this section.

E. Upon the issuance of general obligation bonds by a school district, the school district shall file with the department of finance and administration a copy of the resolution that authorizes the issuance of the bonds, a copy of the official statement or other offering document for the bonds, the agreement, if any, with the paying agent for the bonds and the name, address and telephone number of the paying agent; provided, however, that the failure of a school district to file the information shall not affect the obligation of the department of finance and administration to withhold the state equalization guarantee distribution pursuant to this section.

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

districts or the manner of payment or the timing thereof. Nothing in this section shall be deemed or construed to create a debt of the state with respect to the bonds within the meaning of any state constitutional provision or to create any liability except to the extent provided in this section.

G. Whenever the department of finance and administration is required by this section to make a payment of principal or interest on bonds on behalf of a school district, the department shall initiate an audit of the school district to determine the reason for the nonpayment and to assist the school district, if necessary, in developing and implementing measures to ensure that future payments will be made when due.

H. Whenever the department of finance and administration makes a payment of principal and interest on bonds or other obligations of a school district and withholds amounts from the state equalization guarantee distribution pursuant to this section because of the failure to collect property taxes, the school district may transfer delinquent property taxes later collected out of the school district's bond redemption fund and into its general fund.

I. This section applies to general obligation bonds issued by a school district on or after July 1, 2003."

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

immediately. _____