

# State of Iowa

## Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER TWENTY-TWO

- WHEREAS, on December 17, 1985, the House of Representatives of the United States Congress passed H.R. 3838, the Tax Reform Act of 1985 (the "Act");
- WHEREAS, the Act imposes restrictions on the total principal amount of certain state or local bonds designated as "Nonessential Function Bonds" under the Act and certain other State or local bonds which require an allocation under the Act (the "Bonds") the interest on which is exempt from federal income taxes under Section 103 of the Internal Revenue Code of 1954, as amended (the "1954 Code"), or of the Internal Revenue Code of 1985 (the "1985 Code"), which may be issued by any state of the United States during each calendar year;
- WHEREAS, the provisions of the Act, if enacted into law in the Act's present form would be effective retroactively on January 1, 1986;
- WHEREAS, the Act provides a method of allocating the total amount of Bonds which may be issued within a State in any calendar year among the various political subdivisions and issuing agencies and authorities of a State (collectively the "Political Subdivisions" or singularly the "Political Subdivision"), which method of allocation will become effective at the time the Act is enacted into law and will apply retroactively from January 1, 1986, unless the legislature of a State or the Governor of a State, on an interim basis, provides for an alternative method of allocating the total amount of Bonds which may be issued within the State by Political Subdivisions in any calendar year;
- WHEREAS, if enacted into law the provisions of the Act relating to the allocation of the total amount of Bonds which may be issued within the State of Iowa (the "State") in any calendar year would result in a decrease in the amount of Bonds which could be issued by Political Subdivisions of the State for the purpose of financing industrial, agricultural and commercial development, pollution control and health care facilities, single-family and multi-family housing, financial aid to students and certain essential governmental programs; and

WHEREAS, in accordance with the provisions of the Act and to permit the issuance of Bonds within the State during either (i) the period while the Act is pending within the United States Congress, or (ii) the period following the date of enactment of the Act but prior to the date of enactment by the legislature of the State of an alternative method of allocating the amount of Bonds which can be issued by Political Subdivisions of the State during any calendar year, the Governor of the State deems the best interest of the citizens of the State to be served by an Executive Order that will permit, on an interim basis only, an orderly and equitable allocation of the amount of Bonds which can be issued by Political Subdivisions of the State during each calendar year until the later of the date on which the Act is defeated or is no longer pending or the date on which an alternative allocation method is enacted by the legislature of the State.

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, by the power and authority vested in me by the Constitution and by the laws of the State of Iowa, do hereby order and decree that the following procedure be used to allocate the total principal amount of Bonds which can be issued by Political Subdivisions of the State during any calendar year until the later of the date on which the Act is defeated or is no longer pending or the date on which an alternative allocation method is enacted by the Legislature of the State, it being fully understood that the procedure ordered hereby is for the purpose of promoting commerce, including municipal, industrial, agriculture and commercial development within the State, controlling pollution of the air or water, creating and improving health care facilities and insuring the availability of financial aid to students of the State, on an interim basis only, and is not intended to be a permanent solution to or acceptance of the provisions contained in the Act relating to the amount of Bonds which can be issued within the State during any calendar year:

Section 1. The aggregate principal amount of Bonds which may be issued by all Political Subdivisions during a calendar year shall not exceed the total "State Ceiling" provided in the Act for the State (the "State Ceiling") for that calendar year, except as provided in Section 5. The State Ceiling shall be allotted among Bonds issued for various purposes as follows:

(a) an amount of the State Ceiling equal to the product of \$25 times the population of the State shall be allotted solely to Qualified 501(c)(3) Bonds, as defined in the Act;

(b) an amount of the State Ceiling equal to the product of \$75 times the population of the State shall be collectively allotted solely to the Qualified Mortgage Bonds, Qualified Veterans' Mortgage Bonds, Bonds for Qualified Residential Rental Projects and Qualified Redevelopment Bonds, all as defined in the Act, which amount shall further be allotted as follows:

- (i) From January 1 through October 25 of each calendar year, the aforementioned amount shall be allotted as follows:
- (A) an amount equal to the product of \$25 times the population of the State shall be allotted solely to Qualified Mortgage Bonds and Qualified Veterans' Mortgage Bonds;
  - (B) an amount equal to the product of \$25 times the population of the State shall be allotted solely to the Bonds for Qualified Residential Rental Projects;
  - (C) an amount equal to the product of \$4 times the population of the State shall be allotted solely to Qualified Redevelopment Bonds; and
  - (D) an amount equal to the product of \$21 times the population of the State shall be allotted, in addition to the amount allotted in (A) and (B) above, to Qualified Mortgage Bonds, Qualified Veterans' Bonds and Bonds for Qualified Residential Rental Projects, without priority of one over the other except as otherwise provided in Sections 2 and 9 hereof.
- (ii) From October 26 through December 23 of each calendar year an amount equal to the product of \$75 times the population of the State less the amount of the State Ceiling previously allocated for the purposes set forth in Section 1(b)(i) above shall be allotted solely for the purposes set forth in Section 1(b)(i)(A), (B) and (C) above without priority of one over the other except as otherwise provided in Sections 2 and 9 hereof.
- (c) an amount of the State Ceiling equal to the product of \$75 times the population of the State shall be collectively allotted to all Bonds, except Qualified 501(c)(3) Bonds, Qualified Mortgage Bonds, Qualified Veterans' Mortgage Bonds and Bonds for Qualified Residential Rental Projects without priority of one over the other except as otherwise provided in Sections 2 and 9 hereof and except that from the amount allotted in this subsection (c) an amount equal to the product of \$10 times the population of the State shall be collectively allotted solely to the Qualified Redevelopment Bonds and Bonds issued by Political Subdivisions the proceeds of which are used by the issuing Political Subdivision and which require an allocation of the State Ceiling under the Act during the period from January 1 through October 25 of each calendar year. From October 26 through December 23 of each calendar year, an amount equal to the product of \$75 times the population of the State less the amount of the State Ceiling previously allocated for the purposes set forth in this Section 1(c) shall be allotted for all Bonds (including Qualified 501(c)(3) Bonds provided the amount of the State Ceiling allotted in

Section 1(a) hereof has been allocated and used and Qualified Mortgage Bonds, Qualified Veterans' Mortgage Bonds and Bonds for Qualified Residential Rental Projects provided the amount of the State Ceiling allotted in Section 1(b) hereof has been allocated and used) without priority in one over the other except as otherwise provided in Sections 2 and 9 hereof.

The population of the State shall be determined in accordance with the provisions of the Act.

Section 2. The State Ceiling shall be allocated among all Political Subdivisions on a statewide basis on the basis of the chronological order of receipt by the Governor's designee of the applications with respect to a definitive issue of Bonds described in Section 3 (as determined by the day, hour and minute time-stamped on the application immediately upon receipt by the Governor's designee).

Section 3. A Political Subdivision which proposes to issue Bonds for a particular project or purpose must make an application, which application may be made by the Political Subdivision or its representative, by the beneficiary of the project or purpose or by a person acting on behalf of the beneficiary, for an allocation of a portion of the State Ceiling, prior to the issuance of the Bonds, by submitting an application to the Governor's designee, in the form prescribed by the Governor's designee, which contains, where appropriate, the following information:

(a) Name and mailing address of the Political Subdivision.

(b) Name of the chief elected or appointed executive officer of the Political Subdivision.

(c) If the project to be financed by the Bonds is not to be owned by the Political Subdivision, name or description and location by mailing address or other definitive description of the project or purpose for which the allocation is requested.

(d) Name and mailing address of both the initial owner, beneficiary, or operator of the project or projects and an appropriate person from whom information regarding the project or purpose can be obtained.

(e) Date of adoption by the governing body of the Political Subdivision of an inducement or other preliminary resolution for the purpose of taking "official action" as required by the United States Treasury regulations promulgated under either the 1954 Code or the 1985 Code, if the Bonds require the taking of "official action" under the Internal Revenue Code of 1954, or the date of adoption by the governing body of the Political Subdivision of any initial governmental action with respect to the Bonds.

(f) Amount of the State Ceiling which the Political Subdivision is requesting be allocated to the Bonds.

(g) Other information which the Governor's designee deems reasonably required to carry out the purposes of this chapter.

Section 4. Upon the receipt of a completed application, the Governor's designee shall promptly certify to the Political Subdivision the amount of the State Ceiling allocated to the Bonds for the purpose or project with respect to which the application was submitted. The allocation shall remain valid for thirty days from the date the allocation is certified, subject to the following conditions:

(a) If the Political Subdivision does not reasonably expect to issue and deliver the Bonds within the thirty-day period and evidence of an executed valid and binding agreement to purchase the Bonds is obtained from an entity with the legal ability to purchase and this agreement is filed with the Governor's designee, the thirty-day allocation period shall be automatically extended for an additional forty-five days. The allocation period shall not be extended beyond that additional forty-five days.

(b) If the Bonds are issued and delivered for the purpose or project within the thirty-day period or the forty-five day extension period, the Political Subdivision or the Political Subdivision's representative shall within ten days following the issuance and delivery of the Bonds or in any event, if Bonds have been issued and delivered prior to October 26 of any year, not later than October 25 of such year, file with the Governor's designee, either by delivery in the office of the Governor's designee or by depositing in a United States Post Office depository, first class postage prepaid, in such form or manner as the Governor's designee may prescribe, a notification of the date of issuance and the delivery of the Bonds, and the actual principal amount of Bonds issued and delivered. If the actual principal amount of Bonds issued and delivered is less than the amount of the allocation, the amount of the allocation is automatically reduced to the actual principal amount of the Bonds issued and delivered.

(c) The allocation will cease to be valid unless the Bonds are issued and delivered prior to December 24 of the calendar year in which the allocation is certified, except as provided in Section 5.

Section 5. It is the intention of the Governor that the maximum use be made of all carryforward provisions in the Act. Therefore, if the aggregate principal amount of Bonds issued by all Political Subdivisions in a calendar year is less than the State Ceiling for that calendar year, a Political Subdivision may apply to the Governor's designee

for an allocation of a specified portion of the excess State Ceiling to be applied to a specified carryforward project or purpose. The Governor's designee shall determine the time and manner in which applications for an allocation of excess State Ceiling shall be made for this purpose and may, in his discretion, refuse to permit any and all requests for carryforward. However, the procedures for applications, the method of identifying carryforward projects or purposes and the types of carryforward projects or purposes permitted shall comply with the carryforward provisions of the Act and regulations promulgated thereunder.

Section 6. If the expiration date of either the thirty-day period or the forty-five day extension period described in Subsection (a) or (b) of Section 4 hereof is a Saturday, Sunday, or any day on which the offices of the State, banking institutions or savings and loan associations in the State are authorized or required to close, the expiration date is extended to the first day thereafter which is not a Saturday, Sunday, or other previously described day.

Section 7. If an allocation becomes no longer valid as provided in Section 4 hereof, the Political Subdivision may resubmit its application for the same project or purpose. The resubmitted application shall be treated as a new application and preference, priority or prejudice shall not be given to the application or the Political Subdivision as a result of the prior application, other than as provided in Section 9 hereof.

Section 8. The Governor shall designate a person, agency, or authority to administer this Executive Order. The person, agency or authority so designated shall serve at the pleasure of the Governor and shall be selected primarily for administrative ability and knowledge in the area of public finance.

In addition to the powers and duties specified in Sections 1 through 7 hereof, the Governor's designee shall maintain appropriate records of all applications filed by Political Subdivisions pursuant to Section 3 and all Bonds issued pursuant to these applications including, but not limited to, a daily accounting of the amount of the State Ceiling available for allocation, the amount of the State Ceiling which has been allocated but not used and the names, addresses, and telephone numbers of those Political Subdivisions for whom an allocation has been approved or disapproved and the amount of the allocation approved or disapproved for such Political Subdivision, all of which shall be made available to the general public upon request.

Section 9. Notwithstanding any other provisions of this Executive Order, the Governor's designee shall give priority in the allocation of the State Ceiling:

- (i) to all Bonds which have been delivered prior to the date of this Executive Order and after December 31, 1985; and
- (ii) to all Bonds which must be issued and delivered on or prior to December 31 of any calendar year in order for the interest on the Bonds to be exempt from federal income taxation. Applications for an allocation with respect to such Bonds shall be accompanied by an opinion of nationally recognized Bond counsel to the effect that such Bonds must be issued and delivered on or prior to December 31 in such calendar year in order for the interest on the Bonds to be exempt from federal income taxation.

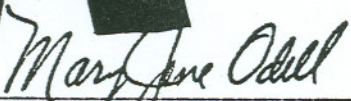
Section 10. The provisions of this Executive Order are in addition to the provisions of the Iowa Code Chapter 7C, as amended, and it is the intention of the Governor that this Executive Order not supercede the provisions of Iowa Code Chapter 7C, as amended.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 19th day of February in the year of our Lord one thousand nine hundred and eighty-six.

  
\_\_\_\_\_  
GOVERNOR



ST:

  
\_\_\_\_\_  
SECRETARY OF STATE