

**Hiring Incentives to Restore Employment Act of 2010  
The Small Business and Infrastructure Jobs Tax Act of 2010  
American Recovery and Reinvestment Act of 2009**

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## H.I.R.E. Act Section 301

- On March 19, 2010 , the President signed the Hiring Incentives to Restore Employment Act (the “HIRE Act”) also referred to as the “Jobs Bill”
- The HIRE Act allows municipal issuers the ability to raise money through various financing programs established by ARRA and amended by the HIRE Act
- The Jobs Bill enables municipal issuers to receive direct, issuer subsidy, Build America Bond-style payments from four types of tax-credit bond programs (Section 301 of the HIRE Act)
  - Qualified School Construction Bonds (“QSCBs”)
  - Qualified Zone Academy Bonds (“QZABs”)
  - Qualified Energy Conservation Bonds (“QECBs”)
  - New Clean Renewable Energy Bonds (“NCREBs”)
- QSCBs and QZABs, the federal payments are 100 percent of the lesser of (i) the interest payments on the bonds or (ii) the otherwise available tax credits
- QECBs and NCREBs, the federal payments are 70 percent of the lesser of (i) the interest payments on the bonds or (ii) the otherwise available tax credits
- The American Recovery and Reinvestment Act of 2009 (“ARRA” or “The Stimulus Act”), signed into law on February 17, 2009, created Direct Payment Build America Bonds (Direct Payment BABs), a form of taxable governmental bond for which an issuer elects to receive a direct payment from the federal government equal to 35 percent of each interest payment on the bonds
- Federal Direct Payments are subject to offsets by any other amounts owed from the issuer to the federal government
- The amount of Direct Payments to an issuer depends on (i) type of specified tax credit bond issued and (ii) amount of interest payable on the specified tax credit bond
- The HIRE Act lifted the January 1, 2011 issuance deadline for all programs, except for BABs which is being addressed under separate legislation (The Small Business and Infrastructure Jobs Tax Act of 2010)

# The Small Business and Infrastructure Jobs Tax Act of 2010

- The Small Business and Infrastructure Jobs Tax Act of 2010 (“Second Jobs Bill”), was approved by a vote of 246 to 178 in the House on March 24, 2010
- The Senate will no review the legislation, but it is unclear when they will bring it before the Senate for a vote
- The Second Jobs Bill would extend the BABs program until April 1, 2013, with a declining subsidy rate
  - 2011: 33%
  - 2012: 31%
  - 2013 (1<sup>st</sup> 3 months): 30%
- The subsidy rate and renewal period continue to be the subject matters up for debate
  - White House prefers 28% subsidy with permanent program
  - House Ways & Means Committee prefers higher subsidy rate
- The Second Jobs Bill would also allow BABs to be used to refund previously issued BABs
- The Second Jobs Bill would also double in size the two Recovery Zone Bond Programs to \$50 billion
  - RZEDBs from \$10 billion to \$20 billion
  - RZFBs from \$15 billion to \$30 billion

## ARRA Overview – Direct Subsidy Financing

	Type	Issuers Affected				% of Subsidy	Program Limit <sup>(2)</sup>	Structuring Limit
		Government	501(c)(3)	Energy	Corp			
Build America Bonds (Taxable)	Issuer Direct Subsidy	✓	--	✓	--	35% (2010) <sup>5</sup>	New Money Capital Expenditures	Traditional
Qualified School Construction Bonds ("QSCBs")	Issuer Direct Subsidy	✓	--	--	--	100% <sup>(4)</sup>	\$22 billion	Section 54A <sup>(1)</sup>
Recovery Zone Economic Development Bonds ("RZEDBs")	Issuer Direct Subsidy	✓	--	✓	--	45%	\$10 billion <sup>(7)</sup>	Traditional
Recovery Zone Facilities Bonds ("RZFBs")	Tax-Exempt Bonds	--	--	✓	✓	Tax-Exempt (Non-AMT)	\$15 billion <sup>(7)</sup>	Traditional
Qualified Energy Conservation Bonds ("QECSBs")	Issuer Direct Subsidy	✓	✓	✓	✓	70% <sup>(6)</sup>	\$3.2 billion	Section 54A <sup>(1)</sup>
Qualified Zone Academy Bonds ("QZABs")	Issuer Direct Subsidy	✓	--	--	--	100% <sup>(4)</sup>	\$2.8 billion (\$2.5 bn more)	Section 54A <sup>(1)</sup>
Clean Renewable Energy Bonds ("CREBs")	Issuer Direct Subsidy	✓	--	✓	Co-ops	70%	\$2.4 billion (\$1.6 bn more)	Section 54A <sup>(1)</sup>

**Footnotes:**

- (1) Currently, 16-year maximum maturity; bullet maturity allowed
- (2) HIRE Act lifted the January 1, 2011 issuance deadline for all programs, except for BABs
- (3) QSCB - Source: National Education Association ([www.nea.org](http://www.nea.org)) ; QZAB - Source: IRS U.S. Dept. of Treasury ([www.irs.gov](http://www.irs.gov));  
CREBs - 1/3 to state, local and tribal government, 1/3 to public power providers & 1/3 to electric cooperatives
- (4) Lesser of the actual interest rate on the bonds or tax credit rate for municipal tax credit bonds at 100%
- (5) BABs extended through 4/1/2013, with a proposed lowering of current approved 35% direct-pay subsidy rate to 33% in 2011, 31% in 2012, and 30% through 4/1/2013
- (6) Lesser of the actual interest rate on the bonds or tax credit rate for municipal tax credit bonds at 70%
- (7) Second Jobs Bill proposes an additional \$10 billion and \$15 billion

## Build America Bonds (BABs)

- ARRA authorized the issuance of Build America Bonds (“BABs”) as taxable governmental bonds with federal subsidies in 2009 and 2010
  - “Build America Bonds (Tax Credit)” provide a federal tax credit to investors equal to 35% of the coupon interest payable on the bonds
    - Tax-exempt bond rules apply to BABs (e.g., private use, arbitrage rebate)
    - May be issued for capital expenditures, working capital, new money and refunding issues
    - If tax credits cannot be used in a tax year, they may be carried forward
    - Tax credits may be stripped by the issuer from the bond and separately sold
  - “Build America Bonds (Direct Payment)” provide a federal direct payment to the issuer equal to 35% of the coupon interest payable on the bonds
    - Tax-exempt bond rules apply to BABs (e.g., private use, arbitrage rebate)
    - May only be issued for new money capital expenditures
    - Costs of issuance not to exceed 2%
- The Second Jobs Bill (pending President and Congressional action) extends the BABs program through April 1, 2013, at a reduced subsidy rate of 33% in 2011, 31% in 2012, and 30% through April 1, 2013

# Qualified School Construction Bonds (QSCBs)

- The ARRA Act authorized the issuance of Qualified School Construction Bonds (“QSCBs”)
- QSCB proceeds are used for the following:
  - Construction, rehabilitation or repair of a public school facility
  - Acquisition of land on which a public school facility will be located
  - Acquisition of equipment to be used in the portions of the public school facility being financed with QSCB proceeds
- Principal is paid by the issuer at maturity (although many QSCBs have mandatory sinking funds or required set-asides in a Trustee held accounts)
- QSCBs help state and local governments obtain low-cost financing for much needed public school improvements and construction
- The Recovery Act provided for the issuance of \$11 billion of qualified school construction bonds by states and large local educational agencies in 2009 and \$11 billion in 2010
- The 2010 allocations include \$6.6 billion of bonding authority to the 50 states and the remaining \$4.4 billion of volume cap to 103 large local educational agencies under a statutory formula tied to levels of federal education grant funding
- The HIRE Act allows a state to carry forward from year to year its unused QSCB volume cap allocation; large school districts included
- Under the HIRE Act, the Treasury would make direct payments to issuers equal to 100% of the lesser of (i) the actual interest rate of the bonds or (ii) the tax-credit rate for municipal tax-credit bonds

## Qualified Zone Academy Bonds (QZABs)

- Through the establishment of Qualified Zone Academy Bonds (QZABs), school districts with low-income populations can save on interest costs associated with financing school renovations and repairs as well as other improvements
- Available to municipalities with a population in excess of 100,000 and counties for any area designated by an issuer as having significant poverty, unemployment, rate of home foreclosures, general economic distress
- The federal government covers, on average, all of the interest on these bonds, thus enabling schools to save up to 50 percent of the costs of these construction/other projects. In effect, when a school district issues a QZAB, it is like getting 50% of the funds as a grant.
- QZABs cannot be used for new construction but can be used for all activities including the following:
  - Renovating and repairing buildings
  - Investing in equipment and up-to-date technology
  - Developing challenging curricula
  - Training quality teachers
- The money can only be used for qualifying schools where 35 percent or more of students are eligible for free or reduced-price school meals or if the school is located in an enterprise community or empowerment zone
- The 2010 allocation (\$1.4 Billion) expires on December 31, 2012
- Under the HIRE Act, the Treasury would make direct payments to issuers equal to the lesser of the actual interest rate of the bonds or the tax-credit rate for municipal tax-credit bonds; equal to 100% of interest costs

## Recovery Zone Bonds (RZEDBs and RZFBs)

- Recovery Zone Economic Development Bonds (Direct Payment) provide a federal direct payment to the issuer equal to 45% of the coupon interest payable on the bonds if the proceeds are designated to be used for a “qualified economic development purpose.”
  - Available to municipalities with a population in excess of 100,000 and counties for any area designated by an issuer as having significant poverty, unemployment, rate of home foreclosures, general economic distress
  - May be issued for new money for expenditures in the recovery zone and job training programs
  - Must be a governmental bond
- Recovery Zone Facilities Bonds (“RZFBs”) are tax-exempt private activity bonds used to finance business development activities in areas of significant economic distress
  - Counties and large municipalities with greater than 100,000 in population are eligible for allocations to finance Recovery Zones
- ARRA authorized a national volume cap of \$10 billion in RZEDBs and \$15 billion in RZFBs in 2009
  - Allocations for each State, City and County are available on the web @ [http://www.irs.gov/irb/2009-26\\_IRB/ar06.html#d0e3550](http://www.irs.gov/irb/2009-26_IRB/ar06.html#d0e3550)
- RZEDBs and RZFBs under the Second Jobs Bill (see attached legislation) would be allocated an additional \$10 billion and \$15 billion, respectively to each of the programs in 2010 and ensure each local municipality receives an allocation equal to at least its share of national unemployment as of December 2008

## Qualified Energy Conservation Bonds (QECCBs)

- Qualified Energy Conservation Bonds (QECCBs) were initially authorized under Energy Improvement and Extension Act of 2008 and provisions were amended by ARRA
- QECCBs may be financed with a broad array of “green” projects
  - 70% of each allocation of bond issuing authority created by this program must be used for governmental purposes
  - 30% may be issued as private activity bonds
- Under the HIRE Act, the Treasury would make direct payments to issuers equal to the lesser of the actual interest rate of the bonds or the tax-credit rate for municipal tax-credit bonds; equal to 70% of interest costs
- The ARRA Act increased the QECCB volume cap to \$3.2 billion in 2009 from the maximum \$800 million national volume cap first authorized by Congress in 2008

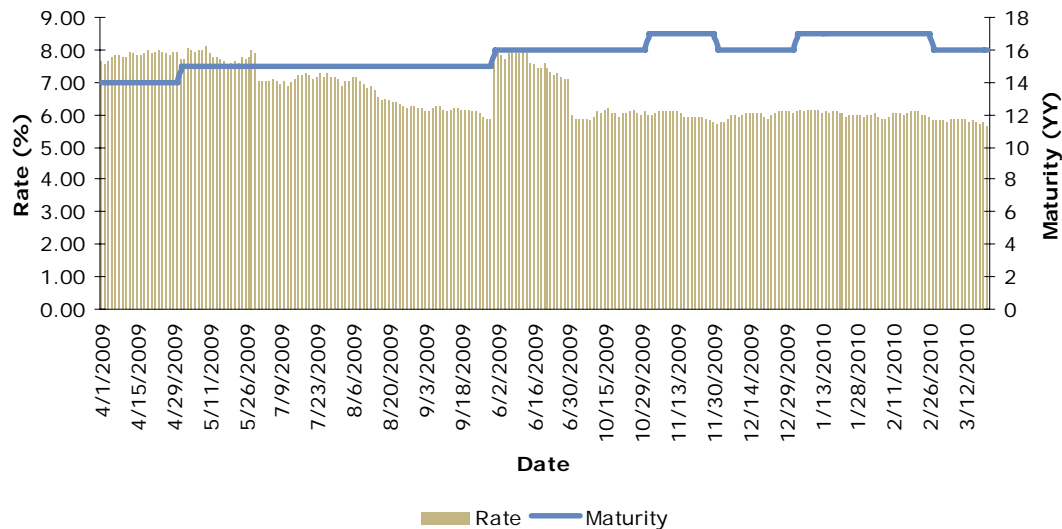
## New Clean Renewable Energy Bonds (NCREBs)

- New Clean Renewable Energy Bonds (NCREBs), offers cooperatives and governmental entities the equivalent of an interest-free loan for financing qualified energy projects for a limited term
  - “Cooperative electric company” means a mutual or cooperative electric company described in Section 501(c)(12) or Section 1381(a)(2)(C), or a not-for-profit electric utility which has received a loan or a loan guarantee under the Rural Electrification Act
  - 100% of proceeds are required to be used for qualified renewable resource facilities
- NCREBs energy facilities must be owned by public power providers (“PPPs”, governmental bodies, or cooperative electric companies (“CECs”))
- NCREBs may be used to finance qualified renewable energy facilities that produce electricity
- NCREBs deliver an incentive comparable to the Production Tax Credit (“PTC”) that is available to private developers and investor-owned utilities (“IOUs”)
  - Renewable energy generation projects that qualify for the PTC generally qualify for CREB financing
- The NCREBs allocation totaling \$2.4 billion does not have a defined expiration date under the law; however, the recent IRS solicitation for new applications requires the bonds to be issued within 3 years after the applicant receives notification of an approved allocation
- The NCREBs require \$800 million (1/3) of the \$2.4 billion in volume cap to be allocated to qualified projects owned by governmental bodies, cooperative electric companies, and public power providers, respectively
- Under the HIRE Act, the Treasury would make direct payments to issuers equal to the lesser of the actual interest rate of the bonds or the tax-credit rate for municipal tax-credit bonds; equal to 70% of interest costs

# Tax Credit Rate

- Tax Credit Rate is the applicable rate that the Secretary of the Treasury estimates will permit the issuance of a qualified tax credit bond, with a specified maturity or redemption date, without discount and without interest cost to the qualified issuer.
- The applicable Tax Credit Rate is determined as of the first day on which there is a binding, written contract for the sale or exchange of the tax credit bond.
- The applicable Tax Credit Rate is published by the Bureau of Public Debt of the Treasury at [www.treasurydirect.gov](http://www.treasurydirect.gov) on a daily basis and is NOT directly correlated to the maturity noted along side of it.
- The maturity is inversely correlated to the Permitted Sinking Fund Yield (“PSFY”) which is benchmarked off of the 10 year adjusted federal rate. The adjusted federal rate is compounded semi-annually and is reset *monthly*, hence the PSFY changing in unison.
- The calculation for choosing the respective maturity is based on how long it will take to double ones money if invested at the PSFY (currently 16 years).

Historic Tax Credit Rate April 1, 2009 to Present



## Qualified Tax Credit Bond Rates

Section 54A of the Internal Revenue Code (IRC) provides rules for the issuance and use of qualified tax credit bonds including new clean renewable energy bonds, qualified energy conservation bonds, qualified zone academy bonds, and qualified school construction bonds. For rates on clean renewable energy bonds issued under Section 54 of the IRC, check our [CREB page](#).

### Current Rate

Date	Rate	Maturity	PSFY*
Mar 22, 2010	5.67%	16 years	4.39%