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SENATE BILL 677

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

INTRODUCED BY

Pauline B. Eisenstadt

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
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5
6 March 3, 1999
7

8 Mr. President:
9

10 Your WAYS & MEANS COMMITTEE, to whom has been referred
11

12 SENATE BILL 677
13

14 has had it under consideration and reports same with
15 recommendation that it DO PASS.
16

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18 Respectfully submitted,
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23 _____
24 Carlos R. Cisneros, Chairman
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Adopted _____ Not

1 Adopted _____

2 (Chief Clerk)

(Chief Clerk)

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6 Date _____

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9 The roll call vote was 6 For 0 Against

10 Yes: 6

11 No: 0

12 Excused: Carraro, Duran, Nava

13 Absent: None

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16 S0677WM1

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**FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999**

March 16, 1999

**SENATE FLOOR AMENDMENT number _____ to SENATE BILL 677, with
emergency clause,
AMENDMENT sponsored by SENATOR GORHAM**

**1. On page 5, line 10, after the word "a" insert "New
Mexico".**

Senator Ramsay L. Gorham

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

S0677FS1

1
2 **FORTY-FOURTH LEGISLATURE**
3 **FIRST SESSION, 1999**
4
5
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7 **March 13, 1999**
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9
10 **Mr. Speaker:**

11 **Your EDUCATION COMMITTEE, to whom has been referred**
12

13 **SENATE BILL 677, as amended**
14

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

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

19 **Respectfully submitted,**
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23 _____
24 **Rick Mi era, Chai rman**
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HEC/SB 677

Page 14

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 14 For 0 Against

Yes: 14

Excused: Stapleton

Absent: Marquardt

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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999
3

4 March 15, 1999
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7 Mr. Speaker:
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9 Your TAXATION AND REVENUE COMMITTEE, to whom has
10 been referred

11 SENATE BILL 677, as amended
12

13 has had it under consideration and reports same with
14 recommendation that it DO PASS, amended as follows:
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16 1. On page 1, line 14, after the semicolon strike the
17 remainder of the line and strike all of line 15.

18 2. On page 5, line 1, after "1986" strike the
19 remainder of the line, strike all of lines 2 through 8,
20 strike line 9 up to the semicolon and insert in lieu thereof
21 "and Article 9, Section 11 of the constitution of New
22 Mexico".
23

24 3. On page 7, line 25 and page 8, lines 1 through 17,
25 strike Section 6 in its entirety.

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HTRC/SB 677aa

Page 16

4. Renumber the succeeding section accordingly.

Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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HTRC/SB 677aa

Page 17

The roll call vote was 12 For 1 Against

Yes: 12

No: Silva

Excused: Lujan, Russell

Absent: None

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