

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 2000-69
HOUSE BILL 1539

AN ACT TO DESIGNATE THE STATE BOARD OF EDUCATION AS THE STATE
EDUCATION AGENCY RESPONSIBLE FOR ADMINISTERING THE
QUALIFIED ZONE ACADEMY BOND PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. Chapter 115C of the General Statutes is amended by adding a new Article to read:

"Article 34B.

"Qualified Zone Academy Bonds.

"§ 115C-489.5. Qualified zone academy bonds; findings.

The General Assembly finds:

(a) Section 226 of the Taxpayer Relief Act of 1997, as codified at 26 U.S.C. § 1397E, provides funds for school improvements through taxable qualified zone academy bonds. Ninety-five percent (95%) or more of the proceeds of a qualified zone academy bond issue must be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency.

(b) Partnerships between private entities and local schools are promoted through the use of qualified zone academy bonds. Issuers must certify that they have received written commitments from one or more private entities to make qualified contributions valued at ten percent (10%) of the proceeds of the issue.

(c) Eligible taxpayers may receive federal tax credits for holding the qualified zone academy bonds. It is intended that the qualified zone academy bonds be sold at par value so that the tax credits received are instead of interest that otherwise would have been paid on the bonds. Therefore, issuers of qualified zone academy bonds are obligated to repay the principal amount of the qualified zone academy bonds but need not make interest payments.

(d) Applicable federal law limits the amount of qualified zone academy bonds that may be issued in North Carolina in a calendar year.

"§ 115C-489.6. Administration; consultation; issuance of bonds.

(a) State Board of Education to Administer Program. – The State Board of Education is designated the State education agency responsible for administering the qualified zone academy bond program in North Carolina for the purposes of 26 U.S.C. § 1397E. The State Board of Education shall perform all activities required to implement

and carry out the qualified zone activity bond program in North Carolina. Those activities include:

- (1) Defining those areas and schools that are eligible under federal law to participate in the qualified zone academy bond program in North Carolina.
- (2) Designing an application process under which proposals may be solicited from qualified zone academies.
- (3) Determining the eligibility of an applicant to be a participating qualified zone academy.
- (4) Awarding the State's allocation of total funds among selected applicants and establishing conditions upon the usage of the allocation.

These conditions must include:

- a. Requiring that the bond proceeds be used only for rehabilitating or repairing the public school facility in which the qualified zone academy is located, which may include (i) wiring and other infrastructure improvements related to providing technology and (ii) equipment related to the rehabilitation or repair, but not personal computers or similar technology equipment.
 - b. Conditions designed to assure that the allocation is used in a timely manner.
- (5) Confirming that the terms of any qualified zone academy bonds issued in accordance with this program are consistent with the terms of the federal program.

(b) Assistance. – The Department of Public Instruction shall provide the State Board of Education any support it requires in carrying out this section.

(c) Consultation. – In reviewing applications and awarding allocations, the State Board of Education shall consult with the Local Government Commission to determine whether a prospective issuer of qualified zone academy bonds is able to issue or incur marketable obligations.

(d) Issuance of Bonds. – Any bonds designated as qualified zone academy bonds may be issued pursuant to the applicable provisions of and in compliance with the Local Government Bond Act, Article 4 of Chapter 159 of the General Statutes, or pursuant to the applicable provisions of and in compliance with G.S. 160A-20, to the extent authorized by G.S. 153A-158.1. As provided in G.S. 159-123(b), bonds designated as qualified zone academy bonds to be issued pursuant to the Local Government Bond Act may be sold by the Local Government Commission at private sale."

Section 2. G.S. 159-123(b) reads as rewritten:

"(b) The following classes of bonds may be sold at private sale:

- (1) Bonds that a State or federal agency has previously agreed to purchase.
- (2) Any bonds for which no legal bid is received within the time allowed for submission of bids.

- (3) Revenue bonds, including any refunding bonds issued pursuant to G.S. 159-84, and special obligation bonds issued pursuant to Chapter 159I of the General Statutes.
- (4) Refunding bonds issued pursuant to G.S. 159-78.
- (5) Refunding bonds issued pursuant to G.S. 159-72 if the Local Government Commission determines that a private sale is in the best interest of the issuing unit.
- (6) Bonds designated as qualified zone academy bonds pursuant to G.S. 115C-489.6, if the Local Government Commission determines that a private sale is in the best interest of the issuing unit."

Section 3. G.S. 150B-21.1 is amended by adding a new subsection to read:

"(a7) Notwithstanding the provisions of subdivision (a)(2) of this section, an agency may adopt a temporary rule to implement the provisions of any of the following acts until all rules necessary to implement the provisions of the act have become effective as either temporary or permanent rules:

- (1) Reserved.
- (2) Article 34B of Chapter 115C of the General Statutes."

Section 4. Interpretation of Act. (a) Additional Method. This act provides an additional and alternative method for the doing of the things it authorizes and is as supplemental and additional to powers conferred by other laws. Except as otherwise expressly provided, it does not derogate any powers now existing.

Section 4.(b) Statutory References. References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

Section 4.(c) Liberal Construction. This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

Section 4.(d) Severability. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

Section 5. G.S. 150B-21.1(a7)(2), as enacted by Section 3 of this act, is repealed effective July 1, 2003.

Section 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 9:56 p.m. this 30th day of June, 2000