

Part 2
State's Guarantee - Monitoring of Financial Solvency

53A-28-201 Contract with bondholders -- Full faith and credit of state is pledged -- Limitation as to certain refunded bonds.

- (1)
- (a) The state of Utah pledges to and agrees with the holders of any bonds that the state will not alter, impair, or limit the rights vested by the default avoidance program with respect to the bonds until the bonds, together with applicable interest, are fully paid and discharged.
 - (b) Notwithstanding Subsection (1)(a), nothing contained in this chapter precludes an alteration, impairment, or limitation if adequate provision is made by law for the protection of the holders of the bonds.
 - (c) Each board may refer to this pledge and undertaking by the state in its bonds.
- (2)
- (a) The full faith and credit and unlimited taxing power of the state is pledged to guarantee full and timely payment of the principal of (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, bonds as such payments shall become due (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default of otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration).
 - (b) This guaranty does not extend to the payment of any redemption premium.
 - (c) Reference to this chapter by its title on the face of any bond conclusively establishes the guaranty provided to that bond under provisions of this chapter.
- (3)
- (a) Any bond guaranteed under this chapter that is refunded and considered paid for the purposes of and within the meaning of Subsection 11-27-3(6), no longer has the benefit of the guaranty provided by this chapter from and after the date on which that bond was considered to be paid.
 - (b) Any refunding bond issued by a board that is itself secured by government obligations until the proceeds are applied to pay refunded bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, is not guaranteed under the provisions of this chapter, until the refunding bonds cease to be secured by government obligations as provided in Title 11, Chapter 27, Utah Refunding Bond Act.
- (4) Only validly issued bonds issued after the effective date of this chapter are guaranteed under this chapter.

Enacted by Chapter 62, 1996 General Session

53A-28-202 Program eligibility -- Option to forego guaranty.

- (1)
- (a) Any board may request that the state treasurer issue a certificate evidencing eligibility for the state's guaranty under this chapter.
 - (b) After reviewing the request, if the state treasurer determines that the board is eligible, the state treasurer shall promptly issue the certificate and provide it to the requesting board.
 - (c)

- (i) The board receiving the certificate and all other persons may rely on the certificate as evidencing eligibility for the guaranty for one year from and after the date of the certificate, without making further inquiry of the state treasurer during that year.
 - (ii) The certificate of eligibility is valid for one year even if the state treasurer later determines that the school board is ineligible.
- (2) Any board that chooses to forego the benefits of the guaranty provided by this chapter for a particular issue of bonds may do so by not referring to this chapter on the face of its bonds.
- (3) Any board that has bonds, the principal of or interest on which has been paid, in whole or in part, by the state under this chapter may not issue any additional bonds guaranteed by this act until:
- (a) all payment obligations of the board to the state under the default avoidance program are satisfied; and
 - (b) the state treasurer and the state superintendent of public instruction each certify in writing, to be kept on file by the state treasurer and the state superintendent, that the board is fiscally solvent.
- (4) Bonds not guaranteed by this chapter are not included in the definition of "bonds" in Section 53A-28-201 as used generally in this chapter and are not subject to the requirements of and do not receive the benefits of this chapter.

Enacted by Chapter 62, 1996 General Session

53A-28-203 Fiscal solvency of school districts -- Duties of state treasurer and attorney general.

- (1) The state superintendent of public instruction shall:
- (a) monitor the financial affairs and condition of each board in the state to evaluate each school board's financial solvency; and
 - (b) report immediately to the governor and state treasurer any circumstances suggesting that a school district will be unable to timely meet its debt service obligations and recommend a course of remedial action.
- (2)
- (a) The state treasurer shall determine whether or not the financial affairs and condition of a board are such that it would be imprudent for the state to guarantee the bonds of that board.
 - (b) If the state treasurer determines that the state should not guarantee the bonds of that board, the state treasurer shall:
 - (i) prepare a determination of ineligibility; and
 - (ii) keep it on file in the office of the state treasurer.
 - (c) The state treasurer may remove a board from the status of ineligibility when a subsequent report or other information made available to the state treasurer evidences that it is no longer imprudent for the state to guarantee the bonds of that board.
- (3) Nothing in this section affects the state's guaranty of bonds of a board issued:
- (a) before determination of ineligibility;
 - (b) after the eligibility of the board is restored; or
 - (c) under a certificate of eligibility issued under Section 53A-28-202.

Amended by Chapter 221, 2003 General Session