

ASSEMBLY BILL NO. 405—ASSEMBLYMEN KRAMER, CARRILLO;
ASSEFA, HARDY, LEAVITT, TITUS AND WHEELER

MARCH 21, 2019

Referred to Committee on Government Affairs

SUMMARY—Requires the State Treasurer to establish a student loan program for postsecondary education. (BDR 18-276)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to student loans; requiring the State Treasurer to develop and carry into effect a program to use proceeds from the issuance of certain bonds to make or finance student loans to certain students enrolled in certain short-duration job training courses of study; authorizing the issuance of private activity bonds to pay the cost of the program; repealing provisions relating to an existing student loan program; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under the Internal Revenue Code, states and local governments are allowed to finance certain projects that primarily benefit or are used by a private entity, but have some public benefit, through the issuance of bonds known as private activity bonds. If the bonds are issued for certain private activities specified in federal law, known as qualified private activities, the bondholders are not required to pay federal income taxes on the interest that the bondholders earn on the bonds. (26 U.S.C. §§ 103, 141) Examples of qualified private activities include multifamily rental projects, airports and student loans. (26 U.S.C. §§ 142-145, 1394) For some of those qualified private activities, federal law places an annual limit on the total dollar amount of tax-exempt private activity bonds that can be issued in each state, which is known as the “state ceiling.” In 2018, for example, Nevada’s state ceiling was roughly \$315 million. Each state is authorized to allocate its state ceiling among state and local governmental agencies and other authorized issuers. An allocation of the state ceiling to an issuer is known as the issuer’s “volume cap.” (26 U.S.C. § 146) Under existing law, the Director of the Department of Business and Industry is responsible for regulating private activity bonds, in this State. (NRS 348A.040)



Section 7 of this bill requires the State Treasurer to develop and carry into effect a program to use proceeds from the issuance of qualified student loan bonds, a type of private activity bond, to make or finance student loans to students enrolled in an eligible short-duration job training course of study that is conducted by a postsecondary educational institution. **Section 8** of this bill authorizes the State Treasurer to apply for and accept gifts, grants, appropriations or donations to assist in carrying out the program. **Section 8** also authorizes the State Treasurer to use part of the net proceeds of a qualified student loan bond to pay the costs of administration of the program, but limits the amount that may be used for that purpose to the percentage allowed by federal law, which is currently 5 percent. **Section 9** of this bill authorizes the State Treasurer to issue or request the issuance of bonds to pay the cost of the program. **Section 9** also requires the Director of the Department of Business and Industry to allocate a sufficient amount of the volume cap of private activity bonds for the issuance of the bonds.

Section 10 of this bill repeals provisions relating to an existing student loan program, the Nevada Higher Education Student Loan Program, which the Superintendent of Public Instruction is authorized to administer.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 226 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *As used in sections 2 to 9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Postsecondary educational institution” means:*

1. A university, college or community college which is privately owned or which is part of the Nevada System of Higher Education;

2. A licensed postsecondary educational institution, as defined in NRS 394.099; and

3. Any other institution of higher education identified in 20 U.S.C. § 1002.

Sec. 4. *“Qualified student loan bond” has the meaning ascribed to it in 26 U.S.C. § 144(b).*

Sec. 5. *“Student” means:*

1. A resident of this State who attends a postsecondary educational institution; and

2. A person who is not a resident of this State who attends a postsecondary educational institution that is located in this State.

Sec. 6. *“Student loan” means a loan issued to pay for or finance the expenses of a student to attend a postsecondary educational institution.*



1 **Sec. 7. 1.** *The State Treasurer shall adopt regulations to*
2 *develop and carry into effect a program to use proceeds from the*
3 *issuance of qualified student loan bonds to make or finance*
4 *student loans to students enrolled in an eligible short-duration job*
5 *training course of study that is conducted by a postsecondary*
6 *educational institution.*

7 2. *The regulations must be consistent with the provisions of*
8 *the Internal Revenue Code set forth in Title 26 of the United*
9 *States Code, and the regulations adopted pursuant thereto, to*
10 *ensure that:*

11 (a) *Any bond issued by or on behalf of the program meets all*
12 *the criteria to qualify as a qualified student loan bond, as defined*
13 *in 26 U.S.C. § 144(b); and*

14 (b) *Any student loan made by or through the program meets*
15 *all the criteria set forth in 26 U.S.C. § 144(b)(1)(B).*

16 3. *The regulations may include any other provisions not*
17 *inconsistent with federal law that the State Treasurer determines*
18 *are necessary for the efficient and effective administration of the*
19 *program, including, without limitation, provisions that:*

20 (a) *Establish the maximum amount of student loan*
21 *indebtedness, not to exceed \$3,500, that a student may be allowed*
22 *to incur in student loans made or financed through the program;*

23 (b) *Provide definitions of "short-duration," "job training" and*
24 *"course of study;" and*

25 (c) *Require a postsecondary educational institution to award a*
26 *certificate of completion, certificate of achievement or the*
27 *equivalent to a student who successfully completes the course of*
28 *study; and*

29 (d) *Prohibit the use of a student loan made or financed*
30 *through the program to pay educational expenses for a course of*
31 *study that is designed or intended to terminate in an associate's,*
32 *bachelor's or any graduate or professional degree.*

33 **Sec. 8. 1.** *The State Treasurer shall establish one or more*
34 *funds and such accounts as he or she deems necessary to carry out*
35 *his or her duties pursuant to sections 2 to 9, inclusive, of this act.*

36 2. *The State Treasurer may apply for and accept gifts, grants,*
37 *appropriations or donations from any public or private source to*
38 *assist the State Treasurer in carrying out his or her duties*
39 *pursuant to the provisions of sections 2 to 9, inclusive, of this act.*

40 3. *The State Treasurer may use part of the net proceeds of a*
41 *qualified student loan bond to pay the costs of administration of*
42 *the program, but shall not use a greater amount of the net*
43 *proceeds for that purpose than the applicable percentage*
44 *established by 26 U.S.C. § 144(b)(2)(B).*



1 **Sec. 9. 1.** *To pay the cost of the program created pursuant*
2 *to section 7 of this act, the State Treasurer may borrow money or*
3 *otherwise become obligated, and may provide evidence of those*
4 *obligations by issuing or requesting the State Board of Finance to*
5 *issue revenue bonds in the manner provided by the State Securities*
6 *Law.*

7 **2.** *Any bonds issued pursuant to this section and*
8 *administrative expenses related to the bonds are payable solely*
9 *from revenues pledged or available for their repayment. This*
10 *limitation must be plainly stated on the face of the bonds.*

11 **3.** *The Director of the Department of Business and Industry*
12 *shall, at the request of the State Treasurer, allocate a sufficient*
13 *amount of the volume cap available to the Director for each*
14 *calendar year pursuant to NRS 348A.020 to the State Treasurer or*
15 *the State Board of Finance for the issuance of revenue bonds*
16 *pursuant to this section.*

17 **4.** *As used in this section, "volume cap" has the meaning*
18 *ascribed to it in 26 U.S.C. § 146(b) and (c).*

19 **Sec. 10.** NRS 385.102, 385.104, 385.106, 385.107 and
20 385.108 are hereby repealed.

21 **Sec. 11.** This act becomes effective:

22 1. Upon passage and approval for the purpose of adopting any
23 regulations and performing any other preparatory administrative
24 tasks necessary to carry out the provisions of this act; and

25 2. On July 1, 2019, for all other purposes.

TEXT OF REPEALED SECTIONS

385.102 "Institution of higher education" defined. As used
in NRS 385.104, "institution of higher education" means an
educational institution which:

1. Admits as regular students only persons having received a
certificate of graduation from high school, or the recognized
equivalent of such a certificate, or those approved by the
Superintendent of Public Instruction for training at a vocational-
technical level;

2. Is authorized to provide a program of education beyond high
school;

3. Awards a bachelor's degree or a 2-year degree or certificate
of graduation or a certificate of completion of a program beyond
high school;



4. Is an institution with full approval of the State of Nevada or the United States Department of Education; and

5. Has recognized accreditation.

385.104 Establishment of Program; use of money; policies and regulations of State Board.

1. The Higher Education Student Loan Program is hereby established.

2. Money available for the Higher Education Student Loan Program must be used to provide loans to further the educational goals of Nevada residents who are admitted to and attending institutions of higher education.

3. The State Board shall establish policies and may adopt regulations for the administration of the Higher Education Student Loan Program.

385.106 Administration of Program; powers of State Board.

1. The Superintendent of Public Instruction may administer the Higher Education Student Loan Program and may consult with any public officer or private person in the State who may have an interest in higher education or in the Program. The Superintendent of Public Instruction shall notify the State Board at least 30 days in advance if the Superintendent intends to stop administering the Program.

2. After receiving notice from the Superintendent of Public Instruction that he or she intends to stop administering the Program, but before the Superintendent actually stops administering it, the State Board, with the concurrence of the Governor, shall designate another public agency or private nonprofit organization to administer the Program in a manner which ensures continued access to the Program by postsecondary schools in this State, including all of the institutions of the Nevada System of Higher Education. The designation may authorize assumption of any reserves or liability accruing to an agency or organization engaged in administering the Program or the guarantee of student loans.

3. If the Superintendent of Public Instruction administers the Program, the State Board may:

(a) Negotiate and accept federal and other money appropriated and available to insure loans for student educational purposes under the Program.

(b) Negotiate and enter into such agreements with other agencies as it deems proper for the administration and conduct of the Program.

(c) Accept gifts, grants and contributions from any source that will facilitate and assist the higher education of Nevada residents.



385.107 Higher Education Student Loan Fund. If the Superintendent of Public Instruction administers the Higher Education Student Loan Program:

1. The money available for the Program must be deposited in the State Treasury for credit to the Higher Education Student Loan Fund which is hereby created as a special revenue fund.
2. Each expenditure from this Fund must be paid as other claims against the State are paid.

385.108 Duties of Superintendent of Public Instruction: Withdrawals; use of money; records. If the Superintendent of Public Instruction administers the Higher Education Student Loan Program, the Superintendent shall:

1. Certify to the State Controller all withdrawals for purposes of the Program. The State Controller shall then issue a warrant to the State Treasurer in the amount of the certification. The State Treasurer shall disburse that amount in accordance with the warrant.
2. Use the money received for the Higher Education Student Loan Program for that Program.
3. Establish and maintain such records for the Program as are required by good accounting practices.

