

SENATE BILL NO. 230

INTRODUCED BY HIMSL, BARDANOUVE, VAN VALKENBURG, GAGE

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

IN THE SENATE

JANUARY 27, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
JANUARY 31, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 2, 1987	PRINTING REPORT.
FEBRUARY 4, 1987	SECOND READING, DO PASS.
FEBRUARY 5, 1987	ENGROSSING REPORT.
FEBRUARY 6, 1987	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 11, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
MARCH 10, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 13, 1987	SECOND READING, CONCURRED IN.
MARCH 14, 1987	THIRD READING, CONCURRED IN. AYES, 94; NOES, 3.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 17, 1987	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.

1 *Senate* BILL NO. *230*
 2 INTRODUCED BY *Kimberly B. Bergman*
 3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION
 4 *Van Veltburg, Cliff*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A FORMULA FOR
 6 ALLOCATING MONTANA'S UNIFIED VOLUME CAP FOR BONDS AMONG THE
 7 GOVERNMENTAL UNITS IN THE STATE HAVING AUTHORITY TO ISSUE
 8 SUCH BONDS; REPEALING SECTIONS 17-5-1201, 17-5-1202, AND
 9 17-5-1211 THROUGH 17-5-1220, MCA; AND PROVIDING A DELAYED
 10 EFFECTIVE DATE."
 11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Short title. [This act] may be cited as
 14 "The Montana Unified Volume Cap Bond Allocation Plan Act".

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

18 (1) "Allocation" means an allocation of a part of the
 19 volume cap to an issuer pursuant to [this act].

20 (2) "Board" means the board of examiners.

21 (3) "Bonds" means bonds, notes, or other
 22 interest-bearing obligations of an issuer.

23 (4) "Cap bonds" means those private activity bonds and
 24 that portion of governmental bonds for which a part of the
 25 volume cap is required to be allocated pursuant to the tax

1 act.

2 (5) "Department" means the department of
 3 administration.

4 (6) "Governmental bonds" means bonds other than
 5 private activity bonds.

6 (7) "Issuer" means a state issuer or local issuer.

7 (8) "Local issuer" means a city, town, county, or
 8 other political subdivision of the state authorized to issue
 9 private activity bonds or governmental bonds.

10 (9) "Local portion" means that portion of the volume
 11 cap reserved for local issuers.

12 (10) "Montana agricultural loan authority" (MALA) means
 13 the authority provided for in 2-15-3011.

14 (11) "Montana board of housing" (MBH) means the board
 15 created in 2-15-1814.

16 (12) "Montana economic development board" (MEDB) means
 17 the board provided for in 2-15-1805.

18 (13) "Montana higher education student assistance
 19 corporation" (MHESAC) means the nonprofit corporation
 20 established under Title 20, chapter 26, part 11.

21 (14) "Montana health facility authority" (MHFA) means
 22 the authority provided for in 2-15-1815.

23 (15) "Private activity bonds" (PABs) has the meaning
 24 prescribed under section 1301 of the tax act.

25 (16) "State issuer" means the state and any agency

thereof authorized to issue private activity bonds. For [this act] only, the Montana higher education student assistance corporation is considered an agency of the state.

(17) "State portion" means that portion of the volume cap reserved for state issuers.

(18) "Tax act" means the Tax Reform Act of 1986 enacted by the United States congress.

(19) "Volume cap" means, with respect to each calendar year, the principal amount of cap bonds that may be issued in the state in a calendar year as determined under the provisions of the tax act.

Section 3. Volume cap and reservations. For each calendar year, the state's volume cap is \$150 million. In each calendar year, subject to the provisions established by [sections 4 and 5], \$105 million of the volume cap is the state portion and \$45 million is the local portion.

Section 4. Allocation to state issuers. (1) Except as provided in subsection (4), the state portion must be allocated to state issuers pursuant to [section 8].

(2) The following set-asides must be made in each calendar year for the following state issuers:

<u>State Issuer</u>	<u>Percentage</u>	<u>Allocation Amount</u>
Board	4	\$4,200,000
MALA	2	2,100,000
MBH	40	42,000,000

MEDB	25	26,250,000
MHESAC	25	26,250,000
MHFA	<u>4</u>	<u>4,200,000</u>
Total	100%	\$105,000,000

(3) Each set-aside expires on the first Monday in September.

(4) Prior to the set-aside expiration date, allocations may be made by the department to each state issuer only from its respective set-aside pursuant to [section 8] and no state issuer is entitled to an allocation except from its set-aside unless otherwise provided by the governor.

(5) After the expiration date, the amount of the set-aside remaining unallocated is available for allocation by the department to issuers pursuant to [section 8] without preference or priority.

Section 5. Allocation to local issuers. (1) The local portion must be allocated by the department pursuant to [section 8], and no local issuer is entitled to an allocation except from the local portion set-aside.

(2) No more than \$20 million of the local portion may be allocated for a single project or purpose prior to the first Monday in September of each year.

(3) After the first Monday in September, the local portion must be allocated by the department to issuers

1 pursuant to [section 8] without preference, priority, or
2 limitation.

3 Section 6. Authorization by the governor. The governor
4 may order an allocation different than that allocated by the
5 department to state and local issuers pursuant to [sections
6 4 and 5].

7 Section 7. Carryforward elections. (1) Between the
8 first Monday in December and the second Wednesday in
9 December, each issuer shall file with the department an
10 application for a carryforward election with respect to any
11 unallocated portion of the volume cap for the calendar year.

12 (2) Applications for carryforward elections may be
13 filed only with respect to carryforward purposes authorized
14 by the tax act. Each application for a carryforward election
15 must contain the information required of an application for
16 allocation under [section 8] and any additional information
17 required by either the tax act or the department.

18 (3) If, as of the second Wednesday in December, the
19 aggregate amount of applications for carryforward elections
20 does not exceed the amount of the unallocated and unused
21 volume cap, each application constitutes a valid
22 carryforward election within the meaning of the tax act.

23 (4) If, as of the second Wednesday in December, the
24 aggregate amount of applications for carryforward elections
25 exceeds the unallocated and unused volume cap, the

1 department shall determine which applications constitute a
2 valid carryforward election within the meaning of the tax
3 act.

4 (5) After receipt of an application, the department
5 shall notify the applicant in writing of either the approval
6 of the carryforward election or the reason for disapproval.

7 Section 8. Allocations by the department. (1) The
8 department shall administer the allocation of cap bonds to
9 issuers in accordance with this section and [section 4].
10 Applications for an allocation for each issue of bonds must
11 be made to the department in an acceptable form and, if
12 applicable, must contain the following:

13 (a) the name of the issuer;

14 (b) a description of the purpose or purposes for which
15 the proceeds of the cap bonds will be used, including, if
16 appropriate, a description of the project or projects to be
17 financed;

18 (c) the location of the project or projects;

19 (d) the name and address of each project owner and
20 user;

21 (e) a certified copy of the inducement resolution
22 adopted or official action taken by the issuer, pursuant to
23 the tax act, approving the project or the purpose and
24 granting preliminary authorization for the issuance of the
25 cap bonds;

(f) the preliminary opinion of a qualified bond counsel stating that the proposed purpose for which the cap bonds are to be issued qualifies under applicable state law and the tax act and that the interest on the bonds is not taxable as gross income for purposes of federal income taxation;

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

(h) a copy of a letter from an underwriter, bank, or other financial institution certifying that in its opinion the proposed financing is feasible, that the cap bonds may be successfully sold under current market conditions, and that it has reviewed all of the information necessary to form its opinion;

(i) the amount of allocation requested; and

(j) such other information as the department considers necessary.

(2) The department shall issue allocations in chronological order of the receipt of completed applications. Completed applications received by the department on the same day must be ranked according to the earliest inducement resolution or official action date.

Section 9. Notification of approval or disapproval by the department. After receipt of an application for an allocation, the department shall notify the applicant in

writing of either the approval of the allocation or the reasons for disapproval.

Section 10. Terms of allocations. (1) Unless terminated earlier by the issuer, an allocation is valid for 90 days from the date the department mails the notice of approval. Prior to the expiration of the 90-day period, the department may extend the period of validity for an additional 30 days upon presentation of evidence that an agreement to purchase the cap bonds for which the allocation was given has been obtained from an entity legally authorized to purchase them.

(2) If the cap bonds are not issued within the period of validity as determined under subsection (1), the allocation automatically expires.

(3) All allocations expire on December 31 of the year in which they were made. However, this subsection does not limit the term of an allocation for which a valid carryforward election has been made.

Section 11. Allocations not transferable. Allocations may not be transferred between projects or purposes.

Section 12. Reapplication. (1) If the department disapproves an application for an allocation or if an allocation expires under [section 10], the issuer may reapply for an allocation.

(2) A reapplication must be reviewed according to the

1 chronological order of its receipt. Priority or preference
2 may not be given to a reapplication.

3 Section 13. Recordkeeping. The department shall
4 maintain complete records of all applications for
5 allocations to assure that the requirements of the tax act
6 with respect to the volume cap are observed.

7 Section 14. Repealer. Sections 17-5-1201, 17-5-1202,
8 and 17-5-1211 through 17-5-1220, MCA, are repealed.

9 Section 15. Effective date. This act is effective
10 January 1, 1988.

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

SENATE BILL NO. 230

INTRODUCED BY HIMSL, BARDANOUVE, VAN VALKENBURG, GAGE

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A FORMULA FOR ALLOCATING MONTANA'S UNIFIED VOLUME CAP FOR BONDS AMONG THE GOVERNMENTAL UNITS IN THE STATE HAVING AUTHORITY TO ISSUE SUCH BONDS; ESTABLISHING A FEE TO FUND A PORTION OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT AUDIT; REPEALING SECTIONS 17-5-1201, 17-5-1202, AND 17-5-1211 THROUGH 17-5-1220, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Short title. [This act] may be cited as "The Montana Unified Volume Cap Bond Allocation Plan Act".

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

(1) "Allocation" means an allocation of a part of the volume cap to an issuer pursuant to [this act].

(2) "Board" means the board of examiners.

(3) "Bonds" means bonds, notes, or other interest-bearing obligations of an issuer.

(4) "Cap bonds" means those private activity bonds and that portion of governmental bonds for which a part of the

volume cap is required to be allocated pursuant to the tax act.

(5) "Department" means the department of administration.

(6) "Governmental bonds" means bonds other than private activity bonds.

(7) "Issuer" means a state issuer or local issuer.

(8) "Local issuer" means a city, town, county, or other political subdivision of the state authorized to issue private activity bonds or governmental bonds.

(9) "Local portion" means that portion of the volume cap reserved for local issuers.

(10) "Montana agricultural loan authority" (MALA) means the authority provided for in 2-15-3011.

(11) "Montana board of housing" (MBH) means the board created in 2-15-1814.

(12) "Montana economic development board" (MEDB) means the board provided for in 2-15-1805.

(13) "Montana higher education student assistance corporation" (MHESAC) means the nonprofit corporation established under Title 20, chapter 26, part 11.

(14) "Montana health facility authority" (MHFA) means the authority provided for in 2-15-1815.

(15) "Private activity bonds" (PABs) has the meaning prescribed under section 1301 of the tax act.

(16) "State issuer" means the state and any agency thereof authorized to issue private activity bonds. For [this act] only, the Montana higher education student assistance corporation is considered an agency of the state.

(17) "State portion" means that portion of the volume cap reserved for state issuers.

(18) "Tax act" means the Tax Reform Act of 1986 enacted by the United States congress.

(19) "Volume cap" means, with respect to each calendar year, the principal amount of cap bonds that may be issued in the state in a calendar year as determined under the provisions of the tax act.

Section 3. Volume cap and reservations. For each calendar year, the state's volume cap is \$150 million. In each calendar year, subject to the provisions established by [sections 4 and 5], \$105 million of the volume cap is the state portion and \$45 million is the local portion.

Section 4. Allocation to state issuers. (1) Except as provided in subsection ~~(4)~~ (5), the state portion must be allocated to state issuers pursuant to [section 8].

(2) AS A CONDITION OF RECEIVING AN ALLOCATION, EACH STATE ISSUER, UPON ISSUANCE OF THE BONDS, SHALL PAY 30 CENTS PER THOUSAND OF BONDS TO BE DEPOSITED IN THE STATE GENERAL FUND FOR THE PURPOSE OF FUNDING A PORTION OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT AUDIT.

~~(2)~~(3) The following set-asides must be made in each calendar year for the following state issuers:

<u>State Issuer</u>	<u>Percentage</u>	<u>Allocation Amount</u>
Board	4	\$4,200,000
MALA	2	2,100,000
MBH	40	42,000,000
MEDB	25	26,250,000
MHESAC	25	26,250,000
MHFA	<u>4</u>	<u>4,200,000</u>
Total	100%	\$105,000,000

~~(3)~~(4) Each set-aside expires on the first Monday in September.

~~(4)~~(5) Prior to the set-aside expiration date, allocations may be made by the department to each state issuer only from its respective set-aside pursuant to [section 8] and no state issuer is entitled to an allocation except from its set-aside unless otherwise provided by the governor.

~~(5)~~(6) After the expiration date, the amount of the set-aside remaining unallocated is available for allocation by the department to issuers pursuant to [section 8] without preference or priority.

Section 5. Allocation to local issuers. (1) The local portion must be allocated by the department pursuant to [section 8], and no local issuer is entitled to an

1 allocation except from the local portion set-aside.

2 (2) No more than \$20 million of the local portion may
3 be allocated for a single project or purpose prior to the
4 first Monday in September of each year.

5 (3) After the first Monday in September, the local
6 portion must be allocated by the department to issuers
7 pursuant to [section 8] without preference, priority, or
8 limitation.

9 Section 6. Authorization by the governor. The governor
10 may order an allocation different than that allocated by the
11 department to state and local issuers pursuant to [sections
12 4 and 5].

13 Section 7. Carryforward elections. (1) Between the
14 first Monday in December and the second Wednesday in
15 December, each issuer shall file with the department an
16 application for a carryforward election with respect to any
17 unallocated portion of the volume cap for the calendar year.

18 (2) Applications for carryforward elections may be
19 filed only with respect to carryforward purposes authorized
20 by the tax act. Each application for a carryforward election
21 must contain the information required of an application for
22 allocation under [section 8] and any additional information
23 required by either the tax act or the department.

24 (3) If, as of the second Wednesday in December, the
25 aggregate amount of applications for carryforward elections

1 does not exceed the amount of the unallocated and unused
2 volume cap, each application constitutes a valid
3 carryforward election within the meaning of the tax act.

4 (4) If, as of the second Wednesday in December, the
5 aggregate amount of applications for carryforward elections
6 exceeds the unallocated and unused volume cap, the
7 department shall determine which applications constitute a
8 valid carryforward election within the meaning of the tax
9 act.

10 (5) After receipt of an application, the department
11 shall notify the applicant in writing of either the approval
12 of the carryforward election or the reason for disapproval.

13 Section 8. Allocations by the department. (1) The
14 department shall administer the allocation of cap bonds to
15 issuers in accordance with this section and [section 4].
16 Applications for an allocation for each issue of bonds must
17 be made to the department in an acceptable form and, if
18 applicable, must contain the following:

19 (a) the name of the issuer;

20 (b) a description of the purpose or purposes for which
21 the proceeds of the cap bonds will be used, including, if
22 appropriate, a description of the project or projects to be
23 financed;

24 (c) the location of the project or projects;

25 (d) the name and address of each project owner and

1 user;

2 (e) a certified copy of the inducement resolution

3 adopted or official action taken by the issuer, pursuant to

4 the tax act, approving the project or the purpose and

5 granting preliminary authorization for the issuance of the

6 cap bonds;

7 (f) the preliminary opinion of a qualified bond

8 counsel stating that the proposed purpose for which the cap

9 bonds are to be issued qualifies under applicable state law

10 and the tax act and that the interest on the bonds is not

11 taxable as gross income for purposes of federal income

12 taxation;

13 (g) evidence that all public hearing requirements

14 concerning the proposed purpose and project have been met;

15 (h) a copy of a letter from an underwriter, bank, or

16 other financial institution certifying that in its opinion

17 the proposed financing is feasible, that the cap bonds may

18 be successfully sold under current market conditions, and

19 that it has reviewed all of the information necessary to

20 form its opinion;

21 (i) the amount of allocation requested; and

22 (j) such other information as the department considers

23 necessary.

24 (2) The department shall issue allocations in

25 chronological order of the receipt of completed

1 applications. Completed applications received by the

2 department on the same day must be ranked according to the

3 earliest inducement resolution or official action date.

4 Section 9. Notification of approval or disapproval by

5 the department. After receipt of an application for an

6 allocation, the department shall notify the applicant in

7 writing of either the approval of the allocation or the

8 reasons for disapproval.

9 Section 10. Terms of allocations. (1) Unless

10 terminated earlier by the issuer, an allocation is valid for

11 90 days from the date the department mails the notice of

12 approval. Prior to the expiration of the 90-day period, the

13 department may extend the period of validity for an

14 additional 30 days upon presentation of evidence that an

15 agreement to purchase the cap bonds for which the allocation

16 was given has been obtained from an entity legally

17 authorized to purchase them.

18 (2) If the cap bonds are not issued within the period

19 of validity as determined under subsection (1), the

20 allocation automatically expires.

21 (3) All allocations expire on December 31 of the year

22 in which they were made. However, this subsection does not

23 limit the term of an allocation for which a valid

24 carryforward election has been made.

25 Section 11. Allocations not transferable. Allocations

1 may not be transferred between projects or purposes.

2 Section 12. Reapplication. (1) If the department
3 disapproves an application for an allocation or if an
4 allocation expires under [section 10], the issuer may
5 reapply for an allocation.

6 (2) A reapplication must be reviewed according to the
7 chronological order of its receipt. Priority or preference
8 may not be given to a reapplication.

9 SECTION 13. FEE FOR ISSUANCE OF BONDS. EXCEPT FOR
10 ISSUERS OF GENERAL OBLIGATION BONDS WHICH ARE PAYABLE SOLELY
11 BY GENERAL FUND REVENUES, EACH STATE BOND ISSUER SHALL, UPON
12 ISSUANCE OF THE BONDS, PAY 30 CENTS PER THOUSAND OF BONDS TO
13 BE DEPOSITED IN THE STATE GENERAL FUND FOR THE PURPOSE OF
14 FUNDING A PORTION OF THE COMPREHENSIVE ANNUAL FINANCIAL
15 REPORT AUDIT.

16 Section 14. Recordkeeping. The department shall
17 maintain complete records of all applications for
18 allocations to assure that the requirements of the tax act
19 with respect to the volume cap are observed.

20 Section 15. Repealer. Sections 17-5-1201, 17-5-1202,
21 and 17-5-1211 through 17-5-1220, MCA, are repealed.

22 Section 16. Effective date. This act is effective
23 January 1, 1988.

-End-

SENATE BILL NO. 230

INTRODUCED BY HIMSL, BARDANOUVE, VAN VALKENBURG, GAGE

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A FORMULA FOR ALLOCATING MONTANA'S UNIFIED VOLUME CAP FOR BONDS AMONG THE GOVERNMENTAL UNITS IN THE STATE HAVING AUTHORITY TO ISSUE SUCH BONDS; ESTABLISHING A FEE TO FUND A PORTION OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT AUDIT; REPEALING SECTIONS 17-5-1201, 17-5-1202, AND 17-5-1211 THROUGH 17-5-1220, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Short title. [This act] may be cited as "The Montana Unified Volume Cap Bond Allocation Plan Act".

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

(1) "Allocation" means an allocation of a part of the volume cap to an issuer pursuant to [this act].

(2) "Board" means the board of examiners.

(3) "Bonds" means bonds, notes, or other interest-bearing obligations of an issuer.

(4) "Cap bonds" means those private activity bonds and that portion of governmental bonds for which a part of the

volume cap is required to be allocated pursuant to the tax act.

(5) "Department" means the department of administration.

(6) "Governmental bonds" means bonds other than private activity bonds.

(7) "Issuer" means a state issuer or local issuer.

(8) "Local issuer" means a city, town, county, or other political subdivision of the state authorized to issue private activity bonds or governmental bonds.

(9) "Local portion" means that portion of the volume cap reserved for local issuers.

(10) "Montana agricultural loan authority" (MALA) means the authority provided for in 2-15-3011.

(11) "Montana board of housing" (MBH) means the board created in 2-15-1814.

(12) "Montana economic development board" (MEDB) means the board provided for in 2-15-1805.

(13) "Montana higher education student assistance corporation" (MHESAC) means the nonprofit corporation established under Title 20, chapter 26, part 11.

(14) "Montana health facility authority" (MHFA) means the authority provided for in 2-15-1815.

(15) "Private activity bonds" (PABs) has the meaning prescribed under section 1301 of the tax act.

(16) "State issuer" means the state and any agency thereof authorized to issue private activity bonds. For [this act] only, the Montana higher education student assistance corporation is considered an agency of the state.

(17) "State portion" means that portion of the volume cap reserved for state issuers.

(18) "Tax act" means the Tax Reform Act of 1986 enacted by the United States congress.

(19) "Volume cap" means, with respect to each calendar year, the principal amount of cap bonds that may be issued in the state in a calendar year as determined under the provisions of the tax act.

Section 3. Volume cap and reservations. For each calendar year, the state's volume cap is \$150 million. In each calendar year, subject to the provisions established by [sections 4 and 5], \$105 million of the volume cap is the state portion and \$45 million is the local portion.

Section 4. Allocation to state issuers. (1) Except as provided in subsection {4} {5}, the state portion must be allocated to state issuers pursuant to [section 8].

{2} AS A CONDITION OF RECEIVING AN ALLOCATION, EACH STATE ISSUER, UPON ISSUANCE OF THE BONDS, SHALL PAY 30 CENTS PER THOUSAND OF BONDS TO BE DEPOSITED IN THE STATE GENERAL FUND FOR THE PURPOSE OF FUNDING A PORTION OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT AUDIT.

{2}{3} The following set-asides must be made in each calendar year for the following state issuers:

State Issuer	Percentage	Allocation Amount
Board	4	\$4,200,000
MALA	2	2,100,000
MBH	40	42,000,000
MEDB	25	26,250,000
MHESAC	25	26,250,000
MHFA	4	4,200,000
Total	100%	\$105,000,000

{3}{4} Each set-aside expires on the first Monday in September.

{4}{5} Prior to the set-aside expiration date, allocations may be made by the department to each state issuer only from its respective set-aside pursuant to [section 8] and no state issuer is entitled to an allocation except from its set-aside unless otherwise provided by the governor.

{5}{6} After the expiration date, the amount of the set-aside remaining unallocated is available for allocation by the department to issuers pursuant to [section 8] without preference or priority.

Section 5. Allocation to local issuers. (1) The local portion must be allocated by the department pursuant to [section 8], and no local issuer is entitled to an

1 allocation except from the local portion set-aside.

2 (2) No more than \$20 million of the local portion may
3 be allocated for a single project or purpose prior to the
4 first Monday in September of each year.

5 (3) After the first Monday in September, the local
6 portion must be allocated by the department to issuers
7 pursuant to [section 8] without preference, priority, or
8 limitation.

9 Section 6. Authorization by the governor. The governor
10 may order an allocation different than that allocated by the
11 department to state and local issuers pursuant to [sections
12 4 and 5].

13 Section 7. Carryforward elections. (1) Between the
14 first Monday in December and the second Wednesday in
15 December, each issuer shall file with the department an
16 application for a carryforward election with respect to any
17 unallocated portion of the volume cap for the calendar year.

18 (2) Applications for carryforward elections may be
19 filed only with respect to carryforward purposes authorized
20 by the tax act. Each application for a carryforward election
21 must contain the information required of an application for
22 allocation under [section 8] and any additional information
23 required by either the tax act or the department.

24 (3) If, as of the second Wednesday in December, the
25 aggregate amount of applications for carryforward elections

1 does not exceed the amount of the unallocated and unused
2 volume cap, each application constitutes a valid
3 carryforward election within the meaning of the tax act.

4 (4) If, as of the second Wednesday in December, the
5 aggregate amount of applications for carryforward elections
6 exceeds the unallocated and unused volume cap, the
7 department shall determine which applications constitute a
8 valid carryforward election within the meaning of the tax
9 act.

10 (5) After receipt of an application, the department
11 shall notify the applicant in writing of either the approval
12 of the carryforward election or the reason for disapproval.

13 Section 8. Allocations by the department. (1) The
14 department shall administer the allocation of cap bonds to
15 issuers in accordance with this section and [section 4].
16 Applications for an allocation for each issue of bonds must
17 be made to the department in an acceptable form and, if
18 applicable, must contain the following:

19 (a) the name of the issuer;

20 (b) a description of the purpose or purposes for which
21 the proceeds of the cap bonds will be used, including, if
22 appropriate, a description of the project or projects to be
23 financed;

24 (c) the location of the project or projects;

25 (d) the name and address of each project owner and

1 user;

2 (e) a certified copy of the inducement resolution
3 adopted or official action taken by the issuer, pursuant to
4 the tax act, approving the project or the purpose and
5 granting preliminary authorization for the issuance of the
6 cap bonds;

7 (f) the preliminary opinion of a qualified bond
8 counsel stating that the proposed purpose for which the cap
9 bonds are to be issued qualifies under applicable state law
10 and the tax act and that the interest on the bonds is not
11 taxable as gross income for purposes of federal income
12 taxation;

13 (g) evidence that all public hearing requirements
14 concerning the proposed purpose and project have been met;

15 (h) a copy of a letter from an underwriter, bank, or
16 other financial institution certifying that in its opinion
17 the proposed financing is feasible, that the cap bonds may
18 be successfully sold under current market conditions, and
19 that it has reviewed all of the information necessary to
20 form its opinion;

21 (i) the amount of allocation requested; and

22 (j) such other information as the department considers
23 necessary.

24 (2) The department shall issue allocations in
25 chronological order of the receipt of completed

1 applications. Completed applications received by the
2 department on the same day must be ranked according to the
3 earliest inducement resolution or official action date.

4 Section 9. Notification of approval or disapproval by
5 the department. After receipt of an application for an
6 allocation, the department shall notify the applicant in
7 writing of either the approval of the allocation or the
8 reasons for disapproval.

9 Section 10. Terms of allocations. (1) Unless
10 terminated earlier by the issuer, an allocation is valid for
11 90 days from the date the department mails the notice of
12 approval. Prior to the expiration of the 90-day period, the
13 department may extend the period of validity for an
14 additional 30 days upon presentation of evidence that an
15 agreement to purchase the cap bonds for which the allocation
16 was given has been obtained from an entity legally
17 authorized to purchase them.

18 (2) If the cap bonds are not issued within the period
19 of validity as determined under subsection (1), the
20 allocation automatically expires.

21 (3) All allocations expire on December 31 of the year
22 in which they were made. However, this subsection does not
23 limit the term of an allocation for which a valid
24 carryforward election has been made.

25 Section 11. Allocations not transferable. Allocations

1 may not be transferred between projects or purposes.

2 Section 12. Reapplication. (1) If the department
3 disapproves an application for an allocation or if an
4 allocation expires under [section 10], the issuer may
5 reapply for an allocation.

6 (2) A reapplication must be reviewed according to the
7 chronological order of its receipt. Priority or preference
8 may not be given to a reapplication.

9 SECTION 13. FEE FOR ISSUANCE OF BONDS. EXCEPT FOR
10 ISSUERS OF GENERAL OBLIGATION BONDS WHICH ARE PAYABLE SOLELY
11 BY GENERAL FUND REVENUES, EACH STATE BOND ISSUER SHALL, UPON
12 ISSUANCE OF THE BONDS, PAY 30 CENTS PER THOUSAND OF BONDS TO
13 BE DEPOSITED IN THE STATE GENERAL FUND FOR THE PURPOSE OF
14 FUNDING A PORTION OF THE COMPREHENSIVE ANNUAL FINANCIAL
15 REPORT AUDIT.

16 Section 14. Recordkeeping. The department shall
17 maintain complete records of all applications for
18 allocations to assure that the requirements of the tax act
19 with respect to the volume cap are observed.

20 Section 15. Repealer. Sections 17-5-1201, 17-5-1202,
21 and 17-5-1211 through 17-5-1220, MCA, are repealed.

22 Section 16. Effective date. This act is effective
23 January 1, 1988.

-End-

SENATE BILL NO. 230

INTRODUCED BY HIMSL, BARDANOUVE, VAN VALKENBURG, GAGE

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A FORMULA FOR ALLOCATING MONTANA'S UNIFIED VOLUME CAP FOR BONDS AMONG THE GOVERNMENTAL UNITS IN THE STATE HAVING AUTHORITY TO ISSUE SUCH BONDS; ESTABLISHING A FEE TO FUND A PORTION OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT AUDIT; REPEALING SECTIONS 17-5-1201, 17-5-1202, AND 17-5-1211 THROUGH 17-5-1220, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Short title. [This act] may be cited as "The Montana Unified Volume Cap Bond Allocation Plan Act".

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

(1) "Allocation" means an allocation of a part of the volume cap to an issuer pursuant to [this act].

(2) "Board" means the board of examiners.

(3) "Bonds" means bonds, notes, or other interest-bearing obligations of an issuer.

(4) "Cap bonds" means those private activity bonds and that portion of governmental bonds for which a part of the

volume cap is required to be allocated pursuant to the tax act.

(5) "Department" means the department of administration.

(6) "Governmental bonds" means bonds other than private activity bonds.

(7) "Issuer" means a state issuer or local issuer.

(8) "Local issuer" means a city, town, county, or other political subdivision of the state authorized to issue private activity bonds or governmental bonds.

(9) "Local portion" means that portion of the volume cap reserved for local issuers.

(10) "Montana agricultural loan authority" (MALA) means the authority provided for in 2-15-3011.

(11) "Montana board of housing" (MBH) means the board created in 2-15-1814.

(12) "Montana economic development board" (MEDB) means the board provided for in 2-15-1805.

(13) "Montana higher education student assistance corporation" (MHESAC) means the nonprofit corporation established under Title 20, chapter 26, part 11.

(14) "Montana health facility authority" (MHFA) means the authority provided for in 2-15-1815.

(15) "Private activity bonds" (PABs) has the meaning prescribed under section 1301 of the tax act.

(16) "State issuer" means the state and any agency thereof authorized to issue private activity bonds. For [this act] only, the Montana higher education student assistance corporation is considered an agency of the state.

(17) "State portion" means that portion of the volume cap reserved for state issuers.

(18) "Tax act" means the Tax Reform Act of 1986 enacted by the United States congress.

(19) "Volume cap" means, with respect to each calendar year, the principal amount of cap bonds that may be issued in the state in a calendar year as determined under the provisions of the tax act.

Section 3. Volume cap and reservations. For each calendar year, the state's volume cap is \$150 million. In each calendar year, subject to the provisions established by [sections 4 and 5], \$105 million of the volume cap is the state portion and \$45 million is the local portion.

Section 4. Allocation to state issuers. (1) Except as provided in subsection {4} {5}, the state portion must be allocated to state issuers pursuant to [section 8].

(2) AS A CONDITION OF RECEIVING AN ALLOCATION, EACH STATE ISSUER, UPON ISSUANCE OF THE BONDS, SHALL PAY 30 CENTS PER THOUSAND OF BONDS TO BE DEPOSITED IN THE STATE GENERAL FUND FOR THE PURPOSE OF FUNDING A PORTION OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT AUDIT.

{2}{3} The following set-asides must be made in each calendar year for the following state issuers:

<u>State Issuer</u>	<u>Percentage</u>	<u>Allocation Amount</u>
Board	4	\$4,200,000
MALA	2	2,100,000
MBH	40	42,000,000
MEDB	25	26,250,000
MHESAC	25	26,250,000
MHFA	<u>4</u>	<u>4,200,000</u>
Total	100%	\$105,000,000

{3}{4} Each set-aside expires on the first Monday in September.

{4}{5} Prior to the set-aside expiration date, allocations may be made by the department to each state issuer only from its respective set-aside pursuant to [section 8] and no state issuer is entitled to an allocation except from its set-aside unless otherwise provided by the governor.

{5}{6} After the expiration date, the amount of the set-aside remaining unallocated is available for allocation by the department to issuers pursuant to [section 8] without preference or priority.

Section 5. Allocation to local issuers. (1) The local portion must be allocated by the department pursuant to [section 8], and no local issuer is entitled to an

1 allocation except from the local portion set-aside.

2 (2) No more than \$20 million of the local portion may
3 be allocated for a single project or purpose prior to the
4 first Monday in September of each year.

5 (3) After the first Monday in September, the local
6 portion must be allocated by the department to issuers
7 pursuant to [section 8] without preference, priority, or
8 limitation.

9 Section 6. Authorization by the governor. The governor
10 may order an allocation different than that allocated by the
11 department to state and local issuers pursuant to [sections
12 4 and 5].

13 Section 7. Carryforward elections. (1) Between the
14 first Monday in December and the second Wednesday in
15 December, each issuer shall file with the department an
16 application for a carryforward election with respect to any
17 unallocated portion of the volume cap for the calendar year.

18 (2) Applications for carryforward elections may be
19 filed only with respect to carryforward purposes authorized
20 by the tax act. Each application for a carryforward election
21 must contain the information required of an application for
22 allocation under [section 8] and any additional information
23 required by either the tax act or the department.

24 (3) If, as of the second Wednesday in December, the
25 aggregate amount of applications for carryforward elections

1 does not exceed the amount of the unallocated and unused
2 volume cap, each application constitutes a valid
3 carryforward election within the meaning of the tax act.

4 (4) If, as of the second Wednesday in December, the
5 aggregate amount of applications for carryforward elections
6 exceeds the unallocated and unused volume cap, the
7 department shall determine which applications constitute a
8 valid carryforward election within the meaning of the tax
9 act.

10 (5) After receipt of an application, the department
11 shall notify the applicant in writing of either the approval
12 of the carryforward election or the reason for disapproval.

13 Section 8. Allocations by the department. (1) The
14 department shall administer the allocation of cap bonds to
15 issuers in accordance with this section and [section 4].
16 Applications for an allocation for each issue of bonds must
17 be made to the department in an acceptable form and, if
18 applicable, must contain the following:

19 (a) the name of the issuer;

20 (b) a description of the purpose or purposes for which
21 the proceeds of the cap bonds will be used, including, if
22 appropriate, a description of the project or projects to be
23 financed;

24 (c) the location of the project or projects;

25 (d) the name and address of each project owner and

1 user;

2 (e) a certified copy of the inducement resolution
3 adopted or official action taken by the issuer, pursuant to
4 the tax act, approving the project or the purpose and
5 granting preliminary authorization for the issuance of the
6 cap bonds;

7 (f) the preliminary opinion of a qualified bond
8 counsel stating that the proposed purpose for which the cap
9 bonds are to be issued qualifies under applicable state law
10 and the tax act and that the interest on the bonds is not
11 taxable as gross income for purposes of federal income
12 taxation;

13 (g) evidence that all public hearing requirements
14 concerning the proposed purpose and project have been met;

15 (h) a copy of a letter from an underwriter, bank, or
16 other financial institution certifying that in its opinion
17 the proposed financing is feasible, that the cap bonds may
18 be successfully sold under current market conditions, and
19 that it has reviewed all of the information necessary to
20 form its opinion;

21 (i) the amount of allocation requested; and

22 (j) such other information as the department considers
23 necessary.

24 (2) The department shall issue allocations in
25 chronological order of the receipt of completed

1 applications. Completed applications received by the
2 department on the same day must be ranked according to the
3 earliest inducement resolution or official action date.

4 Section 9. Notification of approval or disapproval by
5 the department. After receipt of an application for an
6 allocation, the department shall notify the applicant in
7 writing of either the approval of the allocation or the
8 reasons for disapproval.

9 Section 10. Terms of allocations. (1) Unless
10 terminated earlier by the issuer, an allocation is valid for
11 90 days from the date the department mails the notice of
12 approval. Prior to the expiration of the 90-day period, the
13 department may extend the period of validity for an
14 additional 30 days upon presentation of evidence that an
15 agreement to purchase the cap bonds for which the allocation
16 was given has been obtained from an entity legally
17 authorized to purchase them.

18 (2) If the cap bonds are not issued within the period
19 of validity as determined under subsection (1), the
20 allocation automatically expires.

21 (3) All allocations expire on December 31 of the year
22 in which they were made. However, this subsection does not
23 limit the term of an allocation for which a valid
24 carryforward election has been made.

25 Section 11. Allocations not transferable. Allocations

1 may not be transferred between projects or purposes.

2 Section 12. Reapplication. (1) If the department
3 disapproves an application for an allocation or if an
4 allocation expires under [section 10], the issuer may
5 reapply for an allocation.

6 (2) A reapplication must be reviewed according to the
7 chronological order of its receipt. Priority or preference
8 may not be given to a reapplication.

9 SECTION 13. FEE FOR ISSUANCE OF BONDS. EXCEPT FOR
10 ISSUERS OF GENERAL OBLIGATION BONDS WHICH ARE PAYABLE SOLELY
11 BY GENERAL FUND REVENUES, EACH STATE BOND ISSUER SHALL, UPON
12 ISSUANCE OF THE BONDS, PAY 30 CENTS PER THOUSAND OF BONDS TO
13 BE DEPOSITED IN THE STATE GENERAL FUND FOR THE PURPOSE OF
14 FUNDING A PORTION OF THE COMPREHENSIVE ANNUAL FINANCIAL
15 REPORT AUDIT.

16 Section 14. Recordkeeping. The department shall
17 maintain complete records of all applications for
18 allocations to assure that the requirements of the tax act
19 with respect to the volume cap are observed.

20 Section 15. Repealer. Sections 17-5-1201, 17-5-1202,
21 and 17-5-1211 through 17-5-1220, MCA, are repealed.

22 Section 16. Effective date. This act is effective
23 January 1, 1988.

-End-