



EXECUTIVE ORDER BY THE GOVERNOR

ESTABLISHING A SYSTEM FOR ALLOCATING VOLUME CAP FOR QUALIFIED ENERGY CONSERVATION BONDS IN THE STATE CONSISTENT WITH THE PROVISIONS OF THE U.S. INTERNAL REVENUE CODE OF 1986

WHEREAS, Section 56D of the Internal Revenue Code of 1986, as amended (the "Code") provides that certain bonds can be issued for "qualified conservation purposes" subject to certain volume limitations (the "Volume Cap"); and

WHEREAS, the Code provides a formula for the allocation of such Volume Cap and, in order to provide for the implementation and administration of the formula for allocation of the Volume Cap among the state and its issuing authorities, it is necessary and desirable to issue this Executive Order;

WHEREAS, the State of Nevada wants to encourage all recipients of Volume Cap to speedily utilize their allocations or work with the Nevada Department of Business & Industry to reallocate the same;

NOW, THEREFORE, I, Jim Gibbons, Governor of the State of Nevada, by the power vested in me by the Constitution and laws of the State of Nevada, do hereby order and proclaim:

Section 1: As used in this Executive Order:

(1) "Allocation Dollars" means the dollar amount of the Volume Cap expressed in terms of dollars. Each allotment dollar equals one dollar of Volume Cap that may be allocated under this Executive Order.

(2) "Director" means the Director of the Nevada Department of Business & Industry charged with allocation of Private Activity Bond Capacity for the State, created by Nevada Legislature under Nevada Revised Statutes 349 and 349A, as amended.

(3) "Bonds" means the Qualified Energy Conservation Bonds for which an allocation of the Volume Cap is required by the Code.

(4) "Code" means the Internal Revenue Code of 1986, as amended, including by the American Recovery and Reinvestment Act of 2009, and any related regulations, including without limitation, the Notice, all as may be amended or supplemented.

(5) "Form 8038" means the IRS form 8038 or any other federal tax form or other method of reporting required by the Department of the Treasury under Section 149(e) of the Code.

(6) "Issuing Authority" shall have the meaning set forth in section NRS 349 and 349A, as amended.

(7) "Notice" means IRS Notice 2009-29, as amended.

(8) "Qualified Energy Conservation Bonds" means bonds issued for "qualified conservation purposes" as provided in the Code and Notice.

(9) "Remaining Volume Cap" means the amount set forth as "Remaining Volume Cap" in Section 3 hereof.

(10) "Required Initial Allocations" means the Required Initial Allocations established by the Director under the Notice and referred to in Section 2 hereof.

(11) "State" means the state of Nevada.

(12) "Subsequent Allocation" means an allocation of Volume Cap by the Director acting for the State of Remaining Volume Cap or all or portion of an Initial Allocation returned to the State by waiver under the Code and Notice.

(13) "Ultimate Beneficiary" means the ultimate beneficiary of the Volume Cap as provided in the Code and Notice.

(14) "Volume Cap" means the volume cap for Qualified Energy Conservation Bonds for the State as computed under Section 54D of the Code, the Notice and related regulations.

Section 2. The Initial Required Allocations of Qualified Energy Conservation Bond Volume Cap for the State of Nevada have been made to Nevada counties and municipalities qualifying as "large local governments" in the amounts set forth on Exhibit "A". Such amounts were determined by the Director under the Notice and are intended to be further allocated by said entities to Ultimate Beneficiaries as provided in the Notice. The Initial Allocations do not expire unless all or a portion is returned to the State by waiver or deemed waiver as provided in the Code and Notice.

Section 3. The Remaining Volume Cap shall equal the Qualified Energy Conservation Bond limitation allocated to the State under the Code and the Notice, less the sum of all Initial Required Allocations. Subsequent Allocations of Volume Cap shall be allocated in accordance with the procedures set forth in this Executive Order. The Board may seek waivers of Initial Required Allocations from applicable counties, municipalities of Native American Tribal Council that choose not to make their own allocations under the Code and Notice. Such waivers may include conditions regarding the Subsequent Allocations.

Section 4.

(1) In order to obtain a Subsequent Allocation of Volume Cap, an Issuing Authority or Ultimate Beneficiary shall, prior to the issuance of such Bonds, submit an application to the Director which contains the following information and attachments:

(a) the name, tax identification number and mailing address of the Issuing Authority or Ultimate Beneficiary;

(b) the name, title and office telephone number of the official of the Issuing Authority or Ultimate Beneficiary to whom notices should be sent and from whom information can be obtained;

(c) the principal amount of Bonds proposed to be issued for which an application for a Subsequent Allocation of Volume Cap is being requested;

- (d) the nature, the purpose and the specific location of the expenditure;
- (e) the initial owner or user of the project for which the expenditure is being made, if other than the requesting Issuing Authority or Ultimate Beneficiary;
- (f) a copy of a valid and fully executed resolution or similar official action of the Issuing Authority evidencing its intention to issue Bonds for the project or expenditure;
- (g) with respect to Bonds, the anticipated date on which the Bonds are expected to be sold and the anticipated date on which the closing or final transaction with respect to the issuance and sale of the Bonds is expected to occur;
- (h) the name, address, and telephone number of all parties to the transaction;
- (i) a certification that the Bonds are expected to be issued under the Code and Notice as Qualified Energy Conservation Bonds and that expenditures of proceeds of such Bonds will be used for one or more "qualified conservations purposes" as provided in the Code and the Notice; and
- (j) such information as the applicant may wish to submit in order to demonstrate the need for, and economic impact of, its expenditure in the State;
- (k) any other information or attachments reasonably required by the Director.

(2) The Director shall be under no obligation to process any application that is incomplete. Any application submitted by an Issuing Authority or Ultimate Beneficiary that the Director does not process shall be returned on or before the thirtieth day after receipt thereof with a brief explanation as to why the application was not processed.

(3) Subsequent State Allocations shall be made on the basis of need, economic impact and efficient distribution of resources in the State as determined by the Director, subject to any conditions which may be set forth in a waiver by the applicable county or municipality of an Initial Allocation. Subsequent State Allocations and allocations by "large local governments" of all or portions of Initial Required Allocations will be made such that not less than 70 percent of the allocation to the State or "large local government" will be used for Bonds which are not private activity bonds as provided in the Code and the Notice.

Section 5.

(1) Certificates of allocation evidencing the granting of a Subsequent Allocation of Volume Cap shall be issued by the Director to the requesting Issuing Authority or Ultimate Beneficiary.

(2) Every Subsequent Allocation of the Qualified Energy Conservation Bond Volume Cap shall remain effective until, and including, the earlier of: (a) the date determined by the Director but not less than 100 days after the date on which such allocation was made, (b) 12:00 o'clock midnight on December 31, 2010, or (c) the date upon which the Director receives a written notification from any Issuing Authority pursuant to Section 6(2). Any allocation for which Bonds are issued on or prior to the applicable date specified in this subsection shall be irrevocably allocated to such Bonds.

(3) No application submitted by an Issuing Authority or Ultimate Beneficiary to the Director pursuant to this section shall be processed if the amount of allocation of the Volume Cap requested in such application is in excess of the amount of Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be

resubmitted, with or without a change in the amount of allocation requested. Any application resubmitted pursuant to this subsection shall be treated as a new application.

(4) The expiration date of an allocation of Volume Cap under this Executive Order may be extended upon prior written approval of the Director, as evidenced by an amended certificate of allocation.

Section 6.

(1) After the effective date of this Executive Order, each Issuing Authority shall advise the Director on or before the earlier of the fifteenth day after the issuance of any Bonds of the principal amount of Bonds issued under an Initial Required Allocation or under a Subsequent Allocation by delivering to the Board a copy of the Form 8038 which was delivered to the Internal Revenue Service in connection with such Bonds.

(2) If all or a stated portion of Bonds for which a Subsequent Allocation was made were not, or will not be, issued, the related Issuing Authority shall advise the Director in writing of such fact on or before the earlier of: (A) the fifteenth day after the final decision not to issue all or a stated portion of such Bonds, or (B) the expiration date of the Subsequent State Allocation.

Section 7. In addition to the duties otherwise specifically set forth in this Executive Order, the Chair of the Director shall:

(1) maintain a record of all applications filed by Issuing Authorities or Ultimate Beneficiaries and all certificates of allocation issued hereunder;

(2) maintain a record of all Bonds issued by Issuing Authorities;

(3) maintain a record of all information filed by Issuing Authorities or Ultimate Beneficiaries under this Executive Order;

(4) make available upon reasonable request a certified copy of all or any part of the records maintained by the Director under this Executive Order or a summary thereof including information regarding the Volume Cap allocated and any amounts available or at any time remaining available, for allocation under this Executive Order; and

(5) promulgate reasonable rules not inconsistent with this Executive Order deemed necessary or expedient to allocate the Volume Cap hereunder.

Section 8. If any provision of this Executive Order shall be held to be, or shall, in fact, be invalid, inoperative or unconstitutional, the defect of the provision shall not affect any other provision of this Executive Order or render it invalid, inoperative, or unenforceable. To the extent this Executive Order shall be held or shall, in fact, be invalid inoperative, or unconstitutional, all allocations of the Volume Cap previously made under this Executive Order shall be treated as allocations made by the Governor of the State in accordance with this Executive Order.

Section 9. The State pledges and agrees with the owners of Bonds to which an allocation of the Volume Cap has been granted under this Executive Order that the State will not retroactively alter the allocation of the Volume Cap to such Bonds after the issuance date of such Bonds.

Section 10. No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt or liability of the State or be deemed to constitute an approval of any obligation issued or to be issued for the purposes set forth herein.

Section 11. The purpose of this Executive Order is to maximize the benefits of financing and development through the use of Bonds providing a system for the implementation and administration of the formula provided under the Code for allocating Volume Cap.

Section 12. This Executive Order shall be effective immediately and shall continue in effect until such time as it may be repealed or superseded by operation of State or Federal law.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State Of Nevada to be affixed at the State Capitol in Carson City this 10th day of September, in the year two thousand nine.



Jim Gibbons

Governor of the State of Nevada

By the Governor:

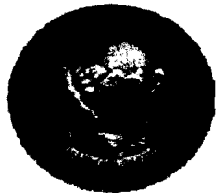
Bob Miller

Secretary of State of Nevada

Nicole Janbolz

Deputy Secretary of State

EXHIBIT A TO EXECUTIVE ORDER
An Initial Allocation of QECB Volume Cap to Large Jurisdictions & Native American Tribal Council



Director of the Department of Business & Industry
Distribution of Federal Tax Exempt Qualified Energy Conservation Bonds [CAP]



FINAL ALLOCATIONS*—Including Native American population amount

Counties & Incorporated Cities	2007** Residency Estimate		Percentage of State Population	Allocation of QECB	
	County Estimates	Large City Est.			FINAL
Clark County	1,827,655				
* Henderson		248,199	9.7%	\$	2,621,091
* Las Vegas		556,260	21.8%	\$	5,874,351
* North Las Vegas		211,109	8.3%	\$	2,229,404
* Unincorporate County		812,087	31.8%	\$	8,575,996
Washoe County	404,710		0.0%	\$	-
* Reno		214,162	8.4%	\$	2,261,645
* Unincorporated County		190,548	7.5%	\$	2,012,271
Native American tribes and bands^	28,285	28,285	1.1%	\$	298,705
State—default amount	293,694	293,694	11.5%	\$	3,101,538
Totals =	2,554,344	2,554,344	100.00%	\$	28,975,000

*Per IRS Guidance on allocation of QECBs on Notice 2009-29 must incorporate Native American population in allocation.

** Per IRS Guidance on allocation of QECBs in Notice 2009-29 population estimate must be as per US Census data at July 1, 2007.

^Native American population based upon 2000 US Census value for Nevada increased by rate of change in US population to July 1, 2007.

Table above is Exhibit 'A' to Governor Gibbons Executive Order dated 10 September 2009