

OCT 29 1986

86-24

Roy D. Blount

WHEREAS, the Congress of the United States has passed the Tax Reform Act of 1986 and the President of the United States has signed the "Tax Reform Act of 1986" (hereinafter referred to as the "Act"); and

WHEREAS, the Internal Revenue Code of 1954, as in effect prior to the enactment of the Act, as amended by the Act, and as may be hereafter amended has been designated by the Act as the "Internal Revenue Code of 1986" (the "Code"); and

WHEREAS, Section 146 of the Code ("Section 146") restricts the aggregate amount of certain "private activity bonds" (hereinafter referred to as the "State Ceiling") within the meaning of Sections 141, 146(g), 146(h) and 146(i) of the Code (hereinafter referred to as "Private Activity Bonds"), the interest on which would be exempt from federal income taxation under Section 103(a) of the Code, which may be issued within any state of the United States during calendar year 1986 to the greater of \$250,000,000 or an amount equal to \$75 multiplied by the population of a state (such population to be determined on the basis of the most recent census estimate of the resident population of a state released by the Bureau of Census before the beginning of calendar year 1986); and

WHEREAS, the State Ceiling applies to Private Activity Bonds issued after August 15, 1986, with certain exceptions; and

WHEREAS, Section 146 provides a formula for allocating the State Ceiling among the various state agencies, cities, counties and other issuing authorities in a state (hereinafter referred to as "Issuers"), which formula shall be effective unless the legislature of a state or the governor of a state provides for a different formula for allocating the State Ceiling among Issuers within a state; and

WHEREAS, the provisions of Section 146 for allocating the State Ceiling within the State of Missouri (the "State") are unworkable in the State; and

WHEREAS, in accordance with the provisions of Section 146, the Governor of the State has found and determined that the best interests of the citizens of the State would be served by the promulgation of an executive order that would permit an orderly and equitable allocation of the State Ceiling among Issuers in the State.

NOW, THEREFORE, pursuant to the authority vested in me as Governor of the State of Missouri and in accordance with Section 146, I do hereby proclaim and order that in lieu of the formula for allocating the State Ceiling specified in Section 146, the following formula shall be used for allocating the State Ceiling for the State for the period from August 16, 1986 to December 31, 1986, inclusive, unless and until the General Assembly of the State enacts a law or any subsequent Executive Order is issued by the Governor providing for a different formula for allocation of such State Ceiling.

Section 1. The allocation system provided in Section 146 with respect to all Issuers, whether local or state, is hereby revoked. The State Ceiling shall be allocated among Issuers, whether local or state, by the Director of the Department of Economic Development or his designee (the "Director") in accordance with the terms and conditions of this Executive Order.

Section 2. The dollar amount of the State Ceiling for the State for calendar year 1986 is hereby determined to be \$372,750,000; provided, that such amount may be adjusted by the Director subsequent to the effective date of this Executive Order in order to comply with the Code. The Director shall reserve an amount equal to one-half of the State Ceiling from the effective date of this Executive Order through December 19, 1986, inclusive, for allocations for qualified mortgage bonds and exempt facility bonds for qualified residential rental projects (as such terms are defined in Sections 142 and 143 of the Code).

Section 3. Prior to any issuance of any Private Activity Bonds, subsequent to the effective date of this Executive Order, all Issuers, whether state or local, shall first make a request for an allocation by filing a signed application for each project with the Director in the form attached hereto as Exhibit A (the "Application").

Section 4. Subject to the provisions of Section 2 hereof, the Director shall approve each properly filed Application for an allocation of the State Ceiling on the basis of the chronological order of receipt of such Applications from Issuers, whether local or state; provided, that with respect to any Application (i) in an amount in excess of \$10,000,000 or (ii) for an exempt facility bond for a qualified residential rental project (as such terms are defined in Section 142 of the Code), the Director may in his discretion approve the total requested amount, approve a partial amount or reject the Application.

Section 5. Following review of each properly completed Application, the Director shall, within five (5) business days after receipt of the Application, mail to the Issuer notification of the amount of the approved allocation or the disapproval of such Application. Unless an extension is approved by the Director as provided in Section 6 hereof or a carryforward election is approved by the Director pursuant to Section 9 hereof, such approved allocation shall expire on the earlier of (i) 11:59 P.M. C.S.T. on the date which is forty-five (45) days from the date the approved allocation is mailed to the Issuer (or such later date as has been specified by the Director in his notification of such approved allocation), (ii) the date upon which such approved allocation is voluntarily surrendered to the Director by the Issuer or (iii) 11:59 P.M. C.S.T. on December 19, 1986.

Section 6. For good cause shown, an Issuer may request an extension of the expiration date of an approved allocation by filing a written notice for extension with the Director, which request must be received by the Director not less than five (5) days prior to the expiration of the initial period specified by the Director pursuant to Section 5. In such instances, the Director may, in his discretion, approve an extension for a period ending on the earlier of (i) 11:59 P.M. C.S.T. on the date which is thirty (30) days beyond the initial expiration date specified by the Director pursuant to Section 5 hereof, (ii) the date upon which such approved allocation is voluntarily surrendered to the Director by the Issuer, or (iii) 11:59 P.M. C.S.T. on December 19, 1986. The Director shall notify the Issuer within five (5) business days after receipt if the request for extension has been approved or denied. In the event the bonds are not issued on or before the last day of the applicable extension period pursuant to the immediately preceding sentence, the approved allocation shall expire unless a carryforward election is approved by the Director pursuant to Section 9.

Section 7. Notwithstanding any other provision of this Executive Order, if an approved allocation or extension thereof expires on December 19, 1986 in accordance with the provisions of Sections 5 or 6 hereof, the Director, in his discretion, may grant an extension (or further extension) for a period ending not later than 11:59 P.M. C.S.T. on December 31, 1986.

Section 8. The Director shall provide to the Issuer on or prior to the date of issuance of any bonds for which an approved allocation has not expired a certification, in substantially the form of Exhibit B attached hereto, that such bonds meet the requirements of Section 146 of the Code.

Section 9 On or after December 15, 1986, the Director may, in his discretion, approve a carryforward election with respect to an approved allocation or any extension thereof if the Issuer, in writing: (a) requests such action and (b) indicates that the bonds for which the approved application was granted cannot be issued in calendar year 1986. Such approved carryforward election shall be made by the Issuer by means of a statement, signed by a duly authorized official of such Issuer and by the Director. Such statement shall be filed with the Director and with the Internal Revenue Service prior to the end of calendar year 1986 in accordance with Section 146(f) of the Code and the regulations promulgated thereunder. An Issuer may elect to carryforward such issuing authority only for qualified mortgage bonds, mortgage credit certificates, qualified student loan bonds, qualified redevelopment bonds (as such terms are defined in Sections 142, 143, and 144 of the Code) or for bonds to finance a project described in Section 141(d)(1)(A) of the Code. In no event shall such carryforward be effective for a period longer than permitted by Section 146(f) of the Code and the regulations promulgated thereunder.

Section 10. In the event an approved allocation expires as provided in Section 5, Section 6 or Section 7 hereof, the Issuer may re-submit an Application for an allocation for the same project. Such re-submitted Application shall be reviewed in the order of date received with no preference or priority being given as a result of the prior application for the same project or financing.

Section 11. All issuers, whether state or local, are hereby required to report the amount of all Private Activity Bonds issued pursuant to an approved allocation under this Executive Order to the Director or his designee by telephone no later than the second business day after the date of issuance of said bonds, which notice shall be confirmed in writing by an overnight delivery service approved by the Director, or by certified mail, return receipt requested, postmarked no later than five (5) calendar days after the issuance of such bonds, such notice to be in the form of Exhibit C attached hereto.

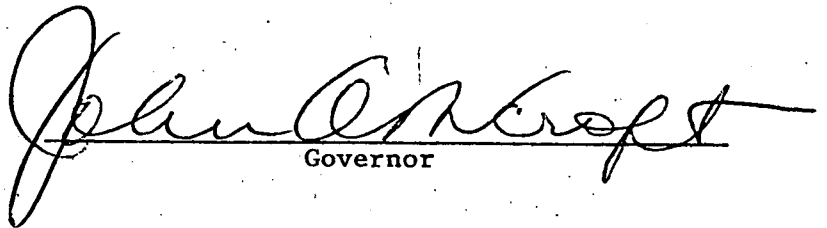
Section 12. Failure by an Issuer to report in accordance with the provisions of Section 11, or otherwise to abide by the terms of this Executive Order, may, at the discretion of the Director, result in the forfeiture of future allocations for Private Activity Bonds.

Section 13. The Director, from time to time, shall review and evaluate the use and demand for Private Activity Bonds in proportion to the unused or uncommitted portion of the State Ceiling. If, in the discretion of the Director, it appears that the allocation of the State Ceiling pursuant to the provisions hereof should be revised, then, the Director shall recommend to the Governor an alternative method by which to utilize the unused or uncommitted portion of the State Ceiling.

Section 14. Executive Order 86-9 is rescinded. This Executive Order shall take effect immediately and shall continue in full force and effect until the earlier of December 31, 1986, the effective date of any subsequent Executive Order or the effective date of any law enacted by the General Assembly with respect to the subject matter hereof.

IN WITNESS WHEREOF:

I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri this 29th day of October, 1986.

  
Governor

  
Secretary of State