

As Introduced

**128th General Assembly
Regular Session
2009-2010**

S. B. No. 259

Senator Cates

—

A B I L L

To amend sections 133.021 and 3351.07 of the Revised Code to revise the laws regarding designation of the student loan secondary market agency and allocation of private activity bonds.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 133.021 and 3351.07 of the Revised Code be amended to read as follows:

Sec. 133.021. The general assembly hereby finds and declares that the "Tax Reform Act of 1986" (the "Act") establishes a unified volume ceiling on the aggregate amount of private activity bonds that can be issued in each state. The amount of the unified volume ceiling shall be the amount determined as set forth in section 146(d) of the Internal Revenue Code.

The general assembly further finds and declares that the Act requires the state to allocate its volume ceiling according to a specified formula unless a different procedure is established by the governor or general assembly.

The general assembly further finds and declares that pursuant to authorization of state legislation the general assembly has, by division (D)(3) of section 133.02 of the Revised Code, effective October 30, 1989, provided for delegating such function to the

governor and for further delegation as therein provided, subject 21
to such prospectively effective actions as may subsequently be 22
taken by the general assembly. 23

The general assembly further finds and declares that it 24
desires to by legislation provide for an efficient, effective, and 25
equitable procedure under which the state will allocate the 26
unified volume ceiling. 27

The general assembly therefore finds and declares that it is 28
necessary to create the joint select committee on volume cap to 29
create a process for the allocation of the unified volume ceiling. 30

(A) Pursuant to section 146(e)(2)(B)(ii) of the Internal 31
Revenue Code, which provides that a state may by law provide a 32
different formula for allocating the state ceiling, there is 33
hereby created the joint select committee on volume cap to provide 34
for the allocation and the reallocation of the unified volume 35
ceiling among the governmental units (or other authorities) in the 36
state having authority to issue tax exempt private activity bonds. 37

(B) The committee shall consist of eight members. Two members 38
shall be from the house of representatives appointed by the 39
speaker of the house of representatives; two members shall be from 40
the senate appointed by the president of the senate; and four 41
members shall be appointed by the governor. Each member shall be 42
selected for the member's knowledge and experience in tax exempt 43
private activity bonds. The members shall serve at the pleasure of 44
the appointing authority. A vacancy shall be filled in the same 45
manner as the original appointment. 46

(C) The purpose of the committee shall be to maximize the 47
economic benefits of the unified volume ceiling to all citizens of 48
the state. To this end, the joint select committee on volume cap 49
shall: 50

(1) Set forth procedures for making allocations, reallocation 51

and carry forward of the state's unified volume ceiling in 52
accordance with the Act; 53

(2) Develop strategies for allocating and reallocating the 54
unified volume ceiling which are designed to maximize the 55
availability of tax exempt private activity bonds among competing 56
sectors of the state. 57

(D) To provide for the orderly and prompt issuance of private 58
activity bonds, the committee is authorized to allocate the 59
unified volume ceiling among those governmental units (or other 60
authorities) in the state having authority to issue tax exempt 61
private activity bonds. The committee shall reserve a portion of 62
the unified volume ceiling to be allocated for multi-family rental 63
housing projects. The committee in determination of unified volume 64
ceiling allocations and reallocations shall consider the 65
following: 66

(1) The interest of the state with regard to long-term 67
economic development, housing, education, redevelopment, and solid 68
waste management; 69

(2) The projected increase of jobs in the state; 70

(3) The needs of political subdivisions. 71

(E) The director of development shall adopt rules in 72
accordance with Chapter 119. of the Revised Code to carry out the 73
purposes of this section. 74

(F) Any allocation of the state's unified volume ceiling 75
pursuant to this section for the purposes of the issuance of 76
student loan notes shall be awarded only to either of the 77
following: 78

(1) The nonprofit corporation ~~designated under division (B)~~ 79
~~of section 3351.07 of the Revised Code~~ organized at the request of 80
the governor, on behalf of the state, pursuant to a letter dated 81

February 3, 2005, and authorized to issue qualified scholarship 82
funding bonds as described in section 150(d) of the Internal 83
Revenue Code of 1986, as amended, or other such entity that may be 84
requested to replace that nonprofit corporation; 85

(2) The treasurer of state for the purposes of carrying out 86
the student loan program described in Chapter 3366. of the Revised 87
Code. 88

Sec. 3351.07. (A) For the purposes of this chapter, "approved 89
lender" means any bank as defined in section 1101.01 of the 90
Revised Code, any domestic savings and loan association as defined 91
in section 1151.01 of the Revised Code, any credit union as 92
defined in section 1733.01 of the Revised Code, any federal credit 93
union established pursuant to federal law, any insurance company 94
organized or authorized to do business in this state, any pension 95
fund eligible under the "Higher Education Amendments of 1968," 82 96
Stat. 1026, 20 U.S.C.A. 1085, as amended, the secondary market 97
operation designated under division (B) of this section, or any 98
secondary market operation established pursuant to the "Education 99
Amendments of 1972," 86 Stat. 261, 20 U.S.C.A. 1071, as amended, 100
or under the laws of any state. 101

(B) The governor may designate one nonprofit corporation 102
secondary market operation to be the single nonprofit private 103
agency designated by the state under the "Higher Education Act of 104
1965," 101 Stat. 347, 20 U.S.C.A. 1085(d)(1)(D), as amended. ~~A~~ The 105
designation in effect on the effective date of this amendment 106
~~expires December 31, 2009~~ shall expire on June 30, 2015. Each 107
designation after the effective date of this amendment shall be 108
made by competitive selection and shall be valid for ~~one year~~ five 109
years. The controlling board shall not waive the competitive 110
selection requirement. 111

(C) The nonprofit corporation designated by the governor 112

under division (B) of this section as the private agency secondary 113
market operation shall be considered to be an agency of the state, 114
in accordance with section 435(d)(1)(F) of the "Higher Education 115
Act of 1965," 101 Stat. 347, 20 U.S.C.A. 1085(d)(1)(F), as 116
amended, exclusively for the purpose of functioning as a secondary 117
student loan market. The corporation shall be considered a state 118
agency only for the purposes of this division and no other 119
division or section of the Revised Code regarding state agencies 120
shall apply to the corporation. No liability or obligation 121
incurred by the corporation shall be considered to be a liability 122
or debt of the state, nor shall the state be construed to act as 123
guarantor of any debt of the corporation. 124

(D) The nonprofit corporation designated under division (B) 125
of this section shall designate a separate nonprofit corporation 126
to operate exclusively for charitable and educational purposes, 127
complementing and supplementing the designating corporation's 128
secondary market operation for student loans authorized under the 129
"Higher Education Act of 1965," 101 Stat. 347, 20 U.S.C.A. 1085, 130
as amended, and promoting the general health and welfare of the 131
state, the public interest, and a public purpose through improving 132
student assistance programs by expanding access to higher 133
education financing programs for students and families in need of 134
student financial aid. In furtherance of such purposes, the 135
separate nonprofit corporation may do all of the following: 136

(1) Assist educational institutions in establishing financial 137
aid programs to help students obtain an economical education; 138

(2) Encourage financial institutions to increase educational 139
opportunities by making funds available to both students and 140
educational institutions; 141

(3) Make available financial aid that supplements the 142
financial assistance provided by eligible and approved lenders 143
under state and federal programs; 144

(4) Develop and administer programs that do all of the	145
following:	146
(a) Provide financial aid and incidental student financial	147
aid information to students and their parents or other persons	148
responsible for paying educational costs of those students at	149
educational institutions;	150
(b) Provide financial aid and information relating to it to	151
and through educational institutions, enabling those institutions	152
to assist students financially in obtaining an education and fully	153
expanding their intellectual capacity and skills;	154
(c) Better enable financial institutions to participate in	155
student loan programs and other forms of financial aid, assisting	156
students and educational institutions to increase education	157
excellence and accessibility.	158
(E) The nonprofit corporation designated under authority of	159
division (D) of this section shall do both of the following:	160
(1) Establish the criteria, standards, terms, and conditions	161
for participation by students, parents, educational institutions,	162
and financial institutions in that corporation's programs;	163
(2) Provide the governor a report of its programs and a copy	164
of its audited financial statements not later than one hundred	165
eighty days after the end of each fiscal year of the corporation.	166
No liability, obligation, or debt incurred by the corporation	167
designated under authority of division (D) of this section or by	168
any person under that corporation's programs shall be, or be	169
considered to be, a liability, obligation, or debt of, or a pledge	170
of the faith and credit of, the state, any political subdivision	171
of the state, or any state-supported or state-assisted institution	172
of higher education, nor shall the state or any political	173
subdivision of the state or any state-supported or state-assisted	174
institution of higher education be or be construed to act as an	175

obligor under or guarantor of any liability, obligation, or debt 176
of that corporation or of any person under that corporation's 177
programs or incur or be construed to have incurred any other 178
liability, obligation, or debt as a result of any acts of the 179
corporation. 180

(F) The nonprofit corporation designated under authority of 181
division (D) of this section shall not be deemed to qualify by 182
reason of the designation as a guarantor or an eligible lender 183
under sections 435(d) and (j) of the "Higher Education Act of 184
1965," 101 Stat. 347, 20 U.S.C.A. 1085(d) and (j), as amended. 185

Section 2. That existing sections 133.021 and 3351.07 of the 186
Revised Code are hereby repealed. 187