National Council of Higher Education Resources

NCHER

March 1, 2017

The Honorable Orrin Hatch
Chairman
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Hatch and Ranking Member Wyden:

The National Council of Higher Education Resources (NCHER) urges you to preserve and improve tax-exempt financing of education loans as part of any comprehensive tax reform package being developed by the committee. NCHER is a national trade association representing state and nonprofit agencies that administer education programs that make grant and loan assistance available to students and parents to pay for the costs of postsecondary education. A number of our members issue tax-exempt private activity bonds to finance low-cost loans that help students and parents pay the costs of securing a higher education credential that opens the door for a better life.

First, NCHER and its members commend the committee for its examination of issues involved in reforming our nation's tax code to promote growth, fuel job creation, and deliver opportunity for all Americans. One of the primary ways that the current tax system assists in fostering investment in our nation's future is by allowing state and nonprofit lenders to issue tax-exempt municipal bonds to finance education loans to students and parents. This enables more individuals to receive a high-quality undergraduate or graduate education that allows them to get a job, pay taxes, form small businesses, buy houses, save for retirement, and become productive members of society. The Trump Administration and Republicans and Democrats in Congress have discussed the importance of increasing infrastructure spending in our nation. In fact, Treasury Secretary Steven Mnuchin, in response to a question for the record during his confirmation hearing before the committee, said "Private activity bonds are a valuable way to incentivize private investment in America's infrastructure." We could not agree more but note that an investment in human capital is equally as important.

Private educational loans issued through tax-exempt financing by state and nonprofit lenders supplement federal student loans so students can pay their tuition bills, purchase required textbooks, and cover their living expenses. With the cost of college continuing to rise, federal student loans and family resources are often inadequate to cover the cost of attending a postsecondary education institution. State-based lenders help families across the nation "close the gap" in financing their higher education dreams, in many cases at lower rates than are generally available under the federal program, and do so without the need to increase the nation's debt. These lenders also offer college access and success, financial literacy, and debt management programs within their respective states to help students and families manage their student loan obligations, regardless of whether they took out a federal or private education loan. Current law caps the amount of tax-exempt bonds that can be issued in each state to fund student loans, along with certain housing and economic development programs,

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ensuring that these loan programs are appropriately managed by the states. Because of the importance of promoting private capital in postsecondary education, the committee should preserve the ability of state and nonprofit lenders to issue tax-exempt bonds to finance education loans to students and parents.

Second, NCHER supports incorporating the text of the *Student Loan Opportunity Act* in any tax package. This important bill would amend section 150(d) of the Internal Revenue Code to allow a small number of student loan organizations, chartered as state-sponsored qualified scholarship funding corporations, to access tax-exempt financing for private education loans. When section 150(d) was put in place, the federal government operated a public-private partnership where these organizations issued tax-exempt municipal bonds to finance and refinance those loans made under the federal guaranteed student loan program. There was little need for private education loan programs since the cost of tuition was generally in line with the loan limits authorized under the federal program.

In 2010, Congress eliminated new originations under the federal guaranteed student loan program, preventing these organizations in Arizona, Arkansas, California, Montana, Tennessee, Texas, and other states that choose to use the authority under section 150(d) in the future from making lower-cost loans available to students and parents. To make matters worse, because of dramatic increases in college costs where private education loans are more important than ever before, the law restricts these organizations from utilizing tax-exempt financing to originate or refinance private education loans. It is important to remember that the *Student Loan Opportunity Act* does not increase the total amount of tax-exempt bonds that can be issued annually in each state; bonds issued under the bill would be subject to the existing limits on the total amount of private activity bonds that can be issued by a state. The committee should update section 150(d) of the Code by striking the limitation to loans made under the old guaranteed student loan program authorized under the Higher Education Act. This simple technical change would allow these organizations to make lower-cost private loans available to students and parents, refinance existing higher interest rate student loans, and expand opportunities and resources for students, borrowers, and families.

Third, NCHER supports efforts to eliminate the Alternative Minimum Tax (AMT). As noted above, tax-exempt financing issued by state and nonprofit student loan providers directly benefits student and parent borrowers through lower interest rates and robust college access and financial literacy programs. However, the income to investors on tax-exempt student loan bonds is subject to the AMT, which adds approximately one-quarter of one percent to a full percentage point to the interest rate of these tax-exempt bonds. This added cost must be passed through to student loan borrowers. Thus, the AMT constitutes a significant barrier to the ability of state and nonprofit organizations to fulfill their missions of assisting students and families access a college education. The elimination of the AMT will allow our members to offer even lower-cost loans to students and parents, since the savings must be passed directly through to students borrowing to attend college.

Finally, we support clarifying that tax-exempt bonds used to make private loans that refinance existing tax-exempt private loans are not advance refunding bonds. In 2015, the Internal Revenue Service, through the issuance of Notice 2015-78, provided guidance on the rules governing the uses of tax-exempt funds to finance private education loans. While the guidance was welcome, it left some ambiguity that has caused confusion for many issuers and placed restraints on what the private capital markets can offer to student and parent borrowers in the form of lower-borrowing costs to finance their postsecondary education. For example, there is a question of whether the refinancing of an original tax-exempt financed loan causes the bonds to be deemed refunding bonds. If it does, a separate set of restrictive rules would come into play, hamstringing any refinancing program using tax-exempt bonds. Congress should amend section 144(b) of the Internal Revenue Code to clarify that tax-exempt bonds issued to refinance an original loan financed with tax-exempt bonds will not be considered advance refunding bonds, particularly where the issuer utilizes new volume cap to issue the bonds that will refinance the original loans.

NCHER supports the committee's vision of a tax system centered on economic growth and opportunity. There is no better way to accomplish this objective than by maintaining and improving tax-exempt financing of education loans that promote investment in the nation's postsecondary students.

If you have any questions or need additional information, please feel free to contact me at jbergeron@ncher.us or (202) 822-2106.

Sincerely,

James P. Bergeron
President

cc: Member, Senate Committee on Finance