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HOUSE BILL 19

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO PUBLIC SCHOOLS; MAKING LOCALLY CHARTERED AND STATE-  
CHARTERED CHARTER SCHOOLS ELIGIBLE TO RECEIVE A PRORATED SHARE  
OF EDUCATION TECHNOLOGY EQUIPMENT PURCHASED BY A SCHOOL  
DISTRICT THROUGH A LEASE-PURCHASE ARRANGEMENT UNDER PROVISIONS  
OF THE EDUCATION TECHNOLOGY EQUIPMENT ACT.

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. Section 6-15A-3 NMSA 1978 (being Laws 1997,  
Chapter 193, Section 3, as amended) is amended to read:

"6-15A-3. DEFINITIONS.--As used in the Education

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1 Technology Equipment Act:

2 A. "debt" means an obligation payable from  
3 ad valorem property tax revenues or the general fund of a  
4 school district and that may be secured by the full faith and  
5 credit of a school district and a pledge of its taxing powers;

6 B. "department" means the public education  
7 department;

8 [~~B.~~] C. "education technology equipment" means  
9 tools used in the educational process that constitute learning  
10 and administrative resources and may include:

11 (1) closed-circuit television systems;  
12 educational television and radio broadcasting; cable  
13 television, satellite, copper and fiber-optic transmission;  
14 computer, network connection devices; digital communications  
15 equipment (voice, video and data); servers; switches; portable  
16 media such as discs and drives to contain data for electronic  
17 storage and playback; and purchase or lease of software  
18 licenses or other technologies and services, maintenance,  
19 equipment and computer infrastructure information, techniques  
20 and tools used to implement technology in schools and related  
21 facilities; [~~and~~]

22 (2) improvements, alterations and  
23 modifications to, or expansions of, existing buildings or  
24 personal property necessary or advisable to house or otherwise  
25 accommodate any of the tools listed in Paragraph (1) of this

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1 subsection; and

2 (3) expenditures for technical support,  
3 including salary, benefits and training expenses of school  
4 district employees who administer education technology projects  
5 funded by a lease-purchase arrangement and may include training  
6 by contractors;

7 D. "eligible charter school" means a locally  
8 chartered or state-chartered charter school located within the  
9 geographic boundaries of a school district:

10 (1) that timely provides the information  
11 necessary to identify the lease-purchase education technology  
12 equipment needed in the charter school to be included in the  
13 local school board resolution for lease-purchase of education  
14 technology equipment; and

15 (2) for which the proposed lease-purchase of  
16 education technology equipment is included in the school  
17 district's approved technology master plan;

18 ~~[G.]~~ E. "lease-purchase arrangement" means a  
19 financing arrangement constituting ~~[debt]~~ a financial  
20 obligation of a school district pursuant to which periodic  
21 lease payments composed of principal and interest components  
22 are to be paid to the holder of the lease-purchase arrangement  
23 and pursuant to which the owner of the education technology  
24 equipment may retain title to or a security interest in the  
25 equipment and may agree to release the security interest or

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1 transfer title to the equipment to the school district for  
2 nominal consideration after payment of the final periodic lease  
3 payment. "Lease-purchase arrangement" also means any [~~debt~~  
4 financial obligation of the school district incurred for the  
5 purpose of acquiring education technology equipment pursuant to  
6 the Education Technology Equipment Act whether designated as a  
7 general obligation lease, note or other instrument evidencing a  
8 [~~debt~~] financial obligation of the school district;

9 [D-] F. "local school board" means the governing  
10 body of a school district; and

11 [E-] G. "school district" means an area of land  
12 established as a political subdivision of the state for the  
13 administration of public schools and segregated geographically  
14 for taxation and bonding purposes."

15 SECTION 3. A new section of the Education Technology  
16 Equipment Act is enacted to read:

17 "[NEW MATERIAL] CHARTER SCHOOLS--RECEIPT OF EDUCATION  
18 TECHNOLOGY EQUIPMENT.--On or after July 1, 2015, a school  
19 district that assumes a financial obligation through a lease-  
20 purchase arrangement under the provisions of the Education  
21 Technology Equipment Act shall provide, to each eligible  
22 charter school in the school district, education technology  
23 equipment equal in value to an amount based upon the net  
24 proceeds from the financial obligation after payment of the  
25 cost of issuing the financial obligation through a lease-

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1 purchase arrangement prorated by the number of students  
2 enrolled in the school district and in eligible charter schools  
3 as reported on the first reporting date of the prior school  
4 year; provided that, in the case of an approved eligible  
5 charter school that had not commenced classroom instruction in  
6 the prior school year, the estimated full-time-equivalent  
7 enrollment in the first year of instruction, as shown in the  
8 approved charter school application, shall be used to determine  
9 the amount, subject to adjustment after the first reporting  
10 date."

11 SECTION 4. Section 22-18-13 NMSA 1978 (being Laws 2003,  
12 Chapter 46, Section 1, as amended) is amended to read:

13 "22-18-13. TIMELY PAYMENT OF SCHOOL DISTRICT  
14 OBLIGATIONS.--

15 A. Whenever a paying agent has not received payment  
16 of principal or interest on school district general obligation  
17 bonds or on a lease-purchase arrangement assumed by a school  
18 district under provisions of the Education Technology Equipment  
19 Act on the business day immediately prior to the date on which  
20 the payment is due, the paying agent shall so notify the  
21 department of finance and administration, the department and  
22 the school district by telephone, facsimile or other similar  
23 communication, followed by written verification, of the payment  
24 status. The department of finance and administration shall  
25 immediately contact the school district and determine whether

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1 the school district will make the payment by the date on which  
2 it is due.

3 B. Except as provided in Subsection C of this  
4 section, if the school district indicates that it will not make  
5 the payment by the date on which it is due, the department of  
6 finance and administration shall forward the amount in  
7 immediately available funds necessary to make the payment due  
8 on the bonds or on the lease-purchase arrangement to the paying  
9 agent and shall withhold an equal amount from the next  
10 succeeding payment of the state equalization guarantee  
11 distribution. If the amount of the next succeeding payment is  
12 insufficient to pay the amount due, the department of finance  
13 and administration shall withhold amounts from each succeeding  
14 payment of the state equalization guarantee distribution,  
15 including payments to be made in succeeding fiscal years but  
16 not more than twelve consecutive months of payments, until the  
17 total payment of principal and interest due has been withheld.

18 C. For a payment due on a bond issued on or after  
19 ~~[the effective date of this 2007 act]~~ March 30, 2007 or on the  
20 lease-purchase arrangement entered into by a school district  
21 after July 15, 2015, if the school district indicates that it  
22 will not make the payment by the date on which it is due, the  
23 department of finance and administration shall forward the  
24 amount in immediately available funds necessary to make the  
25 payment due on the bonds or the lease-purchase arrangement to

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1 the paying agent from the current fiscal year's undistributed  
2 state equalization guarantee distribution to that school  
3 district or eligible charter school and, if not otherwise  
4 repaid by the school district or eligible charter school from  
5 other legally available funds, withhold the distributions from  
6 the school district or eligible charter school until the amount  
7 has been recouped by the department of finance and  
8 administration, provided that, if the amount of the  
9 undistributed state equalization guarantee distribution in the  
10 current fiscal year is less than the payment due on the bond,  
11 the department of finance and administration shall:

12 (1) forward in immediately available funds to  
13 the paying agent an amount equal to the total amount of the  
14 school district's or eligible charter school's undistributed  
15 state equalization guarantee distribution and, if not otherwise  
16 repaid by the school district or eligible charter school from  
17 other legally available funds, withhold all distributions to  
18 the school district or eligible charter school for the  
19 remainder of the fiscal year; and

20 (2) on July 1 of the following fiscal year,  
21 forward in immediately available funds an amount equal to the  
22 remaining amount due to the paying agent from that year's state  
23 equalization guarantee distribution and, if not otherwise  
24 repaid by the school district or eligible charter school from  
25 other legally available funds, withhold an equal amount from

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1 the distribution to the school district or eligible charter  
2 school until the amount paid has been recouped in full.

3 D. The amounts forwarded to the paying agent by the  
4 department of finance and administration shall be applied by  
5 the paying agent solely to the payment of the principal or  
6 interest due on the general obligation bonds or the lease-  
7 purchase arrangement of the school district or eligible charter  
8 school. The department of finance and administration shall  
9 notify the department; the chief financial officer of the  
10 school district [~~the department of finance and administration~~]  
11 or eligible charter school; the legislative finance committee;  
12 and the legislative education study committee of amounts  
13 withheld and payments made pursuant to this section.

14 E. Upon the issuance of general obligation bonds by  
15 a school district, the school district shall file with the  
16 department of finance and administration a copy of the  
17 resolution that authorizes the issuance of the bonds or a  
18 lease-purchase arrangement under the provisions of the  
19 Education Technology Equipment Act, a copy of the official  
20 statement or other offering document for the bonds, the  
21 agreement, if any, with the paying agent for the bonds and the  
22 name, address and telephone number of the paying agent;  
23 provided, however, that the failure of a school district to  
24 file the information shall not affect the obligation of the  
25 department of finance and administration to withhold the state

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1 equalization guarantee distribution pursuant to this section.

2 F. The state hereby covenants with the purchasers  
3 and holders of general obligation bonds issued or a lease-  
4 purchase arrangement under the provisions of the Education  
5 Technology Equipment Act entered into by school districts that  
6 it will not repeal, revoke or rescind the provisions of this  
7 section or modify or amend the same so as to limit or impair  
8 the rights and remedies granted by this section; provided that  
9 nothing in this subsection shall be deemed or construed to  
10 require the state to continue the payment of a state  
11 equalization guarantee distribution to any school district or  
12 eligible charter school or to limit or prohibit the state from  
13 repealing, amending or modifying any law relating to the amount  
14 of state equalization guarantee distributions to school  
15 districts or eligible charter schools or the manner of payment  
16 or the timing thereof. Nothing in this section shall be deemed  
17 or construed to create a debt of the state with respect to the  
18 bonds within the meaning of any state constitutional provision  
19 or to create any liability except to the extent provided in  
20 this section.

21 G. Whenever the department of finance and  
22 administration is required by this section to make a payment of  
23 principal or interest on bonds on behalf of a school district,  
24 the department shall initiate an audit of the school district  
25 and eligible charter school to determine the reason for the

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1 nonpayment and to assist the school district, if necessary, in  
2 developing and implementing measures to ensure that future  
3 payments will be made when due.

4 H. Whenever the department of finance and  
5 administration makes a payment of principal and interest on  
6 bonds or other obligations of a school district and withholds  
7 amounts from the state equalization guarantee distribution  
8 pursuant to this section because of the failure to collect  
9 property taxes, the school district or eligible charter school  
10 may transfer delinquent property taxes later collected out of  
11 the school district's bond redemption fund and into its general  
12 fund.

13 I. This section applies to general obligation bonds  
14 issued by a school district on or after July 1, 2003 and  
15 financial obligations assumed by a school district under the  
16 provisions of the Education Technology Equipment Act on or  
17 after July 1, 2015."

18 SECTION 5. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is July 1, 2015.