

2 **ESHB 2436** - S AMDS to S COMM AMD (S-5645.1)-219
3 By Senator Heavey

4 On page 5, after line 18 of the Ways & Means Committee amendment,
5 insert the following:

6 "**Sec. 4.** RCW 39.42.060 and 1993 c 52 s 1 are each amended to read
7 as follows:

8 No bonds, notes, or other evidences of indebtedness for borrowed
9 money shall be issued by the state which will cause the aggregate debt
10 contracted by the state to exceed that amount for which payments of
11 principal and interest in any fiscal year would require the state to
12 expend more than seven percent of the arithmetic mean of its general
13 state revenues, as defined in section 1(c) of Article VIII of the
14 Washington state Constitution for the three immediately preceding
15 fiscal years as certified by the treasurer in accordance with RCW
16 39.42.070. It shall be the duty of the state finance committee to
17 compute annually the amount required to pay principal of and interest
18 on outstanding debt. In making such computation, the state finance
19 committee shall include all borrowed money represented by bonds, notes,
20 or other evidences of indebtedness which are secured by the full faith
21 and credit of the state or are required to be paid, directly or
22 indirectly, from general state revenues and which are incurred by the
23 state, any department, authority, public corporation or quasi public
24 corporation of the state, any state university or college, or any other
25 public agency created by the state but not by counties, cities, towns,
26 school districts, or other municipal corporations, and shall include
27 debt incurred pursuant to section 3 of Article VIII of the Washington
28 state Constitution, but shall exclude the following:

29 (1) Obligations for the payment of current expenses of state
30 government;

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

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

33 (4) Any indebtedness which has been refunded;

34 (5) Financing contracts, other than for real estate, entered into
35 under chapter 39.94 RCW after June 30, 1996;

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

6 (7) Indebtedness authorized and incurred after July 1, 1993,
7 pursuant to statute that requires that the state treasury be
8 reimbursed, in the amount of the principal of and the interest on such
9 indebtedness, from (a) moneys outside the state treasury, except higher
10 education operating fees, (b) higher education building fees, (c)
11 indirect costs recovered from federal grants and contracts, and (d)
12 fees and charges associated with hospitals operated or managed by
13 institutions of higher education; and

14 (8) Any agreement, promissory note, or other instrument entered
15 into by the state finance committee under RCW 39.42.030 in connection
16 with its acquisition of bond insurance, letters of credit, or other
17 credit support instruments for the purpose of guaranteeing the payment
18 or enhancing the marketability, or both, of any state bonds, notes, or
19 other evidence of indebtedness.

20 To the extent necessary because of the constitutional or statutory
21 debt limitation, priorities with respect to the issuance or
22 guaranteeing of bonds, notes, or other evidences of indebtedness by the
23 state shall be determined by the state finance committee.

24 **Sec. 5.** RCW 39.94.010 and 1989 c 356 s 1 are each amended to read
25 as follows:

26 The purposes of this chapter are to confirm the authority of the
27 state, its agencies, departments, and instrumentalities, the *state
28 board for community college education, and the state institutions of
29 higher education to enter into contracts for the acquisition of real
30 and personal property which provide for payments over a term of more
31 than one year (~~((and to exclude such contracts from the computation of
32 indebtedness under RCW 39.42.060 and Article VIII, section 1 of the
33 state Constitution))~~). It is further the purpose of this chapter to
34 permit the state, its agencies, departments, and instrumentalities, the
35 state board for community and technical colleges ~~((education))~~, and the
36 state institutions of higher education to enter into financing
37 contracts which make provision for the issuance of certificates of
38 participation and other financing structures. Financing contracts,

1 whether or not entered into under this chapter, shall be subject to
2 approval by the state finance committee except as provided in this
3 chapter.

4 This chapter shall be liberally construed to effect its purposes.

5 **Sec. 6.** RCW 39.94.030 and 1989 c 356 s 3 are each amended to read
6 as follows:

7 (1) The state may enter into financing contracts for the use and
8 acquisition for public purposes of real and personal property.
9 Payments under financing contracts shall be made by the state from
10 currently appropriated funds or funds not constituting "general state
11 revenues" as defined in Article VIII, section 1 of the state
12 Constitution. The term of any financing contract shall not exceed
13 thirty years or the remaining useful life of the property, whichever is
14 shorter. Financing contracts may include other terms and conditions
15 agreed upon by the parties.

16 (2) The state may enter into contracts for credit enhancement,
17 which shall limit the recourse of the provider of credit enhancement
18 solely to the security provided under the financing contract secured by
19 the credit enhancement.

20 (3) The state may grant a security interest in real or personal
21 property acquired under financing contracts. The security interest may
22 be perfected as provided by the uniform commercial code - secured
23 transactions, or otherwise as provided by law for perfecting liens on
24 real estate. Other terms and conditions may be included as agreed upon
25 by the parties.

26 (4) Financing contracts and contracts for credit enhancement
27 entered into under the limitations set forth in this chapter shall not
28 constitute a debt or the contracting of indebtedness under ((RCW
29 39.42.060 or any other law limiting debt of the state. It is the
30 intent of the legislature that such contracts also shall not constitute
31 a debt or the contracting of indebtedness under)) Article VIII, section
32 1 of the state Constitution. Certificates of participation in payments
33 to be made under financing contracts also shall not constitute a debt
34 or the contracting of an indebtedness under ((RCW 39.42.060 if payment
35 is conditioned upon payment by the state under the financing contract
36 with respect to which the same relates. It is the intent of the
37 legislature that such certificates also shall not constitute a debt or
38 the contracting of indebtedness under)) Article VIII, section 1 of the

1 state Constitution if payment of the certificates is conditioned upon
2 payment by the state under the financing contract with respect to which
3 those certificates relate."

4 Renumber the sections consecutively and correct any internal
5 references accordingly.

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8 On page 5, line 33 of the Ways & Means Committee title amendment,
9 after "39.94.040" insert ", 39.42.060, 39.94.010, and 39.94.030"

10 **EFFECT:** Makes financing contracts subject to the statutory state
11 debt limit after June 30, 1996.

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