

JUL 26 1984

WHEREAS, on July 18, 1984, the President of the United States signed into law Public Law 98-369 (the Deficit Reduction Act of 1984); and *James G. Thompson*

SECRETARY OF STATE

WHEREAS, Section 621 of P.L. 98-369 restricts the total principal amount of certain industrial development bonds and student loan bonds, designated in P.L. 98-369 as "private activity bonds", the interest on which is exempt from federal income taxes under Section 103 of the Internal Revenue Code of 1954, as amended, which may be issued within any state of the United States during each calendar year; and

WHEREAS, the provisions of Section 621 of P.L. 98-369 are retroactive to January 1, 1984, except that private activity bonds issued for projects for which an inducement resolution was adopted prior to June 19, 1984, are not subject to the volume limitations imposed by Section 621 of P.L. 98-369, provided such bonds are issued on or before December 31, 1984; and

WHEREAS, Section 621 of P.L. 98-369 provides a formula for allocating the total amount of private activity bonds which may be issued within a state in each calendar year (hereinafter "ceiling"), among the various state agencies, cities, counties and other issuing authorities in the state (hereinafter "issuer(s)" or bond issuer(s)), which formula shall become effective unless the legislature of a state or the Governor of a state provides for a different formula for allocating the ceiling within the state; and

WHEREAS, the provisions of Section 621 of P.L. 98-369 for allocating the amount of bonds which may be issued within the State of Missouri during each calendar year are inequitable and could result in a decrease in the amount of economic activity within the State of Missouri and could also result in a decrease in the amount of financing available for pollution control facilities, and for aid to post-secondary students in Missouri; and

WHEREAS, in accordance with the provisions of Section 621 of P.L. 98-369, the Governor of the State of Missouri deems the best interest of the citizens of the State of Missouri to be served by an Executive Order that will permit an orderly and equitable allocation of the amount of private activity bonds which can be issued by bond issuers of the State of Missouri pursuant to the ceiling described in Section 621 of P.L. 98-369,

NOW, THEREFORE, I, CHRISTOPHER S. BOND, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of Missouri, as well as by Section 621 of P.L. 98-369, do hereby proclaim and order that in lieu of the formula for allocating the state ceiling specified in Section 621 of P.L. 98-369, the following formula shall be used for allocating the ceiling for the State of Missouri available for calendar year 1984 and each year thereafter, unless and until the General Assembly of Missouri enacts a law or any subsequent Executive Order is issued by the Governor providing for a different formula for allocation.

Section 1. For calendar year 1984, and for each year thereafter, the ceiling shall be allocated to bond issuers by the Director of the Department of Consumer Affairs, Regulation and Licensing (hereinafter "Director") in accordance with the terms and conditions of this Order.

Section 2. Prior to any issuance of private activity bonds that are subject to the ceiling all issuers, whether state or local, shall first make request for an allocation by filing a signed application for each project with the Director in the form prescribed by the Director. Such application shall include but shall not be limited to the following:

- (a) appropriate information regarding the bond issuer and the governmental unit having jurisdiction over the project;
- (b) appropriate information regarding the project for which an allocation is requested;
- (c) the date of adoption by the bond issuers of an inducement resolution;
- (d) the amount of allocation being requested; and
- (e) any other information as may be prescribed by the Director.

Section 3. The Director shall consider and approve each properly filed application for an allocation of \$10 million or less on the basis of the chronological order of receipt from issuers, whether local or state. On issues in excess of \$10 million, the Director may in his discretion approve the total amount, approve a partial amount or reject the application.

Section 4. Following review of the completed application, the Director shall, within five (5) working days after receipt of the application, notify the bond issuer in writing of the amount of the approved allocation. Such notification shall contain certification of no consideration for the allocation in accordance with Section 621 of P.L. 98-369. Approval of any allocation shall expire ninety (90) days from the date the allocation is mailed to the bond issuer unless a) a shorter period is specified by the Director, b) an extension has been approved by the Director as provided in Section 5, or c) a waiver is approved by the Director pursuant to Section 6.

Section 5. A bond issuer may request an extension by filing a written notice for an extension of time with the Director which request must be received by the Director no less than five (5) days prior to the expiration of the initial period. In such instances, the Director may in his discretion approve an extension not to exceed thirty (30) days beyond the original expiration date. The Director shall notify the bond issuer within five (5) working days if the request for extension has been approved. In the event the bonds are not issued on or before the last day of the extension, the approved allocation shall expire at the close of business on the last business day of the extension period.

Section 6. On or after October 1 of each calendar year, the Director may in his discretion issue a waiver of the expiration of an approved allocation or any extension thereof if the bond issuer, in writing: 1) requests such action; 2) indicates that the bonds cannot be issued in the same calendar year in which the allocation was approved; and 3) agrees to exercise the elective carryforward provisions described of Section 621 of P.L. 98-369 for that project.

Section 7. In the event an approved allocation expires as provided in Section 4 or Section 5 hereof, the bond issuer may resubmit an application for an allocation for the same project. Such resubmitted application shall be reviewed in order of date received with no preference or priority being given as a result of the prior application for the same project.

Section 8. All bond 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 Order to the Director or his designate by telephone no later than the next business day after the date of issuance of said bonds, which notice shall be confirmed in writing by certified mail, return receipt requested, no later than five (5) calendar days after the issuance of such bonds.

Section 9. All bond issuers, whether state or local, are required to report in writing the date of issue and amount of all private activity bonds subject to this Order which were issued between January 1, 1984 and the effective date of this Order to the Director in a form prescribed by the Director not later than thirty (30) calendar days following the effective date of this Order. Such report shall also include a description of each project and the date of adoption of the inducement resolution pertaining to each such issuance.

Section 10. All bond issuers shall report in writing to the Director any receipt of notification from substantial users of intent to claim rights under Section 631(a)(3) of P.L. 98-369 for projects for which an inducement resolution was issued and significant expenditures incurred prior to October 19, 1983. Such report shall be filed within thirty (30) calendar days of the issuer's receipt of each such notification. A separate report shall be filed for each such notification.

Section 11. Failure to report in accordance with the provisions of Sections 8, 9 and 10 may, or otherwise to abide by the terms of this Order may, at the discretion of the Director, result in forfeiture of future allocations for use of private activity bonds.

Section 12. 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 ceiling. If, in the discretion of the Director, it appears that the ceiling will be exceeded prior to the end of any calendar year, then, notwithstanding the other sections of this Order, the Director may in his discretion devise and implement an alternative method by which to utilize the unused or uncommitted portion of the ceiling to promote the economic growth and development of the state.

Section 13. This Order shall continue in full force and effect until the effective date of any subsequent Order or the effective date of any law enacted by the General Assembly with respect to the same subject.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, this 26 day of July, 1984.



*Christopher S. Bond*  
GOVERNOR

ATTEST:

*James R. Kempf*  
SECRETARY OF STATE