

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: *CS/HB 928¹

49th Legislature, 1st Session, 2009

Short Title: Qualified School Construction Bonds

Sponsor(s): Representative Rick Miera

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**HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 928**

Bill Summary:

CS/HB 928 amends the *Public School Code* and provisions in current law relating to the finances of counties, municipalities, and school districts to provide for the authorization and allocation of Qualified School Construction Bonds (QSCB) and the sale of Build America Bonds authorized in the federal *American Recovery and Reinvestment Act of 2009* (ARRA) (see Issues).

Among its provisions, the bill adds new sections to the *Public School Code* to:

- create the *Qualified School Construction Bonds Act*;
- define certain terms, including:
 - “allocation” as New Mexico’s allocation of the national qualified school construction bond limitation pursuant to ARRA;
 - “eligible taxpayer” as an entity that qualifies as an eligible taxpayer under the *Internal Revenue Code*, including a bank, insurance company, or corporation serving as an lending agency;
 - “qualified school construction bond” as a bond issued by the state or a school district that meets the requirements of ARRA (see Issues); and
 - “qualifying school” as a public school, a New Mexico state educational institution providing education or training below the postsecondary level or a program within such a school or institution that meets requirements of ARRA (see Issues);
- authorize the state or a school district to designate bonds as a QSCB if:
 - 100 percent of the available project proceeds are to be used for the construction, rehabilitation or repair of a qualifying school facility or to purchase land on which to build a school facility;
 - the bonds are issued by the state or a school district in whose jurisdiction a qualifying school is located; and
 - the issuer designates the bonds as a QSCB;
- permit a QSCB to be sold at a public or private sale to eligible taxpayers;

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- provide that a QSCB not be issued for a term longer than the term fixed pursuant to the *Internal Revenue Code of 1986* and applicable state law;
- limit the amount of a QSCBs issued in a calendar year to New Mexico’s allocation for that year under ARRA; and designate the Public School Capital Outlay Council (PSCOC) as the agency responsible for ensuring compliance with the limit;
- require a state or school district that does not receive a direct allocation under ARRA to apply to the PSCOC for an allocation by July 1;
- permit New Mexico’s allocation for the year that was not designated and issued as QSCBs to be carried over to the next year; and
- require the PSCOC, if the amount of applications for QSCBs exceeds New Mexico’s allocation under ARRA, to proportionally distribute the allocation to those districts that submitted timely applications.

CS/HB 928 also amends current law relating to the Finances of Counties, Municipalities and School Districts to specify that QSCBs, as well as bonds designated by ARRA as “Build America Bonds” to be sold at a public or private sale.

* The bill contains an emergency clause.

Fiscal Impact:

CS/HB 928 does not make an appropriation.

Albuquerque Public Schools (APS) estimates that New Mexico’s Allocation of the \$11.0 billion limitation authorized in ARRA would be approximately \$176.0 million, of which approximately \$44.0 million would be allocated directly to APS, as it is among the 100 large local education agencies eligible for a direct allocation (see Issues).

According to the California Department of Education, QSCBs will provide the bondholder with a tax credit in lieu of receiving interest, resulting in an interest-free or very low-interest loan to the local education agencies (LEAs).

Issues:

Section 1521 of the federal ARRA defines QSCBs and authorizes up to \$11.0 billion in bonds to be designated as QSCBs nationwide in both 2009 and 2010.

The ARRA requires that the national limitation amount be split between large local education agencies and the states, as follows:

- (1) 40 percent must be directly allocated to the 100 “large local education agencies (LEAs)” with the largest numbers of children ages 5 through 17 living below the poverty level; and up to 25 additional LEAs that are in particular need of assistance, based on a low level of resources for school construction, a high level of enrollment growth, or other factors deemed appropriate by the Secretary of Education; and

- (2) 60 percent must be allocated among the states in proportion to each state's Title I eligibility. The ARRA requires that the amount of this allocation to a state be reduced in the amount of any direct allocation to a large LEA (see 1 above) in that state.

In addition to the above amounts, the ARRA authorizes, for both 2009 and 2010, an additional \$200 million in QSCB authorizations to be allocated by the Secretary of the Interior for school construction and repair of schools funded by the Bureau of Indian Affairs.

The ARRA allows the portion of a state's allocation that was not used to designate bonds as QSCB in one year to be carried over to the next year.

Related Bills:

HB 719 *School District GO Bond State Requirements*

*CS/SB 734 *Qualified School Construction Bonds* (similar)