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HOUSE BILL 737

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Judy Vanderstar Russell

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

Section 2. [NEW MATERIAL] 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

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1 on the ability of students to learn;

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

8 (3) additional funding options are necessary  
9 to meet the needs for teacher training to improve student  
10 achievement levels and to meet the needs of the work place by  
11 providing sufficient student training in the use of advanced  
12 technology;

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

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

22 (6) encouraging active community  
23 participation in the development of resources to build and  
24 modernize schools, to enhance educational technology and to  
25 enhance teacher training is essential to the success of

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1 students in the twenty-first century; and

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

7 B. The purpose of the Qualified School Bonds Act  
8 is to implement a state program that allows eligible taxpayers  
9 to take advantage of available tax credits by expanding the  
10 incentives to purchase and hold bonds and thereby increasing  
11 the financing alternatives for modernization and  
12 rehabilitation of public school facilities and enhancing  
13 teacher training.

14 Section 3. [NEW MATERIAL] DEFINITIONS. -- As used in the  
15 Qualified School Bonds Act:

16 A. "allocation" means New Mexico's allocation of  
17 the national zone academy bond limitation pursuant to Section  
18 1397E(e) (2) of the Internal Revenue Code of 1986;

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

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

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

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

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

11                   (3) services of employees as volunteer  
12 mentors;

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

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

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

24           F. "qualified purpose" means a purpose of a bond  
25 issue that meets the requirements of Section 1397E(d) (5) of

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1 the Internal Revenue Code of 1986, including:

2 (1) rehabilitating or repairing a qualifying  
3 school;

4 (2) providing equipment for use at a  
5 qualifying school;

6 (3) developing course materials for education  
7 to be provided at a qualifying school; and

8 (4) training teachers and other personnel at  
9 the qualifying school; and

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

17 Section 4. [NEW MATERIAL] QUALIFIED SCHOOL BONDS--  
18 DESIGNATION-- TERMS-- SALE. --

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

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

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

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

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

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

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

22 D. Qualified school bonds shall not bear interest.

23 Section 5. [NEW MATERIAL] PUBLIC SCHOOL CAPITAL OUTLAY  
24 COUNCIL-- ALLOCATION. --

25 A. The aggregate face amount of all qualified

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1 school bonds issued in a calendar year shall not exceed the  
2 allocation for that year.

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

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

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

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

25 Section 6. A new Section 7-2A-8.9 NMSA 1978 is enacted

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1 to read:

2 "7-2A-8.9. [NEW MATERIAL] QUALIFIED SCHOOL BONDS-- TAX  
3 CREDIT. --

4 A. A taxpayer who files a New Mexico corporate  
5 income tax return and who is entitled to claim a federal tax  
6 credit for qualified zone academy bonds pursuant to Section  
7 1397E(a) of the Internal Revenue Code for qualified school  
8 bonds held pursuant to the Qualified School Bonds Act may take  
9 against the taxpayer's corporate income tax liability a tax  
10 credit equal to the federal tax credit claimed and allowed  
11 with respect to the qualified school bonds held pursuant to  
12 the Qualified School Bonds Act.

13 B. The tax credit provided in this section may  
14 only be deducted from the taxpayer's corporate income tax  
15 liability. Any portion of the tax credit provided by this  
16 section that remains unused at the end of the taxpayer's  
17 taxable year may not be carried forward. "

18 Section 7. EMERGENCY.--It is necessary for the public  
19 peace, health and safety that this act take effect  
20 immediately.



1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3  
4  
5  
6 March 8, 1999

7  
8 Mr. Speaker:

9  
10 Your EDUCATION COMMITTEE, to whom has been referred

11  
12 HOUSE BILL 737

13  
14 has had it under consideration and reports same with  
15 recommendation that it DO PASS, amended as follows:

- 16  
17 1. On page 5, line 10, after "a", insert "New Mexico".,

18 and thence referred to the TAXATION AND REVENUE  
19 COMMITTEE.

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HEC/HB 737

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Respectfully submitted,

\_\_\_\_\_  
Rick Miera, Chairman

Adopted \_\_\_\_\_

(Chief Clerk)

Not Adopted \_\_\_\_\_

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 15 For 0 Against

Yes: 15

Excused: Stapleton

Absent: None

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1 FORTY- FOURTH LEGISLATURE  
2 FIRST SESSION, 1999

3  
4 March 12, 1999

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6  
7 Mr. Speaker:

8  
9 Your TAXATION AND REVENUE COMMITTEE, to whom has  
10 been referred

11 HOUSE BILL 737, as amended

12  
13 has had it under consideration and reports same with  
14 recommendation that it DO PASS, amended as follows:

15  
16 1. On page 5, line 1, after "1986" strike the  
17 remainder of the line, strike all of lines 2 through 8,  
18 strike line 9 up to the semicolon and insert in lieu thereof  
19 "and Article 9, Section 11 of the constitution of New  
20 Mexico".

21 2. On page 7, line 25 and page 8, lines 1 through 17,  
22 strike Section 6 in its entirety.

23  
24 3. Renumber the succeeding section accordingly.

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HTRC/HB 737aa

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Respectfully submitted,

\_\_\_\_\_  
Jerry W. Sandel, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 15 For 0 Against

Yes: 15

Excused: None

Absent: None

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