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FISCAL IMPACT REPORT

SPONSOR	<u>SECS</u>	ORIGINAL DATE	03/11/09	HB	
		LAST UPDATED			
SHORT TITLE	<u>Public Peace, Health, Safety & Welfare – Qualified School Construction</u>		SB	<u>734/SECS</u>	
		ANALYST	<u>Kehoe/Haug</u>		

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI	N/A	(See Fiscal Impact Narrative)

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public School Facilities Authority (PSFA)

Public Education Department (PED)

Attorney General (AGO)

SUMMARY

Synopsis of Bill

Senate Education Committee Substitute for Senate Bill 734 amends the Public School Code providing for a Qualified School Construction Bonds Act to authorize the necessary structure to implement the “qualified school construction bonds” program contained in the Federal American Recovering and Reinvestment Act (ARRA) of 2009 (Stimulus Bill).

The bill contains an emergency clause.

FISCAL IMPLICATIONS

Senate Education Committee Substitute for Senate Bill 734 does not create a fiscal impact to state funds and the bill will not result in additional federal funds to the state.

The American Recovery and Reinvestment Act (ARRA) of 2009 (Stimulus Bill) is an Act of Congress enacted by the 111th United States Congress and signed into law by the President on February 17, 2009. The Act is intended to provide a stimulus to the U.S. economy in the wake of the “economic downturn brought about by the sub-prime mortgage crisis and the resulting credit crunch.”

Section 1521 of ARRA creates qualified school construction bonds. The purpose of the bonds is to give the state and school districts authority to issue interest-free bonds for projects meeting certain conditions. Specifically: 1) 100 percent of available project proceeds from the issuance of bonds are to be used for construction, rehabilitation or repair of a qualifying school facility or for the acquisition of land on which a school is to be constructed; 2) the bonds must be issued within the same jurisdiction and location of the qualified school; and, 3) the issuer must designate the bonds as qualified school construction bonds.

SIGNIFICANT ISSUES

According to PED, the ARRA of 2009 has limited the designation of these bonds to \$11 billion for 2009 and \$11 billion in 2010 (total \$22 billion nationwide) 40% of the total will be distributed among the 100 largest districts in the nation as a “direct allocation”, of which the Albuquerque Public Schools will receive approximately \$44,648,948. The remaining 60% will be apportioned to the states. Once that apportionment has been calculated, the PSCOC will be responsible for appropriating New Mexico’s allocation among the districts based on “timely filed valid applications”.

The PED notes that this bill authorizes the PSCOC to allocate these bonds based on an application process and is given the responsibility of ensuring compliance to the criteria mentioned above. The PSCOC is responsible for allocating funds pursuant to the Public School Capital Outlay Act. The purpose of this act is to “ensure that, through a standards based process for all school districts, the physical condition and capacity, educational suitability and technology infrastructure of all public school facilities in New Mexico meet an adequate level statewide and the design, construction and maintenance of school sites and facilities encourage, promote and maximize safe, functional and durable learning environments...” With that being said, the PSCOC is well-informed on the status of all current and potential construction projects, and is fully aware of all “shovel-ready projects”, which is required to obtain approval for these bonds.

Further the PED states, this bill explains that if the PSCOC’s allocation amount to a school district (not to include any direct allocations pursuant to Section 1521 of the federal ARRA of 2009) does not exceed the amount of a qualified school construction bond sold within a calendar year, the excess can be carried forward to the subsequent year and additional bonds can be designated and sold in the amount of the carryover. If the face amount of the bond proceeds exceeds the allocation amount after deducting the “direct allocation”, the PSCOC must distribute the excess proportionately among the state or political subdivision. However, this does not reduce the amount of the “direct allocation”.

The Act also provides an additional \$200 million in annual Qualified School Construction Bond authority for 2009 and 2010 that is allocated to Indian tribal schools by the Secretary of the Interior.

Section 5 of the committee substitute also amends section 6-15-5, NMSA 1978. Language is added to allow bonds to be sold at a public or private sale if the criterion below is met:

- the bonds are designated as Build America Bonds;
- the bonds are designated as Qualified School Construction Bonds.

ADMINISTRATIVE IMPLICATIONS

PED may be required to administer the provisions of AARA.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates House Bill 928.

OTHER SUBSTANTIVE ISSUES

The bill does not authorize the allocation of new money but does authorize the designation of voter approved bonds as Qualified School Construction Bonds. The PSCOC will have authority to authorize certain school to sell interest free bonds resulting in savings for school districts taxpayers.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

New Mexico school districts will not be able to take advantage of the opportunities offered by AARA, namely, sell interest free bonds through AARA.

LK:GH/svb