

2 **E2SSB 5345** - H COMM AMD **ADOPTED 04/14/99**
3 By Committee on Appropriations

4

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** The legislature finds that implementation
8 of the credit enhancement program provided for in this chapter can
9 provide substantial savings to the taxpayers of the state of Washington
10 with minimal cost or risk to the state government. The guaranty
11 provided by pledging the credit of the state to the payment of voter-
12 approved school district general obligation bonds will encourage lower
13 interest rates, and therefore lower taxes, for such bonds than school
14 districts alone can command, despite the excellent credit history of
15 such obligations. Any such guarantee does not remove the debt
16 obligation of the school district and is not state debt.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply
18 throughout this chapter unless the context clearly requires otherwise.

19 (1) "Bond" means any voted general obligation bond issued by a
20 school district, holding a certificate issued pursuant to this chapter
21 for such a bond.

22 (2) "Credit enhancement program" means the school district bond
23 guaranty established by this chapter.

24 (3) "General obligation bond" means any bond, note, warrant,
25 certificate of indebtedness, or other obligation of a district that
26 constitutes an indebtedness within the meaning of any applicable
27 constitutional or statutory debt limitations.

28 (4) "Paying agent" means the paying agent selected, from time to
29 time, for a bond issue pursuant to state law.

30 (5) "Refunding bond" means any general obligation bond issued by a
31 district for the purpose of refunding its outstanding general
32 obligation bonds.

33 (6) "School district" or "district" means any school district
34 existing now or later under the laws of the state.

1 NEW SECTION. **Sec. 3.** (1)(a) The full faith, credit, and taxing
2 power of the state is pledged to guarantee full and timely payment of
3 the principal of and interest on bonds as such payments become due.
4 However, in the event of any acceleration of the due date of the
5 principal by reason of mandatory redemption or acceleration resulting
6 from default, the payments guaranteed shall be made in the amounts and
7 at the times as payments of principal would have been due had there not
8 been any acceleration.

9 (b) This guaranty does not extend to the payment of any redemption
10 premium.

11 (c) Reference to this chapter by its title on the face of any bond
12 conclusively establishes the guaranty provided to that bond under the
13 provisions of this chapter.

14 (2)(a) The state pledges to and agrees with the owners of any bonds
15 that the state will not alter, impair, or limit the rights vested by
16 the credit enhancement program with respect to the bonds until the
17 bonds, together with applicable interest, are fully paid and
18 discharged. However, this chapter does not preclude an alteration,
19 impairment, or limitation if full provision is made by law for the
20 payment of the bonds.

21 (b) Each district may refer to this pledge and undertaking by the
22 state in its bonds.

23 (3) Only validly issued bonds issued after the effective date of
24 this section may be guaranteed under this chapter.

25 NEW SECTION. **Sec. 4.** (1)(a) Any district, by resolution of its
26 board of directors, may request that the state treasurer issue a
27 certificate evidencing the state's guaranty, under this chapter, of its
28 bonds.

29 (b) After reviewing the request, if the state treasurer determines
30 that the district is eligible under rules adopted by the state finance
31 committee, the state treasurer shall promptly issue the certificate as
32 to specific bonds of the district and provide it to the requesting
33 district.

34 (c)(i) The district receiving the certificate and all other persons
35 may rely on the certificate as evidencing the guaranty for bonds issued
36 within one year from and after the date of the certificate, without
37 making further inquiry during that year.

1 (ii) The certificate of eligibility is valid for one year even if
2 the state treasurer later determines that the school district is
3 ineligible.

4 (2) Any district that chooses to forego the benefits of the
5 guaranty provided by this chapter for a particular issue of bonds may
6 do so by not referring to this chapter on the face of its bonds.

7 (3) Any district that has bonds, the principal of or interest on
8 which has been paid, in whole or in part, by the state under this
9 chapter, may not issue any additional bonds guaranteed by this chapter
10 until:

11 (a) All payment obligations of the district to the state under the
12 credit enhancement program are satisfied; and

13 (b) The state treasurer and the state superintendent of public
14 instruction each certify in writing, to be kept on file by the state
15 treasurer and the state superintendent of public instruction, that the
16 district is fiscally solvent.

17 (4) The state finance committee may establish by rule fees
18 sufficient to cover the costs of administering this chapter.

19 NEW SECTION. **Sec. 5.** (1)(a) The county treasurer for each
20 district with outstanding, unpaid bonds shall transfer money sufficient
21 for each scheduled debt service payment to its paying agent on or
22 before any principal or interest payment date for the bonds.

23 (b) A county treasurer who is unable to transfer a scheduled debt
24 service payment to the paying agent on the transfer date shall
25 immediately notify the paying agent and the state treasurer by:

26 (i) Telephone;

27 (ii) A writing sent by facsimile or electronic transmission; and

28 (iii) A writing sent by first class United States mail.

29 (2) If sufficient funds are not transferred to the paying agent as
30 required by subsection (1) of this section, the paying agent shall
31 immediately notify the state treasurer of that failure by:

32 (a) Telephone;

33 (b) A writing sent by facsimile or electronic transmission; and

34 (c) A writing sent by first class United States mail.

35 (3)(a) If sufficient money to pay the scheduled debt service
36 payment have not been so transferred to the paying agent, the state
37 treasurer shall, forthwith, transfer sufficient money to the paying
38 agent to make the scheduled debt service payment.

1 (b) The payment by the state treasurer:

2 (i) Discharges the obligation of the issuing district to its bond
3 owners for the payment, but does not retire any bond that has matured.
4 The terms of that bond remain in effect until the state is repaid; and

5 (ii) Transfers the rights represented by the general obligation of
6 the district from the bond owners to the state.

7 (c) The district shall repay to the state the money so transferred
8 as provided in this chapter.

9 NEW SECTION. **Sec. 6.** (1) Any district that has issued bonds for
10 which the state has made all or part of a debt service payment shall:

11 (a) Reimburse all money drawn by the state treasurer on its behalf;

12 (b) Pay interest to the state on all money paid by the state from
13 the date that money was drawn to the date the state is repaid at a rate
14 to be prescribed by rule by the state finance committee; and

15 (c) Pay all penalties required by this chapter.

16 (2)(a) The state treasurer shall establish the reimbursement
17 interest rate after considering the circumstances of any prior draws by
18 the district on the state, market interest and penalty rates, and the
19 cost of funds or opportunity cost of investments, if any, that were
20 required to be borrowed or liquidated by the state to make payment on
21 the bonds.

22 (b) The state treasurer may, after considering the circumstances
23 giving rise to the failure of the district to make payment on its bonds
24 in a timely manner, impose on the district a penalty of not more than
25 five percent of the amount paid by the state pursuant to its guaranty
26 for each instance in which a payment by the state is made.

27 (3)(a)(i) If the state treasurer determines that amounts obtained
28 under this chapter will not reimburse the state in full within one year
29 from the state's payment of a district's scheduled debt service
30 payment, the state treasurer may pursue any legal action, including
31 mandamus, against the district to compel it to meet its repayment
32 obligations to the state.

33 (ii) In pursuing its rights under (a)(i) of this subsection, the
34 state shall have the same substantive and procedural rights as would a
35 holder of the bonds of a district. If and to the extent that the state
36 has made payments to the holders of bonds of a district under section
37 5 of this act and has not been reimbursed by the district, the state
38 shall be subrogated to the rights of those bond holders.

1 (iii) The state treasurer may also direct the district and the
2 appropriate county officials to restructure and revise the collection
3 of taxes for the payment of bonds on which the state treasurer has made
4 payments under this chapter and, to the extent permitted by law, may
5 require that the proceeds of such taxes be applied to the district's
6 obligations to the state if all outstanding obligations of the school
7 district payable from such taxes are fully paid or their payment is
8 fully provided for.

9 (b) The district shall pay the fees, expenses, and costs incurred
10 by the state in recovering amounts paid under the guaranty authorized
11 by this chapter.

12 NEW SECTION. **Sec. 7.** In order to effect the provisions of Article
13 VIII, section 1(e) of the state Constitution, Senate Joint Resolution
14 No. 8206, the legislature shall make provision for such amounts as may
15 be required to make timely payments under the state school district
16 credit enhancement program under this chapter in each and every
17 biennial appropriations act.

18 NEW SECTION. **Sec. 8.** The state finance committee may adopt, under
19 chapter 34.05 RCW, all rules necessary and appropriate for the
20 implementation and administration of this chapter.

21 **Sec. 9.** RCW 39.42.060 and 1997 c 220 s 220 (Referendum Bill No.
22 48) are each amended to read as follows:

23 No bonds, notes, or other evidences of indebtedness for borrowed
24 money shall be issued by the state which will cause the aggregate debt
25 contracted by the state to exceed that amount for which payments of
26 principal and interest in any fiscal year would require the state to
27 expend more than seven percent of the arithmetic mean of its general
28 state revenues, as defined in section 1(c) of Article VIII of the
29 Washington state Constitution for the three immediately preceding
30 fiscal years as certified by the treasurer in accordance with RCW
31 39.42.070. It shall be the duty of the state finance committee to
32 compute annually the amount required to pay principal of and interest
33 on outstanding debt. In making such computation, the state finance
34 committee shall include all borrowed money represented by bonds, notes,
35 or other evidences of indebtedness which are secured by the full faith
36 and credit of the state or are required to be paid, directly or

1 indirectly, from general state revenues and which are incurred by the
2 state, any department, authority, public corporation or quasi public
3 corporation of the state, any state university or college, or any other
4 public agency created by the state but not by counties, cities, towns,
5 school districts, or other municipal corporations, and shall include
6 debt incurred pursuant to section 3 of Article VIII of the Washington
7 state Constitution, but shall exclude the following:

8 (1) Obligations for the payment of current expenses of state
9 government;

10 (2) Indebtedness incurred pursuant to RCW 39.42.080 or 39.42.090;

11 (3) Principal of and interest on bond anticipation notes;

12 (4) Any indebtedness which has been refunded;

13 (5) Financing contracts entered into under chapter 39.94 RCW;

14 (6) Indebtedness authorized or incurred before July 1, 1993,
15 pursuant to statute which requires that the state treasury be
16 reimbursed, in the amount of the principal of and the interest on such
17 indebtedness, from money other than general state revenues or from the
18 special excise tax imposed pursuant to chapter 67.40 RCW;

19 (7) Indebtedness authorized and incurred after July 1, 1993,
20 pursuant to statute that requires that the state treasury be
21 reimbursed, in the amount of the principal of and the interest on such
22 indebtedness, from (a) moneys outside the state treasury, except higher
23 education operating fees, (b) higher education building fees, (c)
24 indirect costs recovered from federal grants and contracts, and (d)
25 fees and charges associated with hospitals operated or managed by
26 institutions of higher education;

27 (8) Any agreement, promissory note, or other instrument entered
28 into by the state finance committee under RCW 39.42.030 in connection
29 with its acquisition of bond insurance, letters of credit, or other
30 credit support instruments for the purpose of guaranteeing the payment
31 or enhancing the marketability, or both, of any state bonds, notes, or
32 other evidence of indebtedness; ((and))

33 (9) Indebtedness incurred for the purposes identified in RCW
34 43.99N.020; and

35 (10) Indebtedness incurred for the purposes of the school district
36 bond guaranty established by chapter 39.-- RCW (sections 1 through 8 of
37 this act).

38 To the extent necessary because of the constitutional or statutory
39 debt limitation, priorities with respect to the issuance or

1 guaranteeing of bonds, notes, or other evidences of indebtedness by the
2 state shall be determined by the state finance committee.

3 NEW SECTION. **Sec. 10.** This act takes effect January 1, 2000, if
4 the proposed amendment to Article VIII, section 1 of the state
5 Constitution, guaranteeing the general obligation debt of school
6 districts, is validly submitted to and is approved and ratified by the
7 voters at the next general election. If the proposed amendment is not
8 approved and ratified, this act is void in its entirety.

9 NEW SECTION. **Sec. 11.** Sections 1 through 8 of this act constitute
10 a new chapter in Title 39 RCW."

11 Correct the title.

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