

AN ACT

RELATING TO PUBLIC SCHOOLS; ENACTING THE QUALIFIED SCHOOL BONDS ACT; PROVIDING THAT CERTAIN BONDS OF THE STATE OR ITS POLITICAL SUBDIVISIONS MAY QUALIFY AS QUALIFIED ZONE ACADEMY BONDS UNDER THE INTERNAL REVENUE CODE OF 1986; PROVIDING A TAX CREDIT FOR CERTAIN TAXPAYERS WHO HOLD QUALIFIED SCHOOL BONDS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--Sections 1 through 5 of this act may be cited as the "Qualified School Bonds Act".

Section 2. FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) the condition of public school facilities has a direct effect on the safety of teachers and students and on the ability of students to learn;

(2) public schools in rapidly growing urban areas of New Mexico and public schools in sparsely populated rural areas are unable to meet the capital needs for modernization of existing school facilities to meet the growing school-age population in New Mexico under present funding authorizations;

(3) additional funding options are necessary to meet the needs for teacher training to improve student achievement levels and to meet the needs of the work place by

providing sufficient student training in the use of advanced technology;

(4) encouraging active community participation and private sector contributions to the public schools will enhance learning opportunities for New Mexico students;

(5) authorizing additional forms of financing for school modernization and construction will permit eligible taxpayers to take advantage of tax credits not currently available to bondholders and will increase the market options for state and local bonds;

(6) encouraging active community participation in the development of resources to build and modernize schools, to enhance educational technology and to enhance teacher training is essential to the success of students in the twenty-first century; and

(7) authorizing additional alternative procedures for the sale of bonds will allow New Mexico public schools and eligible taxpayers to participate in available tax credits and to leverage additional funds for the improvement of public school facilities.

B. The purpose of the Qualified School Bonds Act is to implement a state program that allows eligible taxpayers to take advantage of available tax credits by expanding the incentives to purchase and hold bonds and

thereby increasing the financing alternatives for modernization and rehabilitation of public school facilities and enhancing teacher training.

Section 3. DEFINITIONS.--As used in the Qualified School Bonds Act:

A. "allocation" means New Mexico's allocation of the national zone academy bond limitation pursuant to Section 1397E(e)(2) of the Internal Revenue Code of 1986;

B. "council" means the public school capital outlay council;

C. "eligible taxpayer" means an entity that qualifies as an eligible taxpayer under Section 1397E(d)(6) of the Internal Revenue Code of 1986 and includes a bank, insurance company or corporation actively engaged in the business of lending money;

D. "qualified contribution" means a contribution meeting the requirements of Section 1397E(d)(2) of the Internal Revenue Code of 1986, from a private entity to the qualifying school and includes:

(1) equipment for use in the qualifying school, including state-of-the-art technology and vocational equipment;

(2) technical assistance in developing curriculum or in training teachers in order to promote appropriate market-driven technology in the classroom;

(3) services of employees as volunteer mentors;

(4) internships, field trips or other educational opportunities outside the qualifying school for students; and

(5) any other property or service specified by the governing body of the qualifying school;

E. "qualified school bond" means a bond issued by the state or a political subdivision of the state that meets all of the requirements of Section 4 of the Qualified School Bonds Act and the requirements for a qualified zone academy bond pursuant to Section 1397E(d)(1) of the Internal Revenue Code of 1986;

F. "qualified purpose" means a purpose of a bond issue that meets the requirements of Section 1397E(d)(5) of the Internal Revenue Code of 1986 and Article 9, Section 11 of the constitution of New Mexico; and

G. "qualifying school" means a public school, a New Mexico state educational institution providing education or training below the post-secondary level or a program within such a public school or educational institution and which school, institution or program meets the requirements for a qualified zone academy pursuant to Section 1397E(d)(4) of the Internal Revenue Code of 1986.

-SALE.--

A. The state or a political subdivision of the state that has been authorized to issue bonds may designate all or any part of the bonds as qualified school bonds if:

(1) at least ninety-five percent of the proceeds from the sale of the proposed qualified school bonds are to be used for a qualified purpose at a qualifying school within the jurisdiction of the state or political subdivision;

(2) the state or the political subdivision has the written approval of the governing body of the qualifying school to issue the proposed qualified school bonds;

(3) the governing body of the qualifying school has written commitments from private entities for qualified contributions having a present value of not less than ten percent of the value of the proceeds from the sale of the proposed qualified school bonds; and

(4) the council has reserved to the qualifying school an amount of the allocation equal to the proceeds from the sale of the proposed qualified school bonds.

B. Notwithstanding any law requiring bonds to be sold at a public sale, qualified school bonds may be sold at a private sale to eligible taxpayers.

C. In addition to any other requirement of law applicable to the term of the bonds, qualified school bonds shall not be issued for a term longer than the term fixed pursuant to Section 1397E(d)(3) of the Internal Revenue Code of 1986 for qualified zone academy bonds issued during the month that the qualified school bonds are issued.

D. Qualified school bonds shall not bear interest.

Section 5. PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL--  
ALLOCATION.--

A. The aggregate face amount of all qualified school bonds issued in a calendar year shall not exceed the allocation for that year.

B. The council is designated the state education agency pursuant to Section 1397E(e)(2) of the Internal Revenue Code of 1986 and is responsible for ensuring compliance with the limitation of Subsection A of this section.

C. If the state or a political subdivision desires to designate bonds as qualified school bonds, it shall, by July 1 of the calendar year in which the bonds are to be issued, submit an application for reservation of an allocation to the council. The application shall include evidence that the requirements of Paragraphs (1), (2) and (3) of Subsection A of Section 4 of the Qualified School Bonds

Act have been satisfied.

D. If, for a calendar year, the allocation for that year exceeds the amount of qualified school bonds designated and issued in that year, the excess shall be carried forward and included in the allocation for the subsequent year.

E. In the event the face amount of all proposed qualified school bonds for a calendar year exceeds the allocation, the council shall ratably apportion the allocation among the state and political subdivisions that have timely filed valid applications for that year.

Section 6. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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