Section 144. Qualified small issue bond; qualified student loan bond; qualified redevelopment bond

(a) Qualified small issue bond.

(1) In general. For purposes of this part, the term "qualified small issue bond" means any bond issued as part of an issue the aggregate authorized face amount of which is $1,000,000 or less and 95 percent or more of the net proceeds of which are to be used-

(A) for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation, or

(B) to redeem part or all of a prior issue which was issued for purposes described in subparagraph (A), or this subparagraph.

(2) Certain prior issues taken into account. If-

(A) the proceeds of 2 or more issues of bonds (whether or not the issuer of each such issue is the same) are or will be used primarily with respect to facilities located in the same incorporated municipality or located in the same county (but not in any incorporated municipality).

(B) the principal user of such facilities is or will be the same person or 2 or more related persons, and

(C) but for this paragraph, paragraph (1) (or the corresponding provision of prior law) would apply to each such issue,

then, for purposes of paragraph (1), in determining the aggregate face amount of any later issue there shall be taken into account the aggregate face amount of tax-exempt bonds issued under all prior such issues and outstanding at the time of such later issue (not including as outstanding any bond which is to be redeemed (other than in an advance refunding) from the net proceeds of the later issue).

(3) Related persons. For purposes of this subsection, a person is a related person to another person if-

(A) the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), or

(B) such persons are members of the same controlled group of corporations (as defined in section 1563(a), except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein).

(4) $10,000,000 limit in certain cases.

(A) In general. At the election of the issuer with respect to any issue, this subsection shall be applied-

(i) by substituting "$10,000,000" for "$1,000,000 in paragraph (1), and

(ii) in determining the aggregate face amount of such issue, by taking into account not only the amount described in paragraph (2), but also the aggregate amount of capital expenditures with respect to facilities described in subparagraph (B) paid or incurred during the 6-year period beginning 3 years before the date of such issue and ending 3 years after such date (and financed otherwise than to of the proceeds of outstanding tax-exempt issues to which paragraph (1) (or the corresponding provision of prior law) applied), as if the aggregate amount of such capital expenditures constituted the face amount of a prior outstanding issue described in paragraph (2).

(B) Facilities taken into account. For purposes of subparagraph (A)(ii), the facilities described in this subparagraph are facilities-

(i) located in the same incorporated municipality or located in the same county (but not in any incorporated municipality), and

(ii) the principal user of which is or will be the same person or 2 or more related persons.

For purposes of clause (i), the determination of whether or not facilities are located in the same governmental unit shall be made as of the date of issue of the issue in question.

(C) Certain capital expenditures not taken into account. For purposes of subparagraph (A)(II), any capital expenditure-

(i) to replace property destroyed or damaged by fire, storm, or other casualty, to the extent of the fair market value of the property replaced,

(ii) required by a change made after the date of issue of the issue in question in a Federal or State law or local ordinance of general application or required by a change made after such date in rules and regulations of general application issued under such a law or ordinance.

(iii) required by circumstances which could not be reasonably foreseen on such date of issue or arising out of a mistake of law or fact (but the aggregate amount of expenditures not taken into account under this clause with respect to any issue shall not exceed $1,000,000), or

(iv) described in clause (i) or (ii) of section 41(b)(2)(A) for which a deduction was allowed under section 174(a),

shall not be taken into account.

(D) Limitation of loss of tax exemption. In applying subparagraph (A)(ii) with respect to capital expenditures made after the date of any issue, not bond issued as a part of such issue shall cease to be treated as a qualified small issue bond by reason of any such expenditure for any period before the date on which such expenditure is paid or incurred.

(E) Certain refinancing issues. In the case of any issue described in paragraph (1)(B), an election may be made under subparagraph (A) of this paragraph only if all of the prior issues being redeemed are issues to which paragraph (1) (or the corresponding provision of prior law) applied. In applying subparagraph (A)(ii) with respect to such a refinancing issue, capital expenditures shall be taken into account only for purposes of determining whether the prior issues being redeemed qualified (and would have continued to qualify) under paragraph (1) (or the corresponding provision of prior law).

(F) Aggregate amount of capital expenditures where there is urban development action grant. If the case of any issue 95 percent or more of the net proceeds of which are to be used to provide facilities with respect to which an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974, capital expenditures of not to exceed $10,000,000 shall not be taken into account for purposes of applying subparagraph (A)(ii).

(5) Issues for residential purposes. This subsection shall not apply to any bond issued as part of an issue 5 percent or more of the net proceeds of which are to be used directly or indirectly to provide residential real property for family units.

(6) Limitations on treatment of bonds as part of the same issue.

(A) In general. For purposes of this subsection, separate lots of bonds which (but for this subparagraph) would be treated as part of the same issue shall be treated as separate issues unless the proceeds of such lots are to be used with respect to 2 or more facilities-

(i) which are located in more than 1 State, or

(ii) which have, or will have, as the same principal user the same person or related persons.

(B) Franchises. For purposes of subparagraph (A), a person (other than a governmental unit) shall be considered a principal user of a facility if such person (or a group of related persons which includes such person)-

(i) guarantees, arranges, participates in, or assists with the issuance (or pays any portion of the cost of issuance) of any

bond the proceeds of which are to be used to finance or refinance such facility, and

(ii) provides any property, or any franchise, trademark, or trade name (within the meaning of section 1253), which is to be used in connection with such facility.

(7) Subsection not to apply if bonds issued with certain other tax-exempt bonds. This subsection shall not apply to any bond issued as part of an issue (other than an issue to which paragraph (4) applies) if the interest on any other bond which is part of such issue is excluded from gross income under any provision of law other than this subsection.

(8) Restrictions on financing certain facilities. This subsection shall not apply to an issue if-

(A) more than 25 percent of the net proceeds of the issue are to be used to provide a facility the primary purpose of which is one of the following: retail food and beverage services, automobile sales or service, or the provision of recreation or entertainment; or

(B) any portion of the proceeds of the issue is to be used to provide the following: any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard, and ice skating), racquet sports facility (including any handball or racquetball court), hot tub facility, suntan facility, or racetrack.

(9) Aggregation of issues with respect to single project. For purposes of this subsection, 2 or more issues part or all of the net proceeds of which are to be used with respect to a single building, an enclosed shopping mall, or a strip of offices, stores, or warehouses using substantial common facilities shall be treated as 1 issue (and any person who is a principal user with respect to any of such issues shall be treated as a principal user with respect to the aggregated issue).

(10) Aggregate limit per taxpayer.

(A) In general. This subsection shall not apply to any issue if the aggregate authorized face amount of such issue allocated to any test-period beneficiary (when increased by the outstanding tax-exempt facility-related bonds of such beneficiary) exceeds $40,000,000.

(B) Outstanding tax-exempt facility-related bonds.

(i) In general. For purposes of applying subparagraph (A) with respect to any issue, the outstanding tax-exempt facility-related bonds of any person who is a test-period beneficiary with respect to such issue is the aggregate amount of tax-exempt bonds referred to in clause (ii)

(I) which are allocated to such beneficiary, and

(II) which are outstanding at the time of such later issue (not including as outstanding any bond which is to be redeemed (other than in an advance refunding) from the net proceeds of the later issue).

(ii) Bonds taken into account. For purposes of clause (i), the bonds referred to in this clause are-

(I) exempt facility bonds, qualified small issue bonds, and qualified redevelopment bonds, and

(II) industrial development bonds (as defined in section 103 (b)(2), as if effect on the day before the date of the enactment of the Tax Reform Act of 1986) to which section 141(a) does not apply.

(C) Allocation of face amount of issue.

(i) In general. Except as otherwise provided in regulations, the portion of the face amount of an issue allocated to any test-period beneficiary of a facility financed by the proceeds of such issue (other than an owner of such facility) is an amount which bears the same relationship to the entire face amount of such issue as the portion of such facility used by such beneficiary bears to the entire facility.

(ii) Owners. Except as otherwise provided in regulations, the portion of the face amount of an issue allocated to any test-period beneficiary who is an owner of a facility financed by the proceeds of such issue is an amount which bears the same relationship to the entire fact amount of such issue as the portion of such facility owned by such beneficiary bears to the entire facility.

(D) Test-period beneficiary. For purposes of this paragraph, except as provided in regulations, the term "test-period beneficiary" means any person who is an owner or a principal user of facilities being financed by the issue at any time during the 3-year period beginning on the later of-

(i) the date such facilities were placed in service, or

(ii) the date of issue.

(E) Treatment of related persons. For purposes of this paragraph, all persons who are related (within the meaning of paragraph (3)) to each other shall be treated as 1 person.

(11) Limitation on acquisition of depreciable farm property.

(A) In general. This subsection shall not apply to any issue if more than $250,000 of the net proceeds of such issue are to be used to provide depreciable farm property with respect to

which the principal user is or will be the same person or 2 or more related persons.

(B) Depreciable farm property. For purposes of this paragraph, the term "depreciable farm property" means property of a character subject to allowance for depreciation which is to be used in a trade or business of farming.

(C) Prior issues taken into account. In determining the amount of proceeds of an issue to be used as described in subparagraph (A), there shall be taken into account the aggregate amount of each prior issue to which paragraph (1) (or the corresponding provisions of prior law) applied which were or will be so used.

(12) Termination dates.

(A) In general. This subsection shall not apply to

(i) any bond (other than a bond described in clause (ii)) issued after December 31, 1986, or

(ii) any bond (or series of bonds) issued to refund a bond issued on or before such date unless-

(I) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(II) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(III) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of clause (ii)(I), average maturity shall be determined in accordance with section 147(b)(2)(A).

(B) Bonds issued to finance manufacturing facilities and farm property. In the case of any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide-

(i) any manufacturing facility, or

(ii) any land or property in accordance with section 147(c)(2),

subparagraph (A) shall be applied by substituting "June 30, 1992" for "December 31, 1986".

(C) Manufacturing facility. For purposes of this paragraph, the term "manufacturing facility" means any facility which is used in the manufacturing or production of tangible person

property (including the processing resulting in a change in the condition of such property). A rule similar to the rule of section 142(b)(2) shall apply for purposes of the preceding sentence. For purposes of the 1st sentence of this subparagraph, the term "manufacturing facility" includes facilities which are directly related and ancillary to a manufacturing facility (determined without regard to this sentence) if-

(i) such facilities are located on the same site as the manufacturing facility, and

(ii) not more than 25 percent of the net proceeds of the issue are used to provide such facilities.

(b) Qualified student loan bond. For purposes of this part-

(1) In general. The term "qualified student loan bond" means any bond issued as part of an issue the applicable percentage or more of the net proceeds of which are to be used directly or indirectly to make or finance student loans under-

(A) a program of general application to which the Higher Education act of 1965 applies if-

(i) limitations are imposed under the program on-

(I) the maximum amount of loans outstanding to any student, and

(II) the maximum rate of interest payable on any loan,

(ii) the loans are directly or indirectly guaranteed by the Federal Government,

(iii) the financing of loans under the program is not limited by Federal law to the proceeds of tax-exempt bonds, and

(iv) special allowance payments under section 438 of the Higher Education Act of 1965

(I) are authorized to be paid with respect to loans made under the program, or

(II) would be authorized to be made with respect to loans under the program if such loans were not financed with the proceeds of tax-exempt bonds, or

(B) a program of general application approved by the State if no loan under such program exceeds the difference between the total cost of attendance and other forms of student assistance (not including loans pursuant to section 428B(a)(1) of the Higher Education Act of 1965 (relating to parent loans) or subpart I of part C of title VII of the Public Health Service Act (relating to student assistance)) for which the student borrower may be

eligible. A program shall not be treated as described in this subparagraph is such program is described in subparagraph (A).

A bond shall not be treated as a qualified student loan bond if the issue of which such bond is part meets the private business tests of paragraphs (1) and (2) of section 141(b) (determined by treating 501(c)(3) organizations as governmental units with respect to their activities which do not constitute unrelated trades or businesses, determined by applying section 513(a)).

(2) Applicable percentage. For purposes of paragraph (1), the item "applicable percentage" means-

(A) 90 percent in the case of the program described in paragraph (1)(A), and

(B) 95 percent in the case of the program described in paragraph (1)(B).

(3) Student borrowers must be residents of issuing State, etc. A student loan shall be treated as being made or financed under a program described in paragraph (1) with respect to an issue only if the student is-

(A) a resident of the State from which the volume cap under section 146 for such loan was derived, or

(B) enrolled at an educational institution located in such State.

(4) Discrimination on basis of school location not permitted. A program shall not be treated as described in paragraph (1)(A) if such program discriminates on the basis of the location (in the United States) of the educational institution in which the student is enrolled.

(c) Qualified redevelopment bond. For purposes of this part-

(1) In general. The term "qualified redevelopment bond" means any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used for 1 or more redevelopment purposes in any designated blighted area.

(2) Additional requirements. A bond shall not be treated as a qualified redevelopment bond unless-

(A) the issue described in paragraph (1) is issued pursuant to-

(i) a State law which authorizes the issuance of such bonds for redevelopment purposes in blighted areas, and

(ii) a redevelopment plan which is adopted before such issuance by the governing body described in paragraph (4)(A) with respect to the designated blighted area,

(B)(i) the payment of the principal and interest on such issue is primarily secured by taxes of general applicability imposes by a general purpose governmental unit, or

(ii) any increase in real property tax revenues (attributable to increases in assessed value) by reason of the carrying out of such purposes in such area is reserved exclusively for debt service on such issue (and similar issues) to the extent such increase does not exceed such debt service,

(C) each interest in real property located in such area

(i) which is acquired by a governmental unit with the proceeds of the issue, and

(ii) which is transferred to a person other than a governmental unit, is transferred for fair market value,

(D) the financed are with respect to such issue meets the no additional charge requirements of paragraph (5), and

(E) the use of the proceeds of the issue meets the requirements of paragraph (6).

(3) Redevelopment purposes. For purposes of paragraph (1)-

(A) In general. The term "redevelopment purposes" means, with respect to any designated blighted area-

(i) the acquisition (by a governmental unit having the power to exercise eminent domain) of real property located in such area,

(ii) the clearing and preparation of redevelopment of land in such area which was acquired by such governmental unit,

(iii) the rehabilitation of real property located is such area which was acquired by such governmental unit, and

(iv) the relocation of occupants of such real property.

(B) New construction not permitted. The term "redevelopment purposes" does not include the construction (other than the rehabilitation) of any property or the enlargement of an existing building.

(4) Designated blighted area. For purposes of this subsection-

(A) In general. The term "designated blighted area" means any blighted area designated by the governing body of a local general purpose governmental unit in the jurisdiction of which such area is located.

(B) Blighted area. The term "blighted area" means any area which the governing body described in subparagraph (A) determines to be a blighted area on the basis of the substantial presence of factors such as excessive vacant land on which structures were previously located, abandoned or vacant buildings, substandard structures, vacancies, and delinquencies in payment of real property taxes.

(C) Designated areas may not exceed 20 percent of total assessed value of real property in government's jurisdiction.

(i) In general. An area may be designated by a governmental unit as a blighted area only if the designation percentage with respect to such area, when added to the designation percentages of all other designated blighted areas within the jurisdiction of such governmental unit, does not exceed 20 percent.

(ii) Designation percentage. For purposes of this subparagraph, the term "designation percentage" means, with respect to any area, the percentage (determined at the time such area is designated) which the assessed value of real property located in such area is of the total assessed value of all real property located within the jurisdiction of the governmental unit which designated such area.

(iii) Exception where bonds not outstanding. The designation percentage of a previously designated blighted area shall not be taken into account under clause (i) if no qualified redevelopment bond (or similar bond) is or will be outstanding with respect to such area.

(D) Minimum designated area.

(i) In general. Except as provided in clause (ii), an area shall not be treated as a designated blighted area for purposes of this subsection unless such area is contiguous and compact and its area equals or exceeds 100 acres.

(ii) 10-acre minimum in certain cases. Clause (i) shall be applied by substituting "10 acres" for "100 acres" if not more than 25 percent of the financed area is to be provided (pursuant to the issue and all other such issues) to 1 person. for purposes of the preceding sentence, all related persons (as defined in subsection (a)(3)) shall be treated as 1 person. for purposes of this clause, an area provided to a developer on a short-term interim basis shall not be treated as provided to such developer.

(5) No additional charge requirements. The financed area with respect to any issue meets the requirements of this paragraph if, while any bond which is part of such issue is outstanding-

(A) no owner or user of property located in the financed area is subject to a charge or fee which similarly situated

owners or users of comparable property located outside such area are not subject, and

(B) the assessment method or rate of real property taxes with respect to property located in the financed area does not differ from the assessment method or rate of real property taxes with respect to comparable property located outside such area.

For purposes of the preceding sentence, the term "comparable property" means property which is of the same type as the property to which it is being compared and which is located within the jurisdiction of the designating governmental unit.

(6) Use of proceeds requirements. The use of the proceeds of an issue meets the requirements of this paragraph if-

(A) not more than 25 percent of the net proceeds of such issue are to be used to provide (including the provision of land for) facilities described in subsection (a)(8) or section 147(e) , and

(B) no portion of the proceeds of such issue is to be used to provide (including the provision of land for) any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(7) Financed area. For purposes of this subsection, the term "financed area" means, with respect to any issue, the portion of the designated blighted area with respect to which the proceeds of such issue are to be used.

(8) Restriction on acquisition of land not to apply. Section 147(c) (other than paragraphs (1)(B) and (2) thereof) shall not apply to any qualified redevelopment bond.

Section 145. Qualified 501(c)(3) bond

(a) In general. For purposes of this part, except as otherwise provided in this section, the term "qualified 501(c)(3) bond" means any private activity bond issued as part of an issue if-

(1) all property which is to be provided by the net proceeds of the issue is to be owned by a 501(c)(3) organization or a governmental unit, and

(2) such bond would not be a private activity bond if-

(A) 501(c)(3) organizations were treated as governmental units with respect to their activities which do not constitute unrelated trades or businesses, determined by applying section 513(a), and

(B) paragraphs (1) and (2) of section 141(b) were applied by substituting "5 percent" for "10 percent" each place it appears and by substituting "net proceeds" for "proceeds" each place it appears.

(b) $150,000,000 limitation on bonds other than hospital bonds.

(1) In general. A bond (other than a qualified hospital bond) shall no be treated as a qualified 501(c)(3) bond if the aggregate authorized face amount of the issue (of which such bond is a part) allocated to any 501(c)(3) organization which is a test-period beneficiary (when increased by the outstanding tax-exempt nonhospital bonds of such organization) exceeds $150,000,000.

(2) Outstanding tax-exempt nonhospital bonds.

(A) In general. For purposes of applying paragraph (1) with respect to any issue, the outstanding tax-exempt nonhospital bonds of any organization which is a test-period beneficiary with respect to such issue is the aggregate amount of tax-exempt bonds referred to in subparagraph (B)-

(i) which are allocated to such organization, and

(ii) which are outstanding at the time of such later issue (not including as outstanding any bond which is to be redeemed (other than in an advance refunding) from the net proceeds of the later issue).

(B) Bonds taken into account. For purposes of subparagraph (A), the bonds referred to in this subparagraph are-

(i) any qualified 501(c)(3) bond other than a qualified hospital bond, and

(ii) any bond to which section 141(a) does not apply if-

(I) such bond would have been an industrial development bond (as defined in section 103(b)(2), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) if 501(c)(3) organizations were not exempt persons, and

(II) such bond was not described in paragraph (4), (5), or (6) of such section 103(b) (as in effect on the date such bond was issued).

(C) Only nonhospital portion of bonds taken into account.

(i) In general. A bond shall be taken into account under subparagraph (B) only to the extent that the proceeds of the issue of which such bond is a part are not used with respect to a hospital.

(ii) Special rule. If 90 percent or more of the net proceeds of an issue are used with respect to a hospital, no bond which is part of such issue shall be taken into account under subparagraph (B)(ii).

(3) Aggregation rule. For purposes of this subsection, 2 or more organizations under common management or control shall be treated as 1 organization.

(4) Allocation of face amount of issue; test-period beneficiary. Rules similar to the rules of subparagraphs (C), (D), and (E) of section 144(a)(10) shall apply for purposes of this subsection.

(c) Qualified hospital bond. For purposes of this section, the term "qualified hospital bond" means any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used with respect to a hospital.

(d) Restrictions on bonds used to provide residential rental housing for family units.

(1) In general. Except as otherwise provided in this subsection, a bond which is part of an issue shall not be qualified 501(c)(3) bond if any portion of the net proceeds of the issue are to be used directly or indirectly to provide residential rental property for family units.

(2) Exception for bonds used to provide qualified residential rental projects. Paragraph (1) shall not apply to any bond issued as part of an issue if the portion of such issue which is to be used as described in paragraph (1) is to be used to provide-

(A) a residential rental property for family units if the first use of such property is pursuant to such issue,

(B) qualified residential rental projects (as defined in section 142(d)), or

(C) property which is to be substantially rehabilitated in a rehabilitation beginning within the 2-year period ending 1 year after the date of the acquisition of such property.

(3) Certain property treated as new property. Solely for purposes of determining under paragraph (2)(A) whether the 1st use of property is pursuant to tax-exempt financing-

(A) In general. If-

(i) the 1st use of property is pursuant to taxable financing,

(ii) there was a reasonable expectation (at the time such

taxable financing was provided) that such financing would be replaced by tax-exempt financing, and

(iii) the taxable financing is in fact so replaced within a reasonable period after the taxable financing was provided.

then the 1st use of such property shall be treated as being pursuant to the tax-exempt financing.

(B) Special rule where no operating state or local program for tax-exempt financing. If, at the time of the 1st use of property, there was no operating State or local program for tax-exempt financing of the property, the 1st use of the property shall be treated as pursuant to the 1st tax-exempt financing of the property.

(C) Definitions. For purposes of this paragraph-

(i) Tax-exempt financing. The term "tax-exempt financing" means financing provided by tax-exempt bonds.

(ii) Taxable financing. The term "taxable financing" means financing which is not tax-exempt financing.

(4) Substantial rehabilitation.

(A) In general. Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

(B) Exception. For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C)(i) shall not apply, but the Secretary may extend the 24-month period in section 46(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

(e) Election out. This section shall not apply to an issue if-

(1) the issuer elects not to have this section apply to such issue, and

(2) such issue is an issue of exempt facility bonds, or qualified redevelopment bonds, to which section 146 applies.

Section 146. Volume cap

(a) General rule. A private activity bond issued as part of an issue meets the requirements of this section if the aggregate face amount of the private activity bonds issued pursuant to such issue, when added to the aggregate face amount of tax-exempt private activity bonds previously issued by the issuing authority during the calendar year, does not exceed such authority's volume cap for such calendar year.

(b) Volume cap for State agencies. For purposes of this section-

(1) In general. The volume cap for any agency of the State authorized to issue tax-exempt private activity bonds for any calendar year shall be 50 percent of the State ceiling for such calendar year.

(2) Special rule where State has more than 1 agency of the State is authorized to issue tax-exempt private activity bonds, all such agencies shall be treated as a single agency.

(c) Volume cap for other issuers. For purposes of this section-

(1) In general. The volume cap for any issuing authority (other than a State agency)) for any calendar year shall be an amount which bears the same ratio to 50 percent of the State ceiling for such calendar year as-

(A) the population of the jurisdiction of such issuing authority, bears to

(B) the population of the entire State.

(2) Overlapping jurisdictions. For purposes of paragraph (1)(A), if an area is within the jurisdiction of 2 or more governmental units, such area shall be treated as only within the jurisdiction of the unit having jurisdiction over the smallest geographical area unless such unit agrees to surrender all or part of such jurisdiction for such calendar year to the unit with overlapping jurisdiction which has the next smallest geographical area.

(d) State ceiling. For purposes of this section-

(1) In general. The State ceiling applicable to any State for any calendar year shall be the greater of-

(A) an amount equal to $75 multiplied by the State population, or

(B) $250,000,000.

Subparagraph (B) shall not apply to any possession of the United States.

(2) Adjustment after 1987. In the case of calendar years after 1987, paragraph (1) shall be applied by substituting-

(A) "$50" for "$75", and

(B) "$150,000,000" for "$250,000,000".

(3) Special rule for States with constitutional home rule cities. For purposes of this section-

(A) In general. The volume cap for any constitutional home rule city for any calendar year shall be determined under paragraph (1) of subsection (c) by substituting "100 percent" for "50 percent".

(B) Coordination with other allocations. In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying subsections (b) and (c) with respect to issuing authorities in such State other than constitutional home rule cities, the State ceiling for any calendar year shall be reduced by the aggregate volume caps determined for such year for all constitutional home rule cities in such State.

(C) Constitutional home rule city. For purposes of this section, the term "constitutional home rule city" means, with respect to any calendar year, any political subdivision of a State which, under a State constitution which was adopted in 1970 and effective on July 1, 1971, had home rule powers on the 1st day of the calendar year.

(4) Special rule for possessions with populations of less than the population of the least populous State.

(A) In general. If the population of any possession of the United States for any calendar year is less than the population of the lease populous State (other than a possession) for such calendar year, the limitation under paragraph (1)(A) shall not be less than the amount determined under subparagraph (B) for such calendar year.

(B) Limitation. The limitation determined under this subparagraph, with respect to a possession, for any calendar year is an amount equal to the product of

(i) the fraction-

(I) the numerator of which is the amount applicable under paragraph (1)(B) for such calendar year, and

(II) the denominator of which is the State population of the least populous State (other than a possession) for such calendar year, and

(ii) the population of such possession for such calendar year.

(e) State may provide for different allocation. For purposes of this section-

(1) In general. Except as provided in paragraph (3), a State may, by law provide a different formula for allocating the State ceiling among the governmental units (or other authorities) in such State having authority to issue tax-exempt private activity bonds.

(2) Interim authority for governor.

(A) In general. Except as otherwise provided in paragraph (3), the Governor of any State may proclaim a different formula for allocating the State ceiling among the governmental units (or other authorities) in such State having authority to issue private activity bonds.

(B) Termination of authority. The authority provided in subparagraph (A) shall not apply to bonds issued after the earlier of-

(i) the last day of the 1st calendar year after 1986 during which the legislature of the State met in regular session, or

(ii) the effective date of any State legislation with respect to the allocation of the State ceiling.

(3) State may not alter allocation to constitutional home rule cities. Except as otherwise provided in a State constitutional amendment (or law changing the home rule provision adopted in the manner provided by the State constitution), the authority provided in this subsection shall not apply to that portion of the State ceiling which is allocated to any constitutional home rule city in the State unless such city agrees to such different allocation.

(f) Elective carryforward of unused limitation for specified purpose.

(1) In general. If-

(A) an issuing authority's volume cap for any calendar year after 1985, exceeds

(B) the aggregate amount of tax-exempt private activity bonds issued during such calendar year by such authority,

such authority may elect to treat all (or any portion) of such excess as a carryforward for 1 or more carryforward purposes.

(2) Election must identify purpose. In any election under paragraph (1), the issuing authority shall-

(A) identify the purpose for which the carryforward is elected, and

(B) specify the portion of the excess described in paragraph (1) which is to be a carryforward for each such purpose.

(3) Use of carryforward.

(A) In general. If any issuing authority elects a carryforward under paragraph (1) with respect to any carryforward

purpose, any private activity bonds issued by such authority with respect to such purpose during the 3 calendar years following the calendar year in which the carryforward arose shall not be taken into account under subsection (a) to the extent the amount of such bonds does not exceed the amount of the carryforward elected for such purpose.

(B) Order in which carryforward used. Carryforwards elected with respect to any purpose shall be used in the order of the calendar years in which they arose.

(4) Election. Any election under this paragraph (and any identification or specification contained therein), once made, shall be irrevocable.

(5) Carryforward purpose. The term "carryforward purpose" means-

(A) the purpose of issuing exempt facility bonds described in 1 of the paragraphs of section 142(a),

(B) the purpose of issuing qualified mortgage bonds or mortgage credit certificates,

(C) the purpose of issuing qualified student loan bonds, and

(D) the purpose of issuing qualified redevelopment bonds.

(g) Exception for certain bonds. Only for purposes of this section, the term "private activity bond" shall not include-

(1) any qualified veterans' mortgage bond,

(2) any qualified 501(c)(3) bond,

(3) any exempt facility bond issued as part of an issue described in paragraph (1) or (2) of section 142(a) (relating to high-speed intercity rail facilities).

(4) 75 percent of any facility bond issued as part of an issue described in paragraph (11) of section 142(a) (relating to high-speed intercity rail facilities).

(h) Exception for government-owned solid waste disposal facilities.

(1) In general. Only for purposes of this section, the term "private activity bond" shall not include any exempt facility bond described in section 142(a)(6) which is issued as part of an issue if all of the property to be financed by the net proceeds of such issue is to be owned by a governmental unit.

(2) Safe harbor for determination of government ownership. In determining ownership for purposes of paragraph (1), section 142(b)(1)(B) shall apply, except that a lease term shall be

treated as satisfying clause (ii) thereof if it is not more than 20 years.

(i) Treatment of refunding issues. For purposes of the volume cap imposed by this section-

(1) In general. The term "private activity bond" shall not include any bond which is issued to refund another bond to the extent that the amount of such bond does not exceed the outstanding amount of the refunded bond.

(2) Special rules for student loan bonds. In the case of any qualified student loan bond, paragraph (1) shall apply only if the maturity date of the refunding bond is not later than the later of-

(A) the average maturity date of the qualified student loan bonds to be refunded by the issue of which the refunding bond is a part, or

(B) the date 17 years after the date on which the refunded bond was issued (or in the case of a series of refundings, the date on which the original bond was issued).

(3) Special rules for qualified mortgage bonds. In the case of any qualified mortgage bond, paragraph (1) shall apply only if the maturity date of the refunding bond is not later than the later of-

(A) the average maturity date of the qualified mortgage bonds to be refunded by the issue of which the refunding bond is a part, or

(B) the date 32 years after the date on which the refunded bond was issued (or in the case of a series of refundings, the date on which the original bond was issued).

(4) Average maturity. For purposes of paragraphs (2) and (3), average maturity shall be determined in accordance with section 147(b)(2)(A).

(5) Exception for advance refunding. This subsection shall not apply to any bond issued to advance refund another bond.

(j) Population. For purposes of this section, determinations of the population of any State (or issuing authority) shall be made with respect to any calendar year on the basis of the most recent census estimate of the resident population of such State (or issuing authority) released by the Bureau of Census before the beginning of such calendar year.

(k) Facility must be located within State.

(1) In general. Except as provided in paragraphs (2) and (3), no portion of the State ceiling applicable to any State for

any calendar year may be used with respect to financing for a facility located outside such State.

(2) Exception for certain facilities where state will get proportionate share benefits. Paragraph (1) shall not apply to any exempt facility bond described in paragraph (4), (5), (6), or (10) of section 142(a) if the issuer establishes that the State's share of the use of the facility (or its output) will equal or exceed the State's share of the private activity bonds issued to finance the facility.

(3) Treatment of governmental bonds to which volume cap allocated. Paragraph (1) shall not apply to any bond to which volume cap is allocated under section 141(b)(5)-

(A) for an output facility, or

(B) for a facility of a type described in paragraph (4), (5), (6), or (10) of section 142(a),

if the issuer establishes that the State's share of the private business use (as defined by section 141(b)(6)) of the facility will equal or exceed the State's share of the volume cap allocated with respect to bonds issued to finance the facility.

(i) Treatment of refunding issues. For purposes of the volume cap imposes by this section-

(1) In general. The term "private activity bond" shall not include any bond which is issued to refund another bond to the extent that the amount of such bond does not exceed the outstanding amount of the refunded bond.

(2) Special rules for student loan bonds. In the case of any qualified student loan bond, paragraph (1) shall apply only if the maturity date of the refunding bond is not later than the later of-

(A) the average maturity date of the qualified student loan bonds to be refunded by the issue of which the refunding bond is a part, or

(B) the date 17 years after the date on which the refunded bond was issued (or in the case of a series of refundings, the date on which the original bond was issued).

(3) Special rules for qualified mortgage bonds. In the case of any qualified mortgage bond, paragraph (1) shall apply only if the maturity date of the refunding bond is not later than the later of-

(A) the average maturity date of the qualified mortgage bonds to be refunded by the issue of which the refunding bond is a part, or

(B) the date 32 years after the date on which the refunded bond was issued (or in the case of a series of refundings, the date on which the original bond was issued).

(4) Average maturity. For purposes of paragraphs (2) and (3), average maturity shall be determined in accordance with section 147(b)(2)(A).

(5) Exception for advance refunding. This subsection shall not apply to any bond issued to advance refund another bond.

(j) Population. For purposes of this section, determinations of the population of any State (or issuing authority) shall be made with respect to any calendar year on the basis of the most recent census estimate of the resident population of such State (or issuing authority) released by the Bureau of Census before the beginning of such calendar year.

(k) Facility must be located within State.

(1) In general. Except as provided in paragraphs (2) and (3), no portion of the State ceiling applicable to any State for any calendar year may be used with respect to financing for a facility located outside such State.

(2) Exception for certain facilities where state will get proportionate share of benefits. Paragraph (1) shall not apply to any exempt facility bond described in paragraph (4), (5), (6), or (10) of section 142(a) if the issuer establishes that the State's share of the use of the facility (or its output) will equal or exceed the State's share of the private activity bonds issued to finance the facility.

(3) Treatment of governmental bonds to which volume cap allocated.

Paragraph (1) shall not apply to any bond to which volume cap is allocated under section 141(b)(5)-

(A) for an output facility, or

(B) for a facility of a type described in paragraph (4), (5), (6), or (10) of section 142(a),

if the issuer establishes that the state's share of the private business use (as defined by section 141(b)(6)) of the facility will equal or exceed the State's share of the volume cap allocated with respect to bonds issued to finance the facility.

(l) Issuer of qualified scholarship funding bonds. In the case of a qualified scholarship funding bond, such bond shall be treated for purposes of this section as issued by a State or local issuing authority (whichever is appropriate).

(m) Treatment of amounts allocated to private activity portion of government use bonds.

(1) In general. The volume cap of an issuer shall be reduced by the amount allocated by the issuer to an issue under section 141(b)(5).

(2) Advance refundings. Except as otherwise provided by the Secretary, any advance refunding of any part of an issue to which an amount was allocated under section 141(b)(5) (or would have been allocated if such section applied to such issue) shall be taken into account under this section to the extent of the amount of the volume cap which was (or would have been) so allocated.

(n) Reduction for mortgage credit certificates, etc. The volume cap of any issuing authority for any calendar year shall be reduced by the sum of-

(1) the amount qualified mortgage bonds which such authority elects not to issue under section 25(c)(2)(A)(ii) during such year, plus

(2) the amount of any reduction is such ceiling under section 25(f) applicable to such authority for such year.