

Senate Engrossed

public schools; guaranteed debt obligations

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE BILL 1729

AN ACT

AMENDING TITLE 15, CHAPTER 10, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 14; RELATING TO PUBLIC SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 10, Arizona Revised Statutes, is
3 amended by adding article 14, to read:

4 ARTICLE 14. ARIZONA SCHOOL CREDIT ENHANCEMENT PROGRAM

5 15-1271. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "BOARD" MEANS THE ARIZONA CREDIT ENHANCEMENT ELIGIBILITY BOARD
8 ESTABLISHED BY SECTION 15-1272.

9 2. "FUND" MEANS THE ARIZONA CREDIT ENHANCEMENT FUND ESTABLISHED BY
10 SECTION 15-1273.

11 3. "GUARANTEED FINANCING" MEANS A DEBT OBLIGATION, INCLUDING
12 PRINCIPAL AND INTEREST, THAT IS BOTH:

13 (a) ISSUED BY OR ON BEHALF OF A SCHOOL DISTRICT OR CHARTER SCHOOL
14 TO ACQUIRE, CONSTRUCT, RENOVATE, EQUIP, REFINANCE OR IMPROVE CAPITAL
15 FACILITIES.

16 (b) GUARANTEED, IN WHOLE OR IN PART, BY THE BOARD PURSUANT TO THE
17 PROGRAM.

18 4. "PARTICIPATING SCHOOL" MEANS A SCHOOL DISTRICT OR CHARTER SCHOOL
19 THAT HAS AT LEAST ONE OUTSTANDING GUARANTEED FINANCING PURSUANT TO A
20 WRITTEN AGREEMENT WITH THE BOARD.

21 5. "PERMANENT STATE SCHOOL FUND" MEANS THE FUND PRESCRIBED BY
22 SECTION 37-521.

23 6. "PROGRAM" MEANS THE ARIZONA CREDIT ENHANCEMENT PROGRAM
24 ESTABLISHED BY SECTION 15-1273.

25 7. "PROGRAM LEVERAGE RATIO" MEANS THE RATIO BETWEEN THE TOTAL VALUE
26 OF GUARANTEED FINANCINGS PURSUANT TO THIS ARTICLE AND THE TOTAL MONIES
27 AVAILABLE IN BOTH THE ARIZONA CREDIT ENHANCEMENT FUND AND THE PERMANENT
28 STATE SCHOOL FUND.

29 15-1272. Board; membership; powers and duties

30 A. THE ARIZONA CREDIT ENHANCEMENT ELIGIBILITY BOARD IS ESTABLISHED.
31 THE BOARD IS A BODY CORPORATE AND POLITIC. THE BOARD CONSISTS OF THE
32 FOLLOWING MEMBERS:

33 1. THE GOVERNOR OR THE GOVERNOR'S DESIGNEE.

34 2. THE STATE TREASURER OR THE TREASURER'S DESIGNEE.

35 3. THE SUPERINTENDENT OF PUBLIC INSTRUCTION OR THE SUPERINTENDENT'S
36 DESIGNEE.

37 B. MEMBERS OF THE BOARD ARE NOT ELIGIBLE TO RECEIVE COMPENSATION
38 FOR SERVICES PERFORMED PURSUANT TO THIS ARTICLE. MEMBERS OF THE BOARD ARE
39 PUBLIC OFFICERS WITH RESPECT TO THEIR SERVICE ON THE BOARD AND ARE SUBJECT
40 TO TITLE 38, CHAPTER 3, ARTICLE 8. THE BOARD IS A PUBLIC BODY FOR THE
41 PURPOSES OF TITLE 38, CHAPTER 3, ARTICLE 3.1.

42 C. THE DEPARTMENT OF EDUCATION SHALL PROVIDE STAFF TO SUPPORT THE
43 BOARD AND THE ADMINISTRATION OF THE PROGRAM.

44 D. THE BOARD SHALL:

45 1. ADMINISTER THE PROGRAM ESTABLISHED BY SECTION 15-1273.

- 1 2. ADOPT RULES GOVERNING THE OPERATION OF THE PROGRAM.
2 E. THE BOARD MAY:
3 1. SUE AND BE SUED.
4 2. ADOPT A CORPORATE SEAL.
5 3. CONTRACT.
6 4. TAKE ANY OTHER ACTION THAT IS NECESSARY OR APPROPRIATE TO CARRY
7 OUT THIS ARTICLE OR THAT MAY BE DEEMED NECESSARY OR PROPER TO PROTECT
8 MONIES IN THE FUND.
9 15-1273. Arizona credit enhancement program; eligibility;
10 program participation fee; fund; exemptions;
11 enforcement
12 A. THE ARIZONA CREDIT ENHANCEMENT PROGRAM IS ESTABLISHED TO ASSIST
13 SCHOOL DISTRICTS AND CHARTER SCHOOLS IN OBTAINING MORE FAVORABLE FINANCING
14 TERMS BY GUARANTEEING THE PAYMENT OF PRINCIPAL AND INTEREST ON GUARANTEED
15 FINANCING ISSUED BY OR ON BEHALF OF PARTICIPATING SCHOOLS.
16 B. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY APPLY TO THE BOARD, ON A
17 FORM AND IN THE MANNER PRESCRIBED BY THE BOARD, TO PARTICIPATE IN THE
18 PROGRAM. THE APPLICATION SHALL REQUIRE AT LEAST THE FOLLOWING:
19 1. FOR CHARTER SCHOOLS, VERIFICATION THAT THE CHARTER SCHOOL MEETS
20 ALL OF THE FOLLOWING:
21 (a) IS ASSIGNED A LETTER GRADE OF A OR B PURSUANT TO SECTION
22 15-241.
23 (b) HAS PROVEN INSTRUCTIONAL STRATEGIES AND CURRICULA THAT
24 DEMONSTRATE HIGH ACADEMIC OUTCOMES.
25 (c) HAS A VERIFIABLE ENROLLMENT DEMAND, INCLUDING A WAITING LIST OF
26 PROSPECTIVE STUDENTS.
27 (d) HAS A SOUND FINANCIAL PLAN THAT CONTEMPLATES OPERATIONAL COSTS
28 AND FUTURE ENROLLMENT GROWTH.
29 (e) HAS SHOWN A COMMITMENT TO PROVIDE TECHNICAL ASSISTANCE,
30 INCLUDING BUSINESS SERVICES, CURRICULUM DEVELOPMENT AND TEACHER TRAINING,
31 TO AN UNDERPERFORMING PUBLIC SCHOOL IN THIS STATE.
32 (f) IS RATED AT LEAST "BB" OR A COMPARABLE RATING BY A NATIONALLY
33 RECOGNIZED BOND RATING AGENCY.
34 (g) HAS A CHARTER HOLDER WITH EXPERIENCE IN OPERATING AND MANAGING
35 CHARTER SCHOOLS WITH HIGH ACADEMIC OUTCOMES FOR AT LEAST TWO CONSECUTIVE
36 YEARS.
37 (h) ACKNOWLEDGES THAT THE GUARANTEED FINANCING:
38 (i) WILL REQUIRE A DEBT SERVICE RESERVE FUND THAT IS EQUAL TO AT
39 LEAST THE MAXIMUM AMOUNT ALLOWED BY FEDERAL LAW IN CONNECTION WITH THE
40 ISSUANCE OF TAX-EXEMPT OBLIGATIONS.
41 (ii) WILL REQUIRE WRITTEN NOTICE IF THE CHARTER SCHOOL WITHDRAWS
42 FROM THE DEBT SERVICE RESERVE FUND TO PAY THE PRINCIPAL OR INTEREST, OR
43 BOTH, OF A GUARANTEED FINANCING, NOT LATER THAN TEN DAYS AFTER THE
44 WITHDRAWAL.
45 (iii) WILL MEET ANY OTHER CRITERIA ESTABLISHED BY THE BOARD.

1 2. FOR SCHOOL DISTRICTS, VERIFICATION THAT THE SCHOOL DISTRICT
2 MEETS ANY CRITERIA ESTABLISHED BY THE BOARD.

3 3. EVIDENCE OF FINANCIAL STABILITY FOR AT LEAST TWO YEARS, BASED ON
4 FINANCIAL METRICS DETERMINED BY THE BOARD, INCLUDING DAYS' CASH ON HAND,
5 THE RATIO OF OPERATING REVENUES TO DEBT SERVICE, AND THE RATIO OF FINANCED
6 PROPERTY VALUE TO DEBT SECURED BY THE PROPERTY.

7 4. INFORMATION ABOUT THE PROPOSED GUARANTEED FINANCING, INCLUDING
8 THE RELEVANT TIMELINE, SOURCES AND USES OF MONIES, DATES AND ESTIMATED
9 VALUES OF PRINCIPAL AND INTEREST PAYMENTS BY PAYMENT DATE, PLANS FOR
10 FUNDING RESERVES, AND EXPECTED RATINGS, IF ANY.

11 5. IDENTIFICATION OF ANY PROPERTY THAT WILL BE USED AS COLLATERAL
12 FOR THE PROPOSED GUARANTEED FINANCING.

13 6. ANY OTHER INFORMATION THAT THE BOARD REQUESTS OR THAT IS
14 RELEVANT TO THE APPLICATION.

15 C. THE BOARD SHALL MEET REGULARLY TO EVALUATE AND APPROVE OR DENY
16 EACH APPLICATION THAT THE BOARD RECEIVES. THE BOARD SHALL NOTIFY EACH
17 APPLICANT WITHIN TEN BUSINESS DAYS AFTER THE BOARD APPROVES OR DENIES THE
18 APPLICATION. THE BOARD MAY APPROVE AN APPLICATION ONLY IF THE FOLLOWING
19 REQUIREMENTS ARE MET:

20 1. APPROVAL OF THE APPLICATION WILL NOT CAUSE THE PROGRAM LEVERAGE
21 RATIO TO EXCEED THE RATIO OF THREE AND ONE-HALF TO ONE.

22 2. FOR EACH APPLICATION THAT IS SUBMITTED BY A CHARTER SCHOOL, THE
23 PROPOSED GUARANTEED FINANCING IS RATED AT LEAST "BB" OR A COMPARABLE
24 RATING BY A NATIONALLY RECOGNIZED BOND RATING AGENCY.

25 D. IF THE BOARD APPROVES AN APPLICATION, THE BOARD SHALL ENTER INTO
26 A WRITTEN AGREEMENT WITH THE PARTICIPATING SCHOOL THAT PROVIDES THE
27 ESSENTIAL TERMS AND CONDITIONS FOR THE GUARANTEED FINANCING, INCLUDING THE
28 REMEDIES AVAILABLE TO THE BOARD IF THE PARTICIPATING SCHOOL DEFAULTS ON
29 THE GUARANTEED FINANCING PAYMENTS OR OTHER OBLIGATIONS PURSUANT TO THE
30 PROGRAM.

31 E. EACH PARTICIPATING SCHOOL SHALL PAY AN ANNUAL PROGRAM
32 PARTICIPATION FEE UNTIL THE GUARANTEED FINANCING IS FULLY SATISFIED.
33 UNLESS OTHERWISE PROVIDED BY THE BOARD, THE PROGRAM PARTICIPATION FEE
34 SHALL BE PAID IN EQUAL AMOUNTS ON THE SAME DATE THAT INTEREST IS DUE AND
35 PAYABLE TO INVESTORS UNDER THE DEBT OBLIGATION THAT IS ISSUED BY OR ON
36 BEHALF OF THE PARTICIPATING SCHOOL. PROGRAM PARTICIPATION FEES SHALL BE
37 AN ANNUAL AMOUNT DETERMINED BY THE BOARD THAT THE PARTICIPATING SCHOOL
38 PAYS TO THE STATE TREASURER FOR DEPOSIT IN THE FUND.

39 F. THE ARIZONA CREDIT ENHANCEMENT FUND IS ESTABLISHED. THE STATE
40 TREASURER SHALL ADMINISTER THE ARIZONA CREDIT ENHANCEMENT FUND AND
41 DISBURSE MONIES PURSUANT TO SUBSECTION G OF THIS SECTION. THE STATE
42 TREASURER SHALL SEPARATELY ACCOUNT FOR MONIES RECEIVED FROM EACH SOURCE
43 LISTED IN THIS SUBSECTION AND MAY ESTABLISH ACCOUNTS AND SUBACCOUNTS AS
44 NECESSARY. THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE
45 ARIZONA CREDIT ENHANCEMENT FUND AS PROVIDED IN SECTION 35-313, AND MONIES

1 EARNED FROM INVESTMENT SHALL BE CREDITED TO THE ARIZONA CREDIT ENHANCEMENT
2 FUND. MONIES IN THE ARIZONA CREDIT ENHANCEMENT FUND ARE SUBJECT TO
3 LEGISLATIVE APPROPRIATION AND ARE EXEMPT FROM THE PROVISIONS OF SECTION
4 35-190 RELATING TO LAPSING OF APPROPRIATIONS. IF THERE ARE INSUFFICIENT
5 MONIES IN THE ARIZONA CREDIT ENHANCEMENT FUND FOR PROGRAM EXPENSES, THE
6 STATE TREASURER SHALL TRANSFER MONIES FROM THE PERMANENT STATE SCHOOL FUND
7 TO THE ARIZONA CREDIT ENHANCEMENT FUND IN THE AMOUNT NECESSARY TO FUND
8 PROGRAM EXPENSES. THE ARIZONA CREDIT ENHANCEMENT FUND CONSISTS OF MONIES
9 FROM THE FOLLOWING SOURCES:

10 1. PROGRAM PARTICIPATION FEES PAID PURSUANT TO SUBSECTION E OF THIS
11 SECTION.

12 2. REIMBURSEMENTS PURSUANT TO SUBSECTION J OF THIS SECTION.

13 3. THE PROCEEDS OF PROGRAM FUNDING OBLIGATIONS ISSUED BY THE BOARD.

14 4. GIFTS, GRANTS AND DONATIONS RECEIVED FROM ANY PUBLIC OR PRIVATE
15 SOURCE TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

16 5. INTEREST EARNINGS AND INVESTMENT INCOME EARNED ON MONIES IN THE
17 FUND.

18 6. MONIES TRANSFERRED TO THE FUND PURSUANT TO SECTION 37-521.

19 7. ANY OTHER MONIES DISTRIBUTED, PAID OR DEPOSITED IN THE FUND BY
20 LAW, INCLUDING MONIES RECEIVED PURSUANT TO A CONTRACT THAT IS RELATED TO A
21 GUARANTEED FINANCING.

22 G. MONIES AND OTHER ASSETS OF THE FUND SHALL BE HELD AND DISBURSED
23 SEPARATELY FROM ALL OTHER MONIES OR ASSETS OF THIS STATE OR OF ANY
24 POLITICAL SUBDIVISION OF THIS STATE. THE STATE TREASURER SHALL USE MONIES
25 FROM THE FUND TO PAY THE PRINCIPAL OR INTEREST PAYMENTS ON GUARANTEED
26 FINANCING OR AS DIRECTED BY THE BOARD TO PAY FOR ANY OF THE FOLLOWING:

27 1. OPERATIONAL OR ADMINISTRATIVE EXPENSES OF THE BOARD, INCLUDING
28 FEES FOR ADVISERS, RATING AGENCIES AND PROFESSIONALS RETAINED BY THE
29 BOARD.

30 2. MUNICIPAL BOND INSURANCE PREMIUMS FOR INSURANCE TO GUARANTEE THE
31 TIMELY PAYMENT OF ALL OR A PORTION OF ANY GUARANTEED FINANCING.

32 3. PRINCIPAL AND INTEREST PAYMENTS FOR PROGRAM FUNDING OBLIGATIONS.

33 H. MONIES DEPOSITED IN THE FUND PURSUANT TO SUBSECTION F OF THIS
34 SECTION MAY BE USED ONLY FOR GUARANTEEING OR MAKING PRINCIPAL AND INTEREST
35 PAYMENTS FOR GUARANTEED FINANCINGS, PROGRAM EXPENSES AND THE BOARD'S
36 EXPENSES PURSUANT TO THIS ARTICLE.

37 I. IF A PARTICIPATING SCHOOL CANNOT TIMELY PAY PRINCIPAL OR
38 INTEREST, OR BOTH, OF A GUARANTEED FINANCING, THE PARTICIPATING SCHOOL
39 SHALL NOTIFY THE BOARD AND THE STATE TREASURER IN WRITING AT LEAST FIVE
40 DAYS BEFORE THE PAYMENT IS DUE. THE STATE TREASURER SHALL DISTRIBUTE
41 MONIES FROM THE FUND TO THE PARTICIPATING SCHOOL ON OR BEFORE THE SECOND
42 BUSINESS DAY AFTER RECEIVING WRITTEN NOTICE PURSUANT TO THIS SUBSECTION.
43 MONIES DISTRIBUTED PURSUANT TO THIS SUBSECTION MAY BE USED ONLY TO PAY THE
44 PRINCIPAL OR INTEREST, OR BOTH, OF THE GUARANTEED FINANCING.

1 J. A PARTICIPATING SCHOOL THAT RECEIVES MONIES PURSUANT TO
2 SUBSECTION I OF THIS SECTION SHALL REIMBURSE THE PROGRAM IN AN AMOUNT
3 EQUAL TO THE AMOUNT OF MONIES RECEIVED PLUS INTEREST AT A RATE THAT IS ONE
4 HUNDRED BASIS POINTS HIGHER THAN THE TRUE INTEREST RATE ON THE GUARANTEED
5 FINANCING, AS DETERMINED BY THE BOARD. UNLESS OTHERWISE PROVIDED BY THE
6 BOARD, THE PARTICIPATING SCHOOL SHALL REIMBURSE THE PROGRAM BY PAYING
7 EQUAL INSTALLMENTS TO THE STATE TREASURER EVERY MONTH FOR ONE YEAR. ANY
8 MONIES DUE PURSUANT TO THIS SUBSECTION AFTER ONE YEAR ARE A LEGAL
9 OBLIGATION OF THE PARTICIPATING SCHOOL, AND THE PARTICIPATING SCHOOL SHALL
10 SATISFY THE OBLIGATION USING ANY MONIES LAWFULLY AVAILABLE TO THE
11 PARTICIPATING SCHOOL.

12 15-1274. Reporting requirements

13 NOT LATER THAN THIRTY DAYS AFTER THE LAST DAY OF EACH CALENDAR
14 QUARTER, THE DIVISION OF SCHOOL FACILITIES WITHIN THE DEPARTMENT OF
15 ADMINISTRATION, IN CONSULTATION WITH THE BOARD, SHALL REPORT TO THE
16 SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE PRESIDENT OF THE SENATE, THE
17 DIRECTOR OF THE JOINT LEGISLATIVE BUDGET COMMITTEE AND THE DIRECTOR OF THE
18 GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING. THE QUARTERLY
19 REPORT SHALL INCLUDE AT LEAST THE FOLLOWING INFORMATION:

20 1. A LIST OF ALL OUTSTANDING GUARANTEED FINANCINGS, INCLUDING THE
21 FOLLOWING INFORMATION FOR EACH GUARANTEED FINANCING:

22 (a) THE NAME OF THE PARTICIPATING SCHOOL THAT IS ASSOCIATED WITH
23 THE GUARANTEED FINANCING.

24 (b) THE DATE THAT THE GUARANTEED FINANCING WAS ISSUED.

25 (c) THE ORIGINAL VALUE OF THE GUARANTEED FINANCING, INCLUDING
26 PRINCIPAL AND EXPECTED INTEREST.

27 (d) THE INTEREST RATE.

28 (e) THE TERM LENGTH.

29 (f) THE CREDIT RATING.

30 (g) THE OUTSTANDING PRINCIPAL AND INTEREST FOR THE CURRENT FISCAL
31 YEAR.

32 (h) THE PURPOSE FOR WHICH THE DEBT OBLIGATION FOR EACH GUARANTEED
33 FINANCING WAS ISSUED, INCLUDING WHETHER THE DEBT OBLIGATION WAS ISSUED TO
34 CONSTRUCT NEW CAPITAL FACILITIES, RENOVATE EXISTING CAPITAL FACILITIES OR
35 REFINANCE EXISTING DEBT OBLIGATIONS.

36 (i) THE CURRENT OUTSTANDING PRINCIPAL OF THE GUARANTEED FINANCING.

37 2. A LIST OF ALL GUARANTEED FINANCINGS FOR WHICH THE STATE
38 TREASURER DISTRIBUTED MONIES FROM THE FUND PURSUANT TO SECTION 15-1273,
39 SUBSECTION I DURING THE PREVIOUS QUARTER. THIS LIST SHALL INCLUDE THE
40 AMOUNT DISTRIBUTED FOR EACH GUARANTEED FINANCING, THE TERMS FOR
41 REIMBURSEMENT PURSUANT TO SECTION 15-1273, SUBSECTION J AND ANY DEFAULT BY
42 A PARTICIPATING SCHOOL ON A GUARANTEED OBLIGATION.

43 3. THE CURRENT BALANCE OF THE FUND.

44 4. THE CURRENT PROGRAM LEVERAGE RATIO.