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SENATE BILL 341

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Cynthia Nava

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; PROVIDING THAT TIMELY
PAYMENT PROVISIONS INCLUDE BOND ANTICIPATION NOTES AND LEASE-
PURCHASE ARRANGEMENTS.

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, as amended) 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~~

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1 ~~other similar communication, followed by written verification,~~
2 ~~of the payment status. The department of finance and~~
3 ~~administration shall immediately contact the school district~~
4 ~~and determine whether the school district will make the payment~~
5 ~~by 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 department of~~
9 ~~finance and administration shall forward the amount in~~
10 ~~immediately available funds necessary to make the payment due~~
11 ~~on the bonds to the paying agent and shall withhold an equal~~
12 ~~amount from the next succeeding payment of the state~~
13 ~~equalization guarantee distribution. If the amount of the next~~
14 ~~succeeding payment is insufficient to pay the amount due, the~~
15 ~~department of finance and administration shall withhold amounts~~
16 ~~from each succeeding payment of the state equalization~~
17 ~~guarantee distribution, including payments to be made in~~
18 ~~succeeding fiscal years but not more than twelve consecutive~~
19 ~~months of payments, until the total payment of principal and~~
20 ~~interest due has been withheld.]~~

21 A. As used in this section, "general obligation
22 bonds" or "bond" includes school district general obligation
23 bonds pursuant to Chapter 22, Article 18 NMSA 1978, bond
24 anticipation notes pursuant to the School District Bond
25 Anticipation Notes Act and general obligation lease-purchase

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1 arrangements pursuant to the Education Technology Equipment
2 Act.

3 [~~G.~~] B. For a payment due on a bond issued on or
4 after [~~the effective date of this 2007 act~~] March 30, 2007, if
5 the school district indicates that it will not make the payment
6 by the date on which it is due, the department of finance and
7 administration shall forward the amount in immediately
8 available funds necessary to make the payment due on the bonds
9 to the paying agent from the current fiscal year's
10 undistributed state equalization guarantee distribution to that
11 school district and, if not otherwise repaid by the school
12 district from other legally available funds, withhold the
13 distributions from the school district until the amount has
14 been recouped by the department of finance and administration,
15 provided that, if the amount of the undistributed state
16 equalization guarantee distribution in the current fiscal year
17 is less than the payment due on the bond, the department of
18 finance and administration shall:

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

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

9 ~~[D-]~~ C. The amounts forwarded to the paying agent
10 by the department of finance and administration shall be
11 applied by the paying agent solely to the payment of the
12 principal or interest due on the general obligation bonds of
13 the school district. The department of finance and
14 administration shall notify the department, the chief financial
15 officer of the school district, the department of finance and
16 administration, the legislative finance committee and the
17 legislative education study committee of amounts withheld and
18 payments made pursuant to this section.

19 ~~[E-]~~ D. Upon the issuance of general obligation
20 bonds by a school district, the school district shall file with
21 the department of finance and administration a copy of the
22 resolution that authorizes the issuance of the bonds, a copy of
23 the official statement or other offering document for the
24 bonds, the agreement, if any, with the paying agent for the
25 bonds and the name, address and telephone number of the paying

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1 agent; provided, however, that the failure of a school district
2 to file the information shall not affect the obligation of the
3 department of finance and administration to withhold the state
4 equalization guarantee distribution pursuant to this section.

5 ~~[F-]~~ E. The state hereby covenants with the
6 purchasers and holders of general obligation bonds issued by
7 school districts that it will not repeal, revoke or rescind the
8 provisions of this section or modify or amend the same so as to
9 limit or impair the rights and remedies granted by this
10 section; provided that nothing in this subsection shall be
11 deemed or construed to require the state to continue the
12 payment of a state equalization guarantee distribution to any
13 school district or to limit or prohibit the state from
14 repealing, amending or modifying any law relating to the amount
15 of state equalization guarantee distributions to school
16 districts or the manner of payment or the timing thereof.
17 Nothing in this section shall be deemed or construed to create
18 a debt of the state with respect to the bonds within the
19 meaning of any state constitutional provision or to create any
20 liability except to the extent provided in this section.

21 ~~[G-]~~ F. Whenever the department of finance and
22 administration is required by this section to make a payment of
23 principal or interest on bonds on behalf of a school district,
24 the department shall initiate an audit of the school district
25 to determine the reason for the nonpayment and to assist the

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1 school district, if necessary, in developing and implementing
2 measures to ensure that future payments will be made when due.

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

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