

HOUSE BILL NO. 260

INTRODUCED BY BARDANOUE

BY REQUEST OF THE DEPARTMENT
OF ADMINISTRATION

IN THE HOUSE

January 18, 1985	Introduced and referred to Committee on State Administration.
January 25, 1985	Committee recommend bill do pass as amended. Report adopted.
January 26, 1985	Bill printed and placed on members' desks.
January 29, 1985	Second reading, do pass. Considered correctly engrossed.
January 30, 1985	Third reading, passed. Ayes, 100; Noes, 0. Transmitted to Senate.

IN THE SENATE

February 4, 1985	Introduced and referred to Committee on State Administration.
March 8, 1985	Committee recommend bill be concurrred in as amended. Report adopted.
March 11, 1985	Second reading, concurrred in.

March 13, 1985

Third reading, concurred in.
Ayes, 50; Noes, 0.

Returned to House with
amendments.

IN THE HOUSE

March 14, 1985

Received from Senate.

April 2, 1985

Second reading, amendments
concurred in.

April 3, 1985

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 260
 2 INTRODUCED BY Barlowe
 3 BY REQUEST OF THE DEPARTMENT
 4 OF ADMINISTRATION

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A FORMULA FOR
 7 ALLOCATING MONTANA'S PRIVATE ACTIVITY BOND AUTHORITY AMONG
 8 THE GOVERNMENTAL UNITS IN THE STATE HAVING AUTHORITY TO
 9 ISSUE SUCH BONDS; AND PROVIDING AN EFFECTIVE DATE."

10
 11 WHEREAS, the Legislature has previously authorized
 12 state agencies and cities, towns, and counties to issue
 13 bonds to support a wide variety of activities in furtherance
 14 of various public purposes; and

15 WHEREAS, the federal government has enacted the Tax
 16 Reform Act of 1984, hereinafter referred to as "the Act";
 17 and

18 WHEREAS, the Act restricts the total principal amount
 19 of private activity bonds that may be issued by the state
 20 during each calendar year to \$200 million; and

21 WHEREAS, the Act defines "private activity bond" as
 22 meaning certain obligations the interest on which is exempt
 23 from tax under section 103(b) of the Internal Revenue Code
 24 of 1954, as amended, and that are industrial development
 25 bonds or student loan bonds; and

1 WHEREAS, the Act distributes one-half of the private
 2 activity bond limit to the state agencies that have
 3 authority to issue private activity bonds and the other
 4 one-half to local political subdivisions that have authority
 5 to issue private activity bonds on the basis of the relative
 6 populations of the local political subdivisions; and

7 WHEREAS, the Act applies to private activity bonds
 8 issued after December 31, 1983; and

9 WHEREAS, the provisions of the Act authorize the
 10 Governor to reallocate the limit among the issuing
 11 authorities of the state through an alternative method on an
 12 interim basis; and

13 WHEREAS, pursuant to that authority the Governor has
 14 adopted such an interim allocation procedure for calendar
 15 years 1984 and 1985; and

16 WHEREAS, the Act authorizes the Legislature to enact an
 17 allocation procedure on a permanent basis different from
 18 that specified in the Act; and

19 WHEREAS, the Legislature considers it to be in the best
 20 interests of the state to enact an allocation procedure
 21 different from that specified in the Act for calendar year
 22 1986 and subsequent calendar years.

23
 24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25 Section 1. Short title. [This act] may be cited as the



1 "Montana Private Activity Bond Allocation Plan".

2 Section 2. Definitions. As used in [this act], unless
3 the context clearly requires otherwise, the following
4 definitions apply:

5 (1) "Department" means the department of
6 administration provided for in 2-15-1001.

7 (2) "Limit" or "private activity bond limit" means the
8 total state ceiling applicable to the state of Montana for
9 any calendar year for the issuance of tax exempt private
10 activity bonds, as determined under the provisions of the
11 reform act.

12 (3) "Private activity bond" means a tax-exempt private
13 activity bond, as defined under the provisions of the reform
14 act.

15 (4) "Reform act" means the federal Tax Reform Act of
16 1984 and particularly subtitle B of Title VI thereof,
17 entitled "Private Activity Bonds", which are a part of the
18 federal Deficit Reduction Act of 1984 (Public Law 98-369).

19 (5) "State issuer agencies" means those state agencies
20 authorized by state law to issue bonds that would qualify as
21 private activity bonds.

22 Section 3. Private activity bond limit. The aggregate
23 amount of private activity bonds that may be issued by state
24 issuer agencies and local political subdivisions during any
25 calendar year may not exceed the private activity bond limit

1 for that calendar year.

2 Section 4. Allocation of limit. The private activity
3 bond limit is allocated among the state issuer agencies and
4 local political subdivisions of the state as follows:

5 (1) 40% of the limit to the state issuer agencies;

6 (2) 60% of the limit to local political subdivisions.

7 Section 5. Determination of state issuer agencies'
8 allocations. The state issuer agencies' allocations of the
9 limit must be made by the director of the department.

10 Section 6. Determination of local political
11 subdivisions' allocations. (1) Local political subdivisions
12 wishing to obtain an allocation of the limit shall apply to
13 the department for an allocation. The application must
14 contain the following information:

15 (a) the name of the local political subdivision;

16 (b) a description of the proposed project;

17 (c) the location of the project;

18 (d) the name and address of the project owner and
19 operator;

20 (e) a certified copy of the inducement resolution
21 adopted by the local political subdivision pursuant to
22 section 103 of the Internal Revenue Code of 1954, as
23 amended, approving the project and granting preliminary
24 authorization for the issuance of the bonds for the project;

25 (f) the preliminary opinion of a qualified bond

1 counsel that the proposed project qualifies as a private
 2 activity bond project under applicable state law and, if the
 3 bonds are issued, that the interest thereon will be exempt
 4 from federal income taxation under section 103 of the
 5 Internal Revenue Code of 1954, as amended;

6 (g) evidence that all public hearing requirements
 7 concerning the proposed project have been met;

8 (h) a copy of a letter from an underwriter, bank, or
 9 other financial institution stating in effect that in its
 10 opinion the project is feasible, that bonds could be
 11 successfully sold under current market conditions, and that
 12 it has reviewed all of the information necessary to form its
 13 opinion; and

14 (i) the amount of allocation requested.

15 (2) Allocations to local political subdivisions must
 16 be made by the department on the basis of the chronological
 17 order of the receipt of their completed applications.
 18 Completed applications received on the same day by the
 19 department must be ranked according to the earliest
 20 inducement resolution date.

21 Section 7. Limitation on local political subdivision
 22 allocations. Prior to October 1 of a calendar year, the
 23 maximum single project allocation of the limit that may be
 24 approved for a local political subdivision, except as may
 25 otherwise be limited by the reform act, may not exceed \$15

1 million.

2 Section 8. Notification of approval or disapproval by
 3 the department. Upon receipt of an application for an
 4 allocation of the limit, the department shall notify the
 5 applicant of the approval of the allocation or the reasons
 6 for disapproval as soon as possible.

7 Section 9. Term of allocations. (1) Unless terminated
 8 earlier by the state agency or local political subdivision
 9 involved, an allocation of the limit is valid for 90 days
 10 from the date the department's notice of approval is mailed.
 11 The department may extend the period of validity for an
 12 additional 30 days upon presentation of evidence to it prior
 13 to the expiration of the 90-day period that an agreement to
 14 purchase the allocated private activity bonds has been
 15 obtained from an entity with the legal ability to purchase
 16 them.

17 (2) If the allocated private activity bonds are not
 18 issued within the period of validity, as determined under
 19 subsection (1), the allocation automatically expires and is
 20 thereafter subject to reallocation.

21 (3) All allocations for a calendar year expire on
 22 December 31 of that year; however, this subsection does not
 23 limit the term of an allocation that is carried forward by
 24 the state agency or local political subdivision involved,
 25 with respect to a carry forward project as defined in the

1 reform act and proposed and temporary U.S. treasury
2 regulations for private activity bond allocation as
3 published in the Federal Register on October 5, 1984.

4 Section 10. Allocations not transferable. Allocations
5 of the limit may not be transferred between projects.

6 Section 11. Reapplication. If the department
7 disapproves an application for an allocation of the limit or
8 if an allocation expires under [section 9], the state agency
9 or local political subdivision involved may reapply for an
10 allocation. The reapplication must be reviewed as any other
11 application by the department, according to the
12 chronological order of its receipt. No priority or
13 preference may be given to a reapplication because of the
14 prior application.

15 Section 12. Unused or recaptured allocations. (1) On
16 the third Monday in August of each calendar year any
17 unallocated limit remaining must be pooled by the department
18 and must thereafter be available for state issuer agencies
19 and local political subdivisions alike as provided in
20 [sections 5 and 6] except that the \$15 million limitation on
21 local political subdivision allocations under [section 7]
22 continues in effect.

23 (2) On the first Monday in October of each calendar
24 year any unallocated limit remaining in the pool is
25 available to state issuer agencies and local political

1 subdivisions alike as provided in [sections 5 and 6] with no
2 limitation on the amount of allocation that can be made for
3 an individual project other than the limitations imposed by
4 the reform act and the Internal Revenue Code of 1954, as
5 amended.

6 (3) For purposes of this section, an application from
7 a state issuer agency for an allocation must contain the
8 information required in [section 6] for a local political
9 subdivision application and must be approved and ranked by
10 the department in the manner provided by [section 6(2)].

11 Section 13. Effective date. This act is effective
12 January 1, 1986.

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

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2 INTRODUCED BY BARDANOUE
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14 of various public purposes; and

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16 Reform Act of 1984, hereinafter referred to as "the Act";
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18 WHEREAS, the Act restricts the total principal amount
19 of private activity bonds that may be issued by the state
20 during each calendar year to \$200 million; and

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24 of 1954, as amended, and that are industrial development
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SECOND READING
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11 Section 13. Effective date. This act is effective
12 January 1, 1986.

-End-

SENATE

STANDING COMMITTEE REPORT

March 8 19 85

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE BILL No. 260

third reading copy (blue color)

Senator Himsl will carry this bill

ALLOCATION OF PRIVATE ACTIVITY BOND AUTHORITY TO GOVERNMENTAL UNITS

Respectfully report as follows: That HOUSE BILL No. 260

be amended as follows:

- 1. Page 3, line 16.
- Following: "Title"
- Strike: "VI"
- Insert: "VII"

KB

AND AS AMENDED
BE CONCURRED IN

XXXXXXXX

XXXXXXXXXX

O B H M

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5 to issue private activity bonds on the basis of the relative
6 populations of the local political subdivisions; and

7 WHEREAS, the Act applies to private activity bonds
8 issued after December 31, 1983; and

9 WHEREAS, the provisions of the Act authorize the
10 Governor to reallocate the limit among the issuing
11 authorities of the state through an alternative method on an
12 interim basis; and

13 WHEREAS, pursuant to that authority the Governor has
14 adopted such an interim allocation procedure for calendar
15 years 1984 and 1985; and

16 WHEREAS, the Act authorizes the Legislature to enact an
17 allocation procedure on a permanent basis different from
18 that specified in the Act; and

19 WHEREAS, the Legislature considers it to be in the best
20 interests of the state to enact an allocation procedure
21 different from that specified in the Act for calendar year
22 1986 and subsequent calendar years.

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25 Section 1. Short title. [This act] may be cited as the

1 "Montana Private Activity Bond Allocation Plan".

2 Section 2. Definitions. As used in [this act], unless
3 the context clearly requires otherwise, the following
4 definitions apply:

5 (1) "Department" means the department of
6 administration provided for in 2-15-1001.

7 (2) "Limit" or "private activity bond limit" means the
8 total state ceiling applicable to the state of Montana for
9 any calendar year for the issuance of tax exempt private
10 activity bonds, as determined under the provisions of the
11 reform act.

12 (3) "Private activity bond" means a tax-exempt private
13 activity bond, as defined under the provisions of the reform
14 act.

15 (4) "Reform act" means the federal Tax Reform Act of
16 1984 and particularly subtitle B of Title VI VII thereof,
17 entitled "Private Activity Bonds", which are a part of the
18 federal Deficit Reduction Act of 1984 (Public Law 98-369).

19 (5) "State issuer agencies" means those state agencies
20 authorized by state law to issue bonds that would qualify as
21 private activity bonds.

22 Section 3. Private activity bond limit. The aggregate
23 amount of private activity bonds that may be issued by state
24 issuer agencies and local political subdivisions during any
25 calendar year may not exceed the private activity bond limit

1 for that calendar year.

2 Section 4. Allocation of limit. The private activity
3 bond limit is allocated among the state issuer agencies and
4 local political subdivisions of the state as follows:

5 (1) 40% of the limit to the state issuer agencies;

6 (2) 60% of the limit to local political subdivisions.

7 Section 5. Determination of state issuer agencies'
8 allocations. The state issuer agencies' allocations of the
9 limit must be made by the director of the department.

10 Section 6. Determination of local political
11 subdivisions' allocations. (1) Local political subdivisions
12 wishing to obtain an allocation of the limit shall apply to
13 the department for an allocation. The application must
14 contain the following information:

15 (a) the name of the local political subdivision;

16 (b) a description of the proposed project;

17 (c) the location of the project;

18 (d) the name and address of the project owner and
19 operator;

20 (e) a certified copy of the inducement resolution
21 adopted by the local political subdivision pursuant to
22 section 103 of the Internal Revenue Code of 1954, as
23 amended, approving the project and granting preliminary
24 authorization for the issuance of the bonds for the project;

25 (f) the preliminary opinion of a qualified bond

1 counsel that the proposed project qualifies as a private
2 activity bond project under applicable state law and, if the
3 bonds are issued, that the interest thereon will be exempt
4 from federal income taxation under section 103 of the
5 Internal Revenue Code of 1954, as amended;

6 (g) evidence that all public hearing requirements
7 concerning the proposed project have been met;

8 (h) a copy of a letter from an underwriter, bank, or
9 other financial institution stating in effect that in its
10 opinion the project is feasible, that bonds could be
11 successfully sold under current market conditions, and that
12 it has reviewed all of the information necessary to form its
13 opinion; and

14 (i) the amount of allocation requested.

15 (2) Allocations to local political subdivisions must
16 be made by the department on the basis of the chronological
17 order of the receipt of their completed applications.
18 Completed applications received on the same day by the
19 department must be ranked according to the earliest
20 inducement resolution date.

21 Section 7. Limitation on local political subdivision
22 allocations. Prior to THE FIRST MONDAY IN October 1 of a
23 calendar year, the maximum single project allocation of the
24 limit that may be approved for a local political
25 subdivision, except as may otherwise be limited by the

1 reform act, may not exceed \$15 million.

2 Section 8. Notification of approval or disapproval by
3 the department. Upon receipt of an application for an
4 allocation of the limit, the department shall notify the
5 applicant of the approval of the allocation or the reasons
6 for disapproval as soon as possible.

7 Section 9. Term of allocations. (1) Unless terminated
8 earlier by the state agency or local political subdivision
9 involved, an allocation of the limit is valid for 90 days
10 from the date the department's notice of approval is mailed.
11 The department may extend the period of validity for an
12 additional 30 days upon presentation of evidence to it prior
13 to the expiration of the 90-day period that an agreement to
14 purchase the allocated private activity bonds has been
15 obtained from an entity with the legal ability to purchase
16 them.

17 (2) If the allocated private activity bonds are not
18 issued within the period of validity, as determined under
19 subsection (1), the allocation automatically expires and is
20 thereafter subject to reallocation.

21 (3) All allocations for a calendar year expire on
22 December 31 of that year; however, this subsection does not
23 limit the term of an allocation that is carried forward by
24 the state agency or local political subdivision involved,
25 with respect to a carry forward project as defined in the

1 reform act and proposed and temporary U.S. treasury
2 regulations for private activity bond allocation as
3 published in the Federal Register on October 5, 1984.

4 Section 10. Allocations not transferable. Allocations
5 of the limit may not be transferred between projects.

6 Section 11. Reapplication. If the department
7 disapproves an application for an allocation of the limit or
8 if an allocation expires under [section 9], the state agency
9 or local political subdivision involved may reapply for an
10 allocation. The reapplication must be reviewed as any other
11 application by the department, according to the
12 chronological order of its receipt. No priority or
13 preference may be given to a reapplication because of the
14 prior application.

15 Section 12. Unused or recaptured allocations. (1) On
16 the third Monday in August of each calendar year any
17 unallocated limit remaining must be pooled by the department
18 and must thereafter be available for state issuer agencies
19 and local political subdivisions alike as provided in
20 [sections 5 and 6] except that the \$15 million limitation on
21 local political subdivision allocations under [section 7]
22 continues in effect.

23 (2) On the first Monday in October of each calendar
24 year any unallocated limit remaining in the pool is
25 available to state issuer agencies and local political

1 subdivisions alike as provided in [sections 5 and 6] with no
2 limitation on the amount of allocation that can be made for
3 an individual project other than the limitations imposed by
4 the reform act and the Internal Revenue Code of 1954, as
5 amended.

6 (3) For purposes of this section, an application from
7 a state issuer agency for an allocation must contain the
8 information required in [section 6] for a local political
9 subdivision application and must be approved and ranked by
10 the department in the manner provided by [section 6(2)].

11 Section 13. Effective date. This act is effective
12 January 1, 1986.

-End-