

LFC Requester:

Sunny Liu

AGENCY BILL ANALYSIS  
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

**SECTION I: GENERAL INFORMATION**

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original  Amendment   
Correction  Substitute

Date 1/31/2024

Bill No: SB 238

Sponsor: William F. Burt  
Short Title: Regional Ed Cooperative

Agency Name and Code: NMFA (385)  
Number:  
Person Writing: Marquita Russel  
Phone: 505-660-8170 Email: mrussel@nmfa.net

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act:

**SECTION III: NARRATIVE**

**BILL SUMMARY**

SB 238 amends the Public School Code by enacting a new section of law entitled the “Regional Education Cooperative Revenue Bond Act,” for the purpose of financing capital projects, as defined in the bill, for regional education cooperatives. The bill would permit a coordinating council of a cooperative to pass a bond resolution to issue and sell regional education cooperative revenue bonds, as well as refunding bonds, or to request the New Mexico Finance Authority (“NMFA”) to issue and sell the bonds. SB 238 includes new sections of law that would govern required approvals by a coordinating council, including a requirement to furnish the public education department (“department”) with details about the capital project, cost estimates, pledgeable income (as defined in the bill) to pay for the capital project, operating costs and operating income. Bonds so issued would be required to have an irrevocable pledge and a reserve fund, and recovery of any indebtedness would be limited to foreclosure of the capital project. The bill requires the creation of a “retirement fund” to hold all proceeds remaining upon completion of the capital project for the purpose of repaying principal, interest and service charges on the bonds. Bonds issued are expected to be tax-exempt. SB 238 also appropriates \$6,000,000 from the general fund to “regional education cooperative nine” for expenditure in FY’s 2024 through 2028 for an early childhood center in Ruidoso. Unexpended or unencumbered balances remaining at the end of FY28 revert to the general fund.

**FISCAL IMPLICATIONS**

The NMFA has no history of issuing bonds on behalf of regional education cooperatives and is not familiar with their credit features. As with any public entity seeking access to the capital markets through the NMFA, NMFA staff will exercise due diligence in assessing credit strengths and weaknesses. Whether regional education cooperatives seek financing through the NMFA’s public project revolving fund or on a stand-alone basis in which the NMFA merely serves as a conduit, appropriate credit standards will be applied. The NMFA does not make loans to or issue debt on behalf of entities until it first determines that borrowers are able meet minimum credit standards that ensure there is a high likelihood that the debt will be repaid.

**SIGNIFICANT ISSUES**

SB 238 provides that interest on the bonds will not be subject to state income taxes, however, it does not appear that the bonds meet the federal tax-exempt guidelines which may increase the

interest rate charged on the bonds. Specifically, the retirement fund (referenced in Section 6.B) may not meet federal tax-exempt guidelines for either a bona fide debt service fund or a reasonably sized debt service reserve fund. Also, it is funded with “at least the next two principal and interest payments” which seems to suggest 2 years of principal and 1 year of interest. In reviewing the two (of ten) regional education cooperatives that posted annual reports with detailed financial information on the New Mexico Regional Education Cooperatives Association website, both received substantial funding from the federal government, in some years exceeding 50% of total annual revenues. Independent bond counsel should be consulted to determine whether a loan secured by such a revenue mix qualifies for federal tax-exemption.

## **PERFORMANCE IMPLICATIONS**

SB 238 requires that prior to the issuance of bonds to finance a capital project, a coordinating council must determine that the cooperative has “enough pledgeable income to repay and discharge any bonds issued pursuant to the Regional Education Cooperative Revenue Bond Act”, as well as sufficient revenue to pay for the of operation, maintenance and other expenses of the property and buildings or structures financed by proceeds of the bond issuance as well as general operations of the cooperative.

## **TECHNICAL ISSUES**

SB 238 does not appear to create a fund for the deposit of bond proceeds, which would likely be at the New Mexico state treasurer.