

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

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**SENATE BILL 754**

Short Title: Statutory Changes for ARRTA Funds. (Public)

Sponsors: Senators Clodfelter; and Stein.

Referred to: Appropriations/Base Budget.

March 24, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE NORTH CAROLINA GENERAL STATUTES TO ALLOW THE  
3 STATE TO TAKE FULL ADVANTAGE OF FEDERAL ECONOMIC STIMULUS  
4 LEGISLATION ALSO KNOWN AS THE AMERICAN RECOVERY AND  
5 REINVESTMENT ACT OF 2009 (ARRTA).

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Article 34B of Chapter 115C of the General Statutes reads as  
8 rewritten:

"Article 34B.

"Qualified Zone Academy Bonds.

11 **"§ 115C-489.5. Qualified zone academy bonds; findings.**

12 The General Assembly finds:

13 (1) Section 226 of the Taxpayer Relief Act of 1997, as codified at ~~26 U.S.C. §~~  
14 ~~1397E, 26 U.S.C. § 54E~~, provides funds for school improvements through  
15 taxable qualified zone academy bonds. Ninety-five percent (95%) or more of  
16 the proceeds of a qualified zone academy bond issue must be used for a  
17 qualified purpose with respect to a qualified zone academy established by an  
18 eligible local education agency.

19 ...

20 (2a) Section 1521 et seq., of the American Recovery and Reinvestment Act of  
21 2009 (ARRTA), enacted as 26 U.S.C. § 54F, provides a new source of funds  
22 for construction, rehabilitation, or repair of public school facilities through  
23 the issuance of qualified school construction bonds.

24 (3) Eligible taxpayers may receive federal tax credits for holding the qualified  
25 zone academy ~~bonds~~ bonds or qualified school construction bonds. It  
26 is intended that the qualified zone academy bonds and qualified school  
27 construction bonds be sold at par value so that the tax credits received are  
28 instead of interest that otherwise would have been paid on the bonds.  
29 Therefore, issuers of qualified zone academy bonds and qualified school  
30 construction bonds are obligated to repay the principal amount of the  
31 qualified zone academy bonds but need not make interest payments.

32 (4) Applicable federal law limits the amount of qualified zone academy bonds  
33 and qualified school construction bonds that may be issued in North  
34 Carolina in a calendar year.

35 **"§ 115C-489.6. Administration; consultation; issuance of bonds.**

36 (a) State Board of Education to Administer QZAB Program. – The State Board of  
37 Education is designated the State education agency responsible for administering the qualified



1 zone academy bond program in North Carolina for the purposes of 26 U.S.C. § 1397E-26  
2 U.S.C. § 54E. The State Board of Education shall perform all activities required to implement  
3 and carry out the qualified zone activity bond program in North Carolina. Those activities  
4 include:

5 ...

6 (a1) State Board of Education to Administer Qualified School Construction Bond  
7 Program. – The State Board of Education is designated the State education agency responsible  
8 for administering the allocation of authority to issue qualified school construction bonds under  
9 26 U.S.C. § 54F. The State Board of Education shall perform all activities required to  
10 implement and carry out such allocation for the qualified zone activity bond program in North  
11 Carolina. Those activities include:

12 (1) Designing an application process under which proposals may be solicited  
13 from issuers wishing to issue qualified school construction bonds.

14 (2) Awarding the State's allocation of total funds among selected applicants and  
15 establishing conditions upon the usage of the allocation. These conditions  
16 may include:

17 a. Requiring that the bond proceeds be used for purposes permitted  
18 under 26 U.S.C. § 54F.

19 b. Conditions designed to assure that the allocation is used in a timely  
20 manner.

21 (3) Confirming that the terms of any qualified zone academy bonds issued in  
22 accordance with this program are consistent with the terms of the federal  
23 program.

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

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

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

38 **SECTION 2.** Article 51B of Chapter 143 of the General Statutes reads as  
39 rewritten:

40 "Article 51B.

41 "North Carolina Federal Tax Reform Allocation Committee.

42 "**§ 143-433.6. Legislative findings.**

43 ...

44 (c) The General Assembly further finds and determines that section 1400U-3 of the  
45 American Recovery and Reinvestment Act of 2009 (ARRTA) added a new type of exempt  
46 facility bond denominated recovery zone facility bonds, to be used to finance construction,  
47 renovation, and equipping of recovery zone property for use in any trade or business in a  
48 recovery zone, all as defined in AARTTA, and provides a formula for allocation of authority to  
49 issue recovery zone facility bonds to the states, and by which such authority is to be reallocated  
50 by the State to counties and large municipalities within the State.

51 ...

**"§ 143-433.8. Duties.**

The Committee shall perform the following duties:

- (1) Manage the allocation of private activity bonds, low-income housing credits, ~~and~~ qualified public educational facility bonds and recovery zone facility bonds, and receive advice from bond issuers, elected officials, and the General Assembly.
- (2) Continue to monitor bond markets, economic development financing trends, school financing trends, housing markets, and tax incentives available to induce events and programs favorable to North Carolina, its cities and counties, and individual citizens.
- (3) Continue to study the ways in which North Carolina can best and most fairly manage and utilize the allocation of private activity bonds, low-income housing credits, ~~and~~ qualified public educational facility ~~bonds~~bonds and recovery zone facility bonds.
- (4) Report to the Governor, Lieutenant Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Revenue Laws Study Committee as requested and on not less than an annual basis. The annual report is due by November 1 of each year.

**"§ 143-433.9. Allocation.**

(a) To provide for the orderly and prompt issuance of private activity bonds and qualified public educational facility bonds, there are hereby proclaimed formulas for allocating the following: (i) the unified volume limitation, (ii) the state housing credit ceiling, ~~and~~ (iii) the annual aggregate limitation on the face amount of qualified public educational facility ~~bonds~~bonds, and (iv) the annual authority for recovery zone facility bonds. The unified volume limitation for all issues of private activity bonds, other than qualified public educational facility ~~bonds~~bonds and recovery zone facility bonds, in North Carolina shall be considered as a single resource to be allocated under this Article. The annual aggregate limitation on the face amount of qualified public educational facility bonds for all issues in North Carolina shall be considered as a single resource to be allocated under this Article. The Committee shall issue the following: (i) allocations of the unified volume limitation, (ii) allocations of the state housing credit ceiling, ~~and~~ (iii) allocations of the aggregate limitation on the face amount of qualified public educational facility ~~bonds~~bonds, and (iv) reallocation of the allocation for recovery zone facility bonds allocated to the State. The Committee shall set forth procedures for making such allocations and in the making of such allocations shall take into consideration the best interest of the State of North Carolina with regard to the economic development, school facility needs, and general prosperity of the people of North Carolina. In reallocating allocation for recovery zone facility bonds, the Committee shall follow the formula provided in section 1400U-1(a)(3) of ARRTA. The Committee shall make all elective carryforwards of the unused unified volume limitation and the annual aggregate limitation on the face amount of qualified public educational facility bonds and recovery zone facility bonds on behalf of the State.

...."

**SECTION 3.** G.S. 159C-3 reads as rewritten:

**"§ 159C-3. Definitions.**

The following definitions apply in this Chapter:

...

(3a) Code. – The Internal Revenue Code of 1986, as amended.

...

(6b) Industrial project. – Any industrial or manufacturing factory, mill, assembly plant, or fabricating plant; freight terminal; industrial research, development, or laboratory facility; industrial processing facility; facility used in the manufacturing or production of tangible personal property; facility used in

1                    the creation or production of intangible property (as described in section  
2                    197(d)(1)(C)(iii) of the Code); a facility that qualifies as "recovery zone  
3                    property" under section 1400U-3 of the American Recovery and  
4                    Reinvestment Tax Act of 2009; or distribution facility for industrial or  
5                    manufactured products.

6                    ...."

7                    **SECTION 4.** This act is effective when it becomes law.