



The Legislature
of the
State of New Mexico

49th Legislature, 2nd Session

LAWS 2010

CHAPTER 56

HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR

HOUSE BILL 145, with emergency clause

Introduced by



EMERGENCY CLAUSE

Chapter 56

AN ACT

RELATING TO PUBLIC FINANCE; AMENDING THE QUALIFIED SCHOOL
CONSTRUCTION BONDS ACT; DECLARING AN EMERGENCY.

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

Section 1. Section 22-18C-1 NMSA 1978 (being Laws 2009,
Chapter 154, Section 1) is amended to read:

"22-18C-1. SHORT TITLE.--Chapter 22, Article 18C NMSA
1978 may be cited as the "Qualified School Construction Bonds
Act"."

Section 2. Section 22-18C-2 NMSA 1978 (being Laws 2009,
Chapter 154, Section 2) is amended to read:

"22-18C-2. DEFINITIONS.--As used in the Qualified
School Construction Bonds Act:

A. "allocation" means New Mexico's allocation of
the national qualified school construction bond limitation
pursuant to Section 1521 of the federal American Recovery and
Reinvestment Act of 2009;

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

C. "qualified school construction bond" means a
bond issued by the state or a school district that meets all
of the requirements of Section 22-18C-3 NMSA 1978 and the
requirements for a qualified school construction bond pursuant
to Section 1521 of the federal American Recovery and

1 Reinvestment Act of 2009; and

2 D. "qualifying school" means a public school, a
3 New Mexico state educational institution providing education
4 or training below the post-secondary level or a program within
5 such a public school or educational institution and which
6 school, institution or program meets the requirements of
7 Section 1521 of the federal American Recovery and Reinvestment
8 Act of 2009."

9 Section 3. Section 22-18C-3 NMSA 1978 (being Laws 2009,
10 Chapter 154, Section 3) is amended to read:

11 "22-18C-3. QUALIFIED SCHOOL CONSTRUCTION BONDS--
12 DESIGNATION--TERMS--SALE.--

13 A. The state or a school district that has been
14 authorized to issue bonds may designate all or any part of the
15 bonds as qualified school construction bonds if:

16 (1) one hundred percent of the available
17 project proceeds from the issuance of the bonds are to be used
18 for:

19 (a) the construction, rehabilitation or
20 repair of a qualifying school facility;

21 (b) the acquisition of land on which
22 such a facility is to be constructed with part of the
23 proceeds; or

24 (c) the acquisition of equipment to be
25 used in the portion of the qualifying school facility that is

1 being constructed, rehabilitated or repaired with the
2 proceeds;

3 (2) the bonds are issued by the state or a
4 school district within the jurisdiction of which the
5 qualifying school is located; and

6 (3) the issuer is:

7 (a) a school district to which a direct
8 allocation is made pursuant to Section 1521 of the federal
9 American Recovery and Reinvestment Act of 2009 and the amount
10 of the bonds designated as qualified school construction bonds
11 does not exceed the direct allocation; or

12 (b) the state or a school district that
13 has received an allocation distribution from the council
14 pursuant to Section 22-18C-4 NMSA 1978.

15 B. Notwithstanding any law requiring bonds to be
16 sold at a public sale or at not less than par, qualified
17 school construction bonds may be sold at a public or private
18 sale to the state, the New Mexico finance authority or any
19 other purchaser and may be sold at par, or at less than or
20 greater than par.

21 C. In addition to any other requirement of law
22 applicable to the term of the bonds, qualified school
23 construction bonds shall not be issued for a term longer than
24 the term fixed pursuant to the Internal Revenue Code of 1986,
25 as amended, and applicable state law."

1 Section 4. Section 22-18C-4 NMSA 1978 (being Laws 2009,
2 Chapter 154, Section 4) is amended to read:

3 "22-18C-4. ALLOCATION.--

4 A. The aggregate face amount of all qualified
5 school construction bonds issued in a calendar year shall not
6 exceed the available allocation, including any carry-forward
7 allocation, for that year.

8 B. Except for the portion of the allocation
9 required by Section 1521 of the federal American Recovery and
10 Reinvestment Act of 2009 to be made to particular school
11 districts, the council is designated the state education
12 agency responsible for ensuring compliance with the limitation
13 of Subsection A of this section.

14 C. If the state or a school district that has been
15 authorized to issue bonds, or is in the process of obtaining
16 authorization to issue bonds, desires to designate all or any
17 portion of the bonds as qualified school construction bonds,
18 it shall submit an application to the council for an
19 allocation distribution. For bonds to be issued in calendar
20 year 2010, the application shall be submitted no later than
21 the last day of the third month following the month in which
22 this 2010 act is first effective; and, for bonds to be issued
23 in any subsequent year in which an allocation exists, the
24 application shall be submitted no later than March 1 of that
25 year. The application shall include evidence that the

1 requirements of Paragraphs (1) and (2) of Subsection A of
2 Section 22-18C-3 NMSA 1978 have been satisfied; provided,
3 however, that any school district to which a direct allocation
4 is made pursuant to Section 1521 of the federal American
5 Recovery and Reinvestment Act of 2009 shall be exempt from the
6 application requirement to the extent that the amount of
7 qualified school construction bonds to be issued by that
8 district does not exceed the direct allocation.

9 D. If, for a calendar year, the allocation for
10 that year exceeds the amount of qualified school construction
11 bonds designated and issued in that year, the excess shall
12 revert to the council and shall be carried forward and
13 included in the allocation for the subsequent year as follows:

14 (1) any excess attributable to the portion
15 of the allocation required by Section 1521 of the federal
16 American Recovery and Reinvestment Act of 2009 to be made to a
17 particular school district shall be allocated to that school
18 district in the subsequent year; and

19 (2) any excess not allocated pursuant to
20 Paragraph (1) of this subsection shall revert to the council
21 and be distributed pursuant to Subsection C of this section in
22 the subsequent year.

23 E. In the event that the face amount of all
24 proposed qualified school construction bonds for a calendar
25 year exceeds the allocation remaining after deducting the

1 direct allocations made to particular school districts
2 pursuant to Section 1521 of the federal American Recovery and
3 Reinvestment Act of 2009, the council shall, after considering
4 the factors listed in Subsection F of this section, decide how
5 the remaining allocation shall be distributed to applicants
6 that have timely filed valid applications for that year;
7 provided, however, that the distribution shall not reduce the
8 direct allocation to any particular school district pursuant
9 to Section 1521 of the federal American Recovery and
10 Reinvestment Act of 2009.

11 F. In deciding how the remaining allocation shall
12 be distributed to applicants pursuant to Subsection E of this
13 section, the council shall consider:

14 (1) the dates anticipated for the initial
15 expenditure of bond proceeds and for completion of the
16 project;

17 (2) the percent of the bond proceeds that
18 are likely to be expended within three years of the date of
19 the issuance of the bonds;

20 (3) whether the bond proceeds, together with
21 all other money available for the project, are sufficient to
22 complete the project; and

23 (4) the priority ranking of the project, as
24 determined by applying the deviation from the statewide
25 adequacy standards pursuant to Section 22-24-5 NMSA 1978."

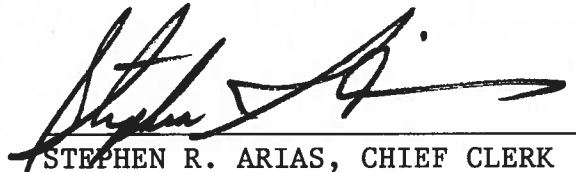
1 Section 5. EMERGENCY.--It is necessary for the public
2 peace, health and safety that this act take effect
3 immediately. _____

HEC/HB 145
Page 7

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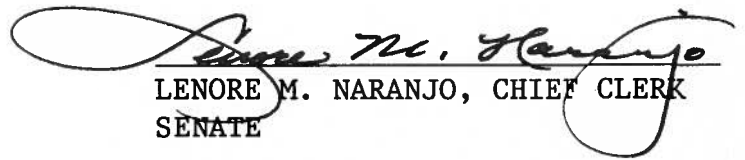
BEN LUJAN, SPEAKER
HOUSE OF REPRESENTATIVES



STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES

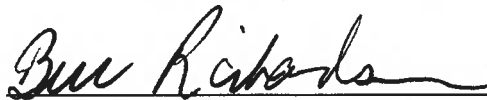


DIANE D. DENISH, PRESIDENT
SENATE



LENORE M. NARANJO, CHIEF CLERK
SENATE

Approved by me this 8th day of March, 2010



BILL RICHARDSON, GOVERNOR
STATE OF NEW MEXICO

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