

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

Reinvestment Act of 2009; and

D. "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 of Section 1521 of the federal American Recovery and Reinvestment Act of 2009."

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

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

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

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

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

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

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

being constructed, rehabilitated or repaired with the proceeds;

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

(3) the issuer is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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