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SENATE BILL 186

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Howie C. Morales

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; ALLOWING LEASE-PURCHASE
ARRANGEMENTS OF SCHOOL DISTRICTS TO BE PAID FROM STATE
EQUALIZATION GUARANTEE DISTRIBUTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 6-15A-1 NMSA 1978 (being Laws 1997,
Chapter 193, Section 1) is amended to read:

"6-15A-1. SHORT TITLE.--~~[Sections 1 through 16 of this~~
~~act]~~ Chapter 6, Article 15A NMSA 1978 may be cited as the
"Education Technology Equipment Act"."

SECTION 2. A new section of the Education Technology
Equipment Act is enacted to read:

"[NEW MATERIAL] TIMELY PAYMENT OF SCHOOL DISTRICT
OBLIGATIONS.--

A. Whenever a paying agent has not received payment

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1 of principal or interest on school district lease-purchase
2 arrangements on the business day immediately prior to the date
3 on which the payment is due, the paying agent shall so notify
4 the department of finance and administration, the public
5 education department and the school district by telephone,
6 facsimile or other similar communication, followed by written
7 verification, of the payment status. The department of finance
8 and administration shall immediately contact the school
9 district and determine whether the school district will make
10 the payment by the date on which it is due.

11 B. If the school district indicates that it will
12 not make the payment by the date on which it is due, the
13 department of finance and administration shall forward the
14 amount in immediately available funds necessary to make the
15 payment due on the lease-purchase arrangements to the paying
16 agent from the current fiscal year's undistributed state
17 equalization guarantee distribution to that school district
18 and, if not otherwise repaid by the school district from other
19 legally available funds, withhold the distributions from the
20 school district until the amount has been recouped by the
21 department of finance and administration; provided that if the
22 amount of the undistributed state equalization guarantee
23 distribution in the current fiscal year is less than the
24 payment due on the lease-purchase arrangement, the department
25 of finance and administration shall:

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1 (1) forward in immediately available funds to
2 the paying agent an amount equal to the total amount of the
3 school district's undistributed state equalization guarantee
4 distribution and, if not otherwise repaid by the school
5 district from other legally available funds, withhold all
6 distributions to the school district for the remainder of the
7 fiscal year; and

8 (2) on July 1 of the following fiscal year,
9 forward in immediately available funds an amount equal to the
10 remaining amount due to the paying agent from that year's state
11 equalization guarantee distribution and, if not otherwise
12 repaid by the school district from other legally available
13 funds, withhold an equal amount from the distribution to the
14 school district until the amount paid has been recouped in
15 full.

16 C. The amounts forwarded to the paying agent by the
17 department of finance and administration shall be applied by
18 the paying agent solely to the payment of the principal or
19 interest due on the lease-purchase arrangement of the school
20 district. The department of finance and administration shall
21 notify the public education department, the chief financial
22 officer of the school district, the department of finance and
23 administration, the legislative finance committee and the
24 legislative education study committee of amounts withheld and
25 payments made pursuant to this section.

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1 D. Upon entering a lease-purchase arrangement by a
2 school district, the school district shall file with the
3 department of finance and administration a copy of the
4 resolution that authorizes the lease-purchase arrangement; the
5 agreement, if any, with a paying agent; and the name, address
6 and telephone number of the paying agent. The failure of a
7 school district to file the information shall not affect the
8 obligation of the department of finance and administration to
9 withhold the state equalization guarantee distribution pursuant
10 to this section.

11 E. The state hereby covenants with the purchasers
12 and holders of lease-purchase arrangements issued by school
13 districts that it will not repeal, revoke or rescind the
14 provisions of this section or modify or amend them so as to
15 limit or impair the rights and remedies granted by this
16 section; provided that nothing in this subsection shall be
17 deemed or construed to require the state to continue the
18 payment of a state equalization guarantee distribution to any
19 school district or to limit or prohibit the state from
20 repealing, amending or modifying any law relating to the amount
21 of state equalization guarantee distributions to school
22 districts or the manner of payment or the timing thereof.
23 Nothing in this section shall be deemed or construed to create
24 a debt of the state with respect to the lease-purchase
25 arrangements within the meaning of any state constitutional

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1 provision or to create any liability except to the extent
2 provided in this section.

3 F. Whenever the department of finance and
4 administration is required by this section to make a payment of
5 principal or interest on a lease-purchase arrangement on behalf
6 of a school district, the public education department shall
7 initiate an audit of the school district to determine the
8 reason for the nonpayment and to assist the school district, if
9 necessary, in developing and implementing measures to ensure
10 that future payments will be made when due.

11 G. Whenever the department of finance and
12 administration makes a payment of principal and interest on a
13 lease-purchase arrangement of a school district and withholds
14 amounts from the state equalization guarantee distribution
15 pursuant to this section because of the failure to collect
16 property taxes, the school district may transfer delinquent
17 property taxes later collected into its general fund.

18 H. This section applies to lease-purchase
19 arrangements entered into by a school district on or after July
20 1, 2013."