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SENATE BILL 847

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Cynthia Nava

AN ACT

RELATING TO PUBLIC SCHOOL FINANCES; PROVIDING FOR THE TIMELY  
PAYMENT OF SCHOOL DISTRICT GENERAL OBLIGATIONS THROUGH THE USE  
OF THE STATE EQUALIZATION GUARANTEE DISTRIBUTION.

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

19 C. The amounts forwarded to the paying agent by the  
20 state treasurer shall be applied by the paying agent solely to  
21 the payment of the principal or interest due on the general  
22 obligation bonds of the school district. The state treasurer  
23 shall notify the department of education, the chief financial  
24 officer of the school district, the department of finance and  
25 administration, the legislative finance committee and the

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

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

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

1 Nothing in this section shall be deemed or construed to create  
2 a debt of the state with respect to the bonds within the  
3 meaning of any state constitutional provision or to create any  
4 liability except to the extent provided in this section.

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

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

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

22 Section 2. EFFECTIVE DATE. --The effective date of the  
23 provisions of this act is July 1, 2003.