

1 SENATE BILL 238

2 56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

3 INTRODUCED BY

4 William F. Burt

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9  
10 AN ACT

11 RELATING TO PUBLIC FINANCE; ENACTING THE REGIONAL EDUCATION  
12 COOPERATIVE REVENUE BOND ACT; PROVIDING POWERS AND DUTIES;  
13 PROVIDING PROCESSES AND PROCEDURES FOR THE ISSUANCE OF TAX-  
14 EXEMPT REVENUE BONDS AND REFUNDING BONDS FOR CAPITAL PROJECTS  
15 NEEDED TO CARRY OUT THE FUNCTIONS OF A REGIONAL EDUCATION  
16 COOPERATIVE; ALLOWING A COORDINATING COUNCIL OF A REGIONAL  
17 EDUCATION COOPERATIVE TO ISSUE BONDS OR REQUEST THE NEW MEXICO  
18 FINANCE AUTHORITY TO ISSUE THE BONDS; MAKING AN APPROPRIATION.

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

21 SECTION 1. A new section of the Public School Code is  
22 enacted to read:

23 "[NEW MATERIAL] SHORT TITLE.--This act may be cited as the  
24 "Regional Education Cooperative Revenue Bond Act"."

25 SECTION 2. A new section of the Public School Code is  
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1 enacted to read:

2 "[NEW MATERIAL] DEFINITIONS.--As used in the Regional  
3 Education Cooperative Revenue Bond Act:

4 A. "bonds" means regional education cooperative  
5 revenue bonds;

6 B. "capital project" means the purchase,  
7 renovation, repair, planning, designing, construction,  
8 landscaping, equipping and furnishing necessary for buildings,  
9 structures or other facilities of the cooperative;

10 C. "coordinating council" means the coordinating  
11 council of a cooperative that is designated as a board of  
12 finance by the department;

13 D. "cooperative" means a regional education  
14 cooperative; and

15 E. "pledgeable income" means all revenue of a  
16 cooperative sufficient to pay the principal, interest and  
17 service charges on the bonds, including all or any part of the  
18 revenues, income or receipts of the cooperative."

19 SECTION 3. A new section of the Public School Code is  
20 enacted to read:

21 "[NEW MATERIAL] COOPERATIVE FACILITIES.--A coordinating  
22 council by bond resolution may issue and sell "regional  
23 education cooperative revenue bonds" or may request the New  
24 Mexico finance authority to issue and sell the bonds."

25 SECTION 4. A new section of the Public School Code is  
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1 enacted to read:

2 "[NEW MATERIAL] DETERMINATION BY COORDINATING COUNCIL--  
3 REPORT TO DEPARTMENT--DEPARTMENT APPROVAL.--

4 A. Prior to the issuance of bonds to finance a  
5 capital project, a coordinating council shall make a  
6 determination that the capital project is necessary and that  
7 the cooperative has enough pledgeable income to repay and  
8 discharge any bonds issued pursuant to the Regional Education  
9 Cooperative Revenue Bond Act and to provide for the payment of  
10 operation, maintenance and other expenses of the property and  
11 buildings or structures resulting from the bond issuance as  
12 well as general operations of the cooperative.

13 B. Prior to issuing bonds to finance some or all of  
14 a capital project, a coordinating council shall furnish to the  
15 department the following information:

16 (1) a detailed description of the capital  
17 project;

18 (2) an explanation of the necessity for the  
19 capital project;

20 (3) an estimate of the total cost of the  
21 capital project;

22 (4) an estimate of the amount of pledgeable  
23 income that will be pledged to pay for the capital project;

24 (5) an estimate of the yearly operating cost  
25 of the capital project; and

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1 (6) an estimate of the anticipated yearly net  
2 income from the use of the capital project.

3 C. Prior to giving written approval to the  
4 coordinating council to issue bonds, the department shall  
5 determine that the capital project is necessary and that  
6 sufficient income will be produced by a cooperative to repay  
7 and discharge the bonds issued pursuant to the Regional  
8 Education Cooperative Revenue Bond Act."

9 SECTION 5. A new section of the Public School Code is  
10 enacted to read:

11 "[NEW MATERIAL] BONDS--PLEDGE OF REVENUE--SATISFACTION OF  
12 INDEBTEDNESS.--

13 A. Bonds issued pursuant to the Regional Education  
14 Cooperative Revenue Bond Act shall irrevocably pledge, for the  
15 prompt payment of the principal, interest and service charges  
16 on the bonds, the cooperative's pledgeable income. The bonds  
17 shall be equally and ratably secured, without priority, by this  
18 pledge.

19 B. Upon the issuance of bonds, the coordinating  
20 council shall establish a reserve fund in accordance with state  
21 or federal law to be used for the repayment of bonds if  
22 required.

23 C. Satisfaction of any indebtedness created by any  
24 bonds issued pursuant to the Regional Education Cooperative  
25 Revenue Bond Act shall be limited solely to foreclosure of the

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1 capital project, without the right to a deficiency judgment."

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

4 "[NEW MATERIAL] PROCEEDS OF BOND SALES--RETIREMENT FUND.--

5 A. Proceeds from the sale of bonds issued pursuant  
6 to the Regional Education Cooperative Revenue Bond Act shall be  
7 deposited into a separate account to be used solely for the  
8 specific purposes for which the bonds were issued. All costs  
9 incident to issuing and selling the bonds may be paid out of  
10 the proceeds of this account.

11 B. The coordinating council, at the time of the  
12 issuance of bonds, shall establish a fund to be known as the  
13 "retirement fund". All proceeds remaining after completion of  
14 the capital project shall be deposited in the retirement fund,  
15 and pledgeable income sufficient to pay at least the next two  
16 principal and interest payments shall be deposited into the  
17 retirement fund. Money in the retirement fund shall be used  
18 solely for the purpose of repaying the principal, interest and  
19 service charges on the bonds."

20 SECTION 7. A new section of the Public School Code is  
21 enacted to read:

22 "[NEW MATERIAL] BONDS--FORM--REQUIREMENTS.--All bonds  
23 issued pursuant to the Regional Education Cooperative Revenue  
24 Bond Act shall:

25 A. be fully negotiable within the provisions of the

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1 Uniform Commercial Code;

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

4 C. bear interest at a rate not to exceed a net of  
5 twelve percent a year, with interest payable semiannually;

6 D. be sold at a price that does not result in an  
7 actual net interest cost to maturity, computed on the basis of  
8 standard tables of bond values, in excess of six percent a  
9 year;

10 E. have the principal of the bonds paid in yearly  
11 amounts beginning not later than two years from their date of  
12 issuance; and

13 F. be issued in one or more series and may be sold  
14 at public or private sale, with or without a discount, as  
15 provided by Subsection D of this section."

16 SECTION 8. A new section of the Public School Code is  
17 enacted to read:

18 "[NEW MATERIAL] REFUNDING BONDS.--

19 A. A coordinating council or the New Mexico finance  
20 authority may issue refunding bonds to refund outstanding  
21 bonds.

22 B. Except as otherwise provided in the Regional  
23 Education Cooperative Revenue Bond Act, refunding bonds shall  
24 conform to the provisions of that act that provide for the  
25 issuance of bonds by a coordinating council or the New Mexico

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1 finance authority.

2 C. A refunding bond may have the same security or  
3 source of payment as was pledged for the payment of the bond  
4 being refunded or may have a different source of pledgeable  
5 income.

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

14 SECTION 9. A new section of the Public School Code is  
15 enacted to read:

16 "[NEW MATERIAL] REFUNDING BONDS--ISSUANCE--SALE--  
17 PROCEEDS.--

18 A. A bond shall not be refunded unless it matures  
19 or is callable for prior redemption under the terms of the  
20 refunding bond or unless the holder of the bond voluntarily  
21 surrenders it for exchange or payment.

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

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1           C. When a refunding bond is sold, the net proceeds  
2 may, in the discretion of the coordinating council, be invested  
3 in obligations of the federal government or an agency of the  
4 federal government or in obligations fully guaranteed by the  
5 federal government, but the obligations purchased shall have a  
6 maturity and bear a rate of interest payable at times to ensure  
7 the existence of sufficient money to pay the bond to be  
8 refunded when it becomes due or redeemable pursuant to a call  
9 for redemption, together with interest and redemption premiums,  
10 if any.

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

22           E. The determination of the coordinating council or  
23 the New Mexico finance authority, if applicable, issuing  
24 refunding bonds that the issuance has been in compliance with  
25 the Regional Education Cooperative Revenue Bond Act is

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1 conclusively presumed correct in the absence of fraud or  
2 arbitrary and gross abuse of discretion.

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

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

12 "[NEW MATERIAL] TAX EXEMPTION--NO CHARGE AGAINST STATE.--  
13 Bonds are exempt from taxation by the state or any of its  
14 political subdivisions. No obligation created pursuant to the  
15 Regional Education Cooperative Revenue Bond Act shall be a  
16 charge against or a debt of the state or any of its political  
17 subdivisions."

18 SECTION 11. APPROPRIATION.--Six million dollars  
19 (\$6,000,000) is appropriated from the general fund to regional  
20 education cooperative nine for expenditure in fiscal years 2024  
21 through 2028 to plan, design, construct, equip and furnish an  
22 early childhood center in Ruidoso. Any unexpended or  
23 unencumbered balance remaining at the end of fiscal year 2028  
24 shall revert to the general fund.