NCHER's Advocacy Priorities for the 116th Congress – Tax Reform

The National Council of Higher Education Resources (NCHER) and its members assist students and families develop, pay for, and attain their educational goals so they can pursue meaningful and rewarding work and become contributing members of society. The following are NCHER's advocacy priorities for the 116th Congress:

<u>Promoting tax-exempt financing of education loans to reduce borrowing costs for students and families</u>

Since 1976, state and nonprofit organizations have been authorized by Congress to issue tax-exempt private activity bonds to provide low-cost loans to students and parents to help them pay for the costs of a postsecondary education. These organizations originate new private education loans and refinance those loans with higher rates, thus offering borrowers a competitive interest rate and lower or non-existent origination fees. As tuition costs have outpaced increases in the loan limits authorized under the federal student loan program, the availability of private education loans financed by tax-exempt bonds helps 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 programs. Tax-exempt financing is critical to these organizations as the loan programs they offer in their respective states support college access and success initiatives and assist struggling borrowers in managing repayment of their loans.

Under section 150(d) of the Internal Revenue Code, some of these nonprofit organizations are authorized to issue tax-exempt bonds to finance <u>only</u> student loans made under the federal guaranteed student loan program. Congress eliminated this program in 2010, thus limiting the ability of the nonprofit organizations in these states to offer low-cost private education loans. In addition, 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 of tax-exempt student loan bonds, thus impeding their ability to offer lower rate loans to student and parent borrowers. 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. Further, section 144(b) of the Code provides that a private loan financed by tax-exempt bonds cannot exceed the difference between the total cost of attendance and other aid received by the student. Issuers that refinance qualified education loans need assurances that their refinancing programs comply with this requirement. Finally, even though state and nonprofit student loan organizations issue tax-exempt bonds to finance low-cost loans that help students and parents pay the costs of higher education, 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. **ASK: Support the "Student Loan Opportunity Act," which allows 150(d) organizations to issue tax-exempt qualified student loan bonds to finance private education loans; clarify tax-exempt bonds used to make private loans that refinance existing tax-exempt private loans are not advance refunding bonds, particularly where the issuer is utilizing new volume cap to issue the bonds; provide guidance on how a lender can demonstrate that a loan being refinanced meets the loan size limitation under current law; and eliminate the state volume cap on private activity bonds while preserving tax-exempt financing of education loans.**

If you have any questions or need more information, please contact James Bergeron, President of NCHER, at jbergeron@ncher.us or (202) 822-2106.