

CERTIFICATION OF ENROLLMENT

**SENATE BILL 6218**

61st Legislature  
2010 Regular Session

Passed by the Senate January 29, 2010  
YEAS 45 NAYS 0

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**President of the Senate**

Passed by the House March 4, 2010  
YEAS 98 NAYS 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6218** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SENATE BILL 6218**

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Passed Legislature - 2010 Regular Session

**State of Washington                      61st Legislature                      2010 Regular Session**

**By** Senators Fraser and Brandland; by request of State Treasurer

Read first time 01/11/10. Referred to Committee on Ways & Means.

1            AN ACT Relating to modifying the local option capital asset lending  
2 program to authorize state use of certain voter approved excess tax  
3 levies to pay financing contracts and to clarify program participants;  
4 amending RCW 39.94.020, 39.94.030, and 84.52.056; and creating a new  
5 section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7            **Sec. 1.** RCW 39.94.020 and 1998 c 291 s 3 are each amended to read  
8 as follows:

9            Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

11            (1) "Credit enhancement" includes insurance, letters of credit,  
12 lines of credit, or other similar agreements which enhance the security  
13 for the payment of the state's or an other agency's obligations under  
14 financing contracts.

15            (2) "Financing contract" means any contract entered into by the  
16 state for itself or on behalf of an other agency which provides for the  
17 use and purchase of real or personal property by the state and provides  
18 for payment by the state over a term of more than one year, and which  
19 provides that title to the subject property may secure performance of

1 the state or transfer to the state or an other agency by the end of the  
2 term, upon exercise of an option, for a nominal amount or for a price  
3 determined without reference to fair market value. Financing contracts  
4 (~~shall~~) include, but are not (~~be~~) limited to, conditional sales  
5 contracts, financing leases, lease purchase contracts, or refinancing  
6 contracts, but (~~shall~~) does not include operating or true leases.  
7 For purposes of this chapter, the term "financing contract" (~~shall~~)  
8 does not include any nonrecourse financing contract or other obligation  
9 payable only from money or other property received from private sources  
10 and not payable from any public money or property. The term "financing  
11 contract" (~~shall~~) includes a "master financing contract."

12 (3) "Master financing contract" means a financing contract which  
13 provides for the use and purchase of property by the state, and which  
14 may include more than one financing contract and appropriation.

15 (4) "Other agency" means any commission established under Title 15  
16 RCW, a library or regional library, an educational service district,  
17 the superintendent of public instruction, the school directors'  
18 association, a health district, or any county, city, town, school  
19 district, or other municipal corporation or quasi-municipal corporation  
20 (~~described as such by statute~~).

21 (5) "State" means the state, agency, department, or instrumentality  
22 of the state, the state board for community and technical colleges, and  
23 any state institution of higher education.

24 (6) "State finance committee" means the state finance committee  
25 under chapter 43.33 RCW.

26 (7) "Trustee" means a bank or trust company, within or without the  
27 state, authorized by law to exercise trust powers.

28 **Sec. 2.** RCW 39.94.030 and 2009 c 500 s 7 are each amended to read  
29 as follows:

30 (1) The state may enter into financing contracts for itself or on  
31 behalf of an other agency for the use and acquisition for public  
32 purposes of real and personal property. Payments under financing  
33 contracts of the state shall be made by the state from currently  
34 appropriated funds or funds not constituting "general state revenues"  
35 as defined in Article VIII, section 1 of the state Constitution.  
36 Except as provided in subsection (4)(b) of this section, payments under  
37 financing contracts of the state on behalf of any other agency shall be

1 made solely from the sources identified in the financing contract,  
2 which may not obligate general state revenues as defined in Article  
3 VII, section 1 of the state Constitution. The treasurer of an other  
4 agency shall remit payments under financing contracts to the office of  
5 the state treasurer or to the state treasurer's designee. In the event  
6 of any deficiency of payments by an other agency under a financing  
7 contract, the treasurer of the other agency shall transfer any legally  
8 available funds of the other agency in satisfaction of the other  
9 agency's obligations under the financing contract if such funds have  
10 been obligated by the other agency under the financing contract and, if  
11 such deficiency is not thereby cured, the office of the state treasurer  
12 is directed to withdraw from that agency's share of state revenues for  
13 distribution or other money an amount sufficient to fulfill the terms  
14 and conditions of the financing contract. The term of any financing  
15 contract shall not exceed thirty years or the remaining useful life of  
16 the property, whichever is shorter. Financing contracts may include  
17 other terms and conditions agreed upon by the parties.

18 (2) The state for itself or on behalf of an other agency may enter  
19 into contracts for credit enhancement, which (~~shall~~) limits the  
20 recourse of the provider of credit enhancement solely to the security  
21 provided under the financing contract secured by the credit  
22 enhancement.

23 (3) The state or an other agency may grant a security interest in  
24 real or personal property acquired under financing contracts. The  
25 security interest may be perfected as provided by the uniform  
26 commercial code - secured transactions, or otherwise as provided by law  
27 for perfecting liens on real estate. Other terms and conditions may be  
28 included as agreed upon by the parties. An other agency that is  
29 authorized by applicable law to enter into a financing contract may  
30 make payments due under such a contract from the proceeds of annual tax  
31 levies approved by the voters under RCW 84.52.056, among other sources.

32 (4)(a) Financing contracts and contracts for credit enhancement  
33 entered into under the limitations set forth in this chapter (~~shall~~)  
34 do not constitute a debt or the contracting of indebtedness under any  
35 law limiting debt of the state. It is the intent of the legislature  
36 that such contracts also (~~shall~~) do not constitute a debt or the  
37 contracting of indebtedness under Article VIII, section 1 of the state  
38 Constitution. Certificates of participation in payments to be made

1 under financing contracts also (~~shall~~) do not constitute a debt or  
2 the contracting of an indebtedness under any law limiting debt of the  
3 state if payment is conditioned upon payment by the state under the  
4 financing contract with respect to which the same relates. It is the  
5 intent of the legislature that such certificates also (~~shall~~) do not  
6 constitute a debt or the contracting of indebtedness under Article  
7 VIII, section 1 of the state Constitution if payment of the  
8 certificates is conditioned upon payment by the state under the  
9 financing contract with respect to which those certificates relate.

10 (b) An other agency authorized by law to issue bonds, notes or  
11 other evidences of indebtedness or to enter into conditional sales  
12 contracts or lease obligations, may participate in a program under this  
13 chapter in which the state enters into a financing contract on behalf  
14 of that other agency, and the other agency's obligations to the state  
15 under the program may be evidenced by an agreement, lease, bond, note,  
16 or other appropriate instrument. A financing contract made by the  
17 state on behalf of an other agency may be secured by the pledge of  
18 revenues of the other agency or other agency's full faith and credit or  
19 may, at the option of the state finance committee, include a contingent  
20 obligation by the state for payment under such financing contract.

21 **Sec. 3.** RCW 84.52.056 and 1973 1st ex.s. c 195 s 104 are each  
22 amended to read as follows:

23 (1) Any municipal corporation otherwise authorized by law to issue  
24 general obligation bonds for capital purposes may, at an election duly  
25 held after giving notice thereof as required by law, authorize the  
26 issuance of general obligation bonds for capital purposes only, which  
27 (~~shall~~) does not include the replacement of equipment, and provide  
28 for the payment of the principal and interest of such bonds by annual  
29 levies in excess of the tax limitations contained in RCW 84.52.050 to  
30 84.52.056, inclusive and RCW 84.52.043. Such an election (~~shall~~) may  
31 not be held (~~oftener~~) more often than twice a calendar year, and the  
32 proposition to issue any such bonds and to exceed (~~said~~) the tax  
33 limitation must receive the affirmative vote of a three-fifths majority  
34 of those voting on the proposition and the total number of persons  
35 voting at (~~such~~) the election must constitute not less than forty  
36 percent of the voters in (~~said~~) the municipal corporation who voted  
37 at the last preceding general state election.

1       (2) Any taxing district (~~shall have~~) has the right by vote of its  
2 governing body to refund any general obligation bonds of said district  
3 issued for capital purposes only, and to provide for the interest  
4 thereon and amortization thereof by annual levies in excess of the tax  
5 limitations provided for in RCW 84.52.050 to 84.52.056, inclusive and  
6 RCW 84.52.043.

7       (3) For the purposes of this section, "bond" includes a municipal  
8 corporation's obligation to make payments to the state in connection  
9 with a financing contract entered into by the state by or on behalf of  
10 a municipal corporation under chapter 39.94 RCW.

11       NEW SECTION.   **Sec. 4.** The authority conferred on the state and any  
12 municipal corporation or other agency under this act is in addition and  
13 supplemental to any other authority granted by applicable law. Any  
14 action previously taken by the state, a municipal corporation, or other  
15 agency consistent with the provisions of this act is approved and  
16 confirmed.

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