CHAPTER 21-12
PRIVATE ACTIVITY BOND CEILING ALLOCATION

21-12-01. Definitions.

As used in this chapter, unless the context clearly requires otherwise, the following definitions apply:

1. "Ceiling" means the dollar amount applicable to North Dakota for any calendar year for the issuance of tax-exempt private activity bonds, as determined under the Tax Reform Act.
2. "Governmental unit" means any political subdivision of North Dakota or other authority in the state, including the state or any of its agencies, instrumentalities, or authorities, having the authority to issue private activity bonds.
3. "Private activity bond" means a tax-exempt evidence of indebtedness which is a private activity bond under the Tax Reform Act.
4. "Tax Reform Act" means the Tax Reform Act of 1986 [Pub. L. 99-514] and any federal regulations issued thereunder relating to the allocation of North Dakota's ceiling for the issuance of tax-exempt private activity bonds.

21-12-02. Allocation of ceiling.

In lieu of the formula set out in the Tax Reform Act for allocating the ceiling among the state's governmental units, the governor shall, by executive order or proclamation, establish a different allocation formula which may allocate to a governmental unit a portion of the ceiling or may establish a procedure for a governmental unit to apply to the governor's office for an allocation by the governor within the ceiling. The application established by the governor may include a request for the following information:

1. The name of the governmental unit applying for an allocation of the ceiling.
2. A description of the governmental unit's proposed project or purpose for which the private activity bonds are intended to be issued.
3. The location of the project authorized by the governmental unit.
4. The name and address of the project owner or operator and all principal users of the project or the manager or director of the program which is the purpose for which the private activity bonds are to be issued.
5. A certified copy of the inducement resolution adopted by the governmental unit under the Tax Reform Act approving the project or purpose and granting preliminary authorization for the issuance of the private activity bonds, or other preliminary approval of the issuance of the private activity bonds which is comparable to an inducement resolution.
6. A preliminary opinion of a qualified bond counsel which states that the proposed bond issue qualifies as a private activity bond under applicable federal law and, if the private activity bonds are issued, that the bonds must be within the ceiling for the interest on the bonds to be exempt from federal income taxation under the Tax Reform Act.
7. Evidence that all public hearing requirements concerning the proposed project or purpose have been met under state law and the Tax Reform Act.
8. The allocation of the ceiling requested by the governmental unit.

21-12-03. Order in which allocations issued.

Allocations of the ceiling may be made on the basis of the chronological receipt of completed applications or, if completed applications are received on the same day by the governor, according to the earliest inducement resolution date, or on a case-by-case basis without regard to the date of receipt of the application or to the date of the inducement resolution.

21-12-04. Requirements of allocations.

The governor may establish, by executive order or proclamation, other procedures and requirements for the proper allocation of the ceiling, which may include the following:

1. The procedure for notification of approval or disapproval of application for an allocation.
2. The period during which the private activity bonds must be issued under an allocation and a procedure for applying for an extension of that period.
3. A procedure for authorizing a carryforward to a governmental unit of all or a portion of the excess of North Dakota's ceiling for any calendar year over the aggregate amount of tax-exempt private activity bonds actually issued during that calendar year by governmental units, to the extent and for the period for which a purpose is eligible to be treated as a carryforward project under the Tax Reform Act.
4. Whether an allocation validly granted may be transferred between projects and purposes by governmental units.
5. A procedure for reapplication if a request for an allocation by a governmental unit has been disapproved.
6. A procedure for recapturing an allocation for which the period during which the allocation is valid has expired.
7. Any additional procedures or requirements which the governor determines to be necessary for the proper administration and to carry out the purposes of this chapter.