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AN ACT

RELATING TO HIGHER EDUCATION; AMENDING THE COLLEGE DISTRICT
TAX ACT; ADDING DEFINITIONS; PROVIDING FOR LEASE-PURCHASE
ARRANGEMENTS FOR COLLEGE DISTRICTS; PROVIDING FOR LIBERAL
INTERPRETATION AND SEVERABILITY; DECLARING AN EMERGENCY.

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

SECTION 1. Section 21-2A-2 NMSA 1978 (being Laws 1995,
Chapter 224, Section 8) is amended to read:

"21-2A-2. DEFINITIONS.--As used in the College District
Tax Act:

A. "board" means the governing board of the
college district;

B. "college" means a two-year, public
post-secondary educational institution organized pursuant to
the provisions of the Community College Act, Chapter 21,
Article 14 NMSA 1978, the Technical and Vocational Institute
Act or the Off-Campus Instruction Act;

C. "college district" means a district in which a
college is located or is proposed to be located, the exterior
boundaries of which are determined pursuant to the statutory
provisions under which the college is organized;

D. "debt" means an obligation payable from ad
valorem property tax revenues or the general fund of a
college district and that may be secured by the full faith

1 and credit of a college district and a pledge of its taxing
2 powers;

3 E. "education technology equipment" means tools
4 used in the educational process that constitute learning and
5 administrative resources and may include:

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

17 (2) improvements, alterations and
18 modifications to, or expansions of, existing buildings or
19 personal property necessary or advisable to house or
20 otherwise accommodate any of the tools listed in Paragraph
21 (1) of this subsection; and

22 (3) expenditures for technical support and
23 training expenses of college district employees who
24 administer education technology projects funded by a
25 lease-purchase arrangement and may include training by

1 contractors; and

2 F. "lease-purchase arrangement" means a financing
3 arrangement constituting debt of a college district pursuant
4 to which periodic lease payments composed of principal and
5 interest components are to be paid to the holder of the
6 lease-purchase arrangement and pursuant to which the owner of
7 the education technology equipment may retain title to or a
8 security interest in the equipment and may agree to release
9 the security interest or transfer title to the equipment to
10 the college district for nominal consideration after payment
11 of the final periodic lease payment. "Lease-purchase
12 arrangement" also means any debt of the college district
13 incurred for the purpose of acquiring educational technology
14 equipment whether designated as a general obligation lease,
15 note or other instrument evidencing a debt of the college
16 district."

17 SECTION 2. A new section of the College District Tax
18 Act is enacted to read:

19 "COLLEGE DISTRICT LEASE-PURCHASE ARRANGEMENTS--NOTICE--
20 PROCESS FOR APPROVING LEASE-PURCHASE ARRANGEMENTS--LIMITATION
21 OF ACTION.--

22 A. When a college district contemplates entering
23 into a lease-purchase arrangement payable in whole or in part
24 from ad valorem taxes, the board, before initiating any
25 proceedings for approval of such lease-purchase arrangement,

1 shall forward to the higher education department a written
2 notice of the proposed lease-purchase arrangement.

3 B. The higher education department, upon the
4 receipt of the notice provided for in Subsection A of this
5 section, shall furnish all necessary information with
6 reference to the valuation, present outstanding bonded
7 indebtedness, present outstanding lease-purchase arrangements
8 and limitations as to tax rates and debt contracting power
9 and other information useful to the board in the
10 consideration of a proposed lease-purchase arrangement. Upon
11 entering into a lease-purchase arrangement, the board shall
12 prepare two true and complete transcripts of proceedings
13 relating to the lease-purchase arrangement, one to be
14 immediately filed with the higher education department and
15 one to be kept by the board.

16 C. At a regular or special meeting called for the
17 purpose of considering a lease-purchase arrangement, a board
18 shall:

19 (1) make a determination of the necessity
20 for lease-purchasing the educational technology equipment;

21 (2) determine the estimated cost of the
22 equipment needed;

23 (3) review a summary of the terms of the
24 proposed lease-purchase arrangement;

25 (4) identify the source of funds for the

1 payment of debt;

2 (5) if all or part of the funds needed
3 require or anticipate the imposition of an ad valorem tax,
4 determine the estimated rate of the ad valorem tax and what,
5 if any, the percentage increase in ad valorem taxes for all
6 taxable property in the college district would be;

7 (6) set a date for a meeting to consider a
8 resolution granting final approval to the lease-purchase
9 arrangement; and

10 (7) direct that notice of the meeting
11 provided for in Paragraph (6) of this subsection be published
12 once each week for the two weeks immediately preceding the
13 meeting in a newspaper having general circulation in the
14 college district and that the notice include the information
15 required in Paragraphs (1) through (5) of this subsection.

16 D. At a regular or special meeting called for the
17 purpose of considering a lease-purchase arrangement as set
18 forth in Subsection C of this section, a board may adopt an
19 authorizing instrument in compliance with the requirements of
20 Section 6-14-10.2 NMSA 1978. The requirements of Paragraphs
21 (6) and (7) of Subsection C of this section shall not apply
22 if the board adopts such an authorizing instrument.

23 E. At a meeting scheduled pursuant to Paragraph
24 (6) of Subsection C of this section, the board may adopt a
25 final resolution approving the lease-purchase arrangement

1 only by an affirmative vote of a majority of all members of
2 the board.

3 F. After the adoption by the board of a final
4 resolution approving the lease-purchase arrangement or after
5 the final approval of a lease-purchase arrangement by
6 delegation as provided for in Subsection D of this section,
7 the board shall publish notice of the adoption of the
8 resolution or the approval of the lease-purchase arrangement
9 once in a newspaper having general circulation in the college
10 district. After the passage of thirty days from the
11 publication required by this subsection, any action attacking
12 the validity of the proceedings taken by the board
13 preliminary to, in the authorization of and entering into the
14 lease-purchase arrangement described in the notice is
15 perpetually barred."

16 SECTION 3. A new section of the College District Tax
17 Act is enacted to read:

18 "COLLEGE DISTRICT LEASE-PURCHASE ARRANGEMENTS--
19 TAX LEVY--TERMS OF LEASE-PURCHASE ARRANGEMENTS--REFUNDING OR
20 REFINANCING.--

21 A. The officials charged by law with the duty of
22 levying ad valorem taxes for the payment of bonds and
23 interest shall, in the manner provided by law, make an annual
24 levy sufficient to meet the payments due on lease-purchase
25 arrangements. Annual payments due on lease-purchase

1 arrangements may be combined with other college district
2 general obligation debt when determining the annual debt
3 service tax levy pursuant to Section 7-37-8 NMSA 1978 and the
4 College District Tax Act. This annual debt service tax levy
5 shall not exceed five dollars (\$5.00) per one thousand
6 dollars (\$1,000) of taxable value; provided, however, that
7 this limitation may be exceeded in any year in which the
8 valuation of property in the college district declines to a
9 level lower than the valuation of property in the year in
10 which the applicable debt was issued. Nothing in the College
11 District Tax Act shall be so construed as to prevent a
12 college district from applying any other legally available
13 funds, including funds that may be in its general fund or
14 investment income actually received from investments, to the
15 payments due on or any prepayment premium payable in
16 connection with such lease-purchase arrangements as the same
17 become due, and, upon such payments, the levy or levies
18 provided for in this section may, to that extent, be reduced.

19 B. Lease-purchase arrangements may:

20 (1) have interest, appreciated principal
21 value, or any part thereof, payable at intervals or at
22 maturity as may be determined by the board;

23 (2) be subject to prior redemption or
24 prepayment at the option of the board at such time or times
25 and upon such terms and conditions with or without the

1 payment of such premium or premiums as may be determined by
2 the board;

3 (3) have a final payment date or mature at
4 any time or times not exceeding five years after the date of
5 issuance;

6 (4) be payable at one time or in
7 installments or may be in such other form as may be
8 determined by the board;

9 (5) be priced at, above or below par and at
10 a price that results in a net effective interest rate that
11 does not exceed the maximum permitted by the Public
12 Securities Act; and

13 (6) be sold or issued at public sale,
14 negotiated sale or private sale to the New Mexico finance
15 authority.

16 C. The board shall not adopt a resolution for or
17 approve a lease-purchase arrangement that exceeds five years
18 or creates a total general obligation indebtedness in the
19 college district which, when combined with other outstanding
20 college district general obligation debt, exceeds three
21 percent of the assessed valuation of the taxable property
22 within the college district as shown in the preceding general
23 assessment.

24 D. College districts are authorized to enter into
25 lease-purchase arrangements for the purpose of refunding or

1 refinancing any lease-purchase arrangements then outstanding,
2 including the payment of any prepayment of redemption
3 premiums thereon and any interest accrued or to accrue to the
4 date of purchase, prepayment, redemption or maturity of the
5 outstanding lease-purchase arrangements. Until the proceeds
6 of the lease-purchase arrangements issued for the purpose of
7 refunding or refinancing outstanding lease-purchase
8 arrangements are applied to the purchase, prepayment,
9 redemption or retirement of the outstanding lease-purchase
10 arrangements, the proceeds may be placed in escrow and
11 invested and reinvested. The interest, income and profits,
12 if any, earned or realized on any such investment may, in the
13 discretion of the board, also be applied to the payment of
14 the outstanding lease-purchase arrangements to be refunded or
15 refinanced by purchase, prepayment, redemption or retirement,
16 as the case may be. After the terms of the escrow have been
17 fully satisfied and carried out, any balance of such proceeds
18 and interest, if any, earned or realized on the investments
19 thereof may be returned to the board to be used for payment
20 of the refunding or refinancing lease-purchase arrangement.
21 All such refunding or refinancing lease-purchase arrangements
22 shall be entered into under, secured and subject to the
23 provisions of the College District Tax Act in the same manner
24 and to the same extent as any other lease-purchase
25 arrangements entered into pursuant to that act."

1 SECTION 4. A new section of the College District Tax
2 Act is enacted to read:

3 "COLLEGE DISTRICT LEASE-PURCHASE ARRANGEMENTS--AGREEMENT
4 OF THE STATE--LEGAL INVESTMENTS--TAX EXEMPTION--CUMULATIVE
5 AND COMPLETE AUTHORITY.--

6 A. The state does hereby pledge to and agree with
7 the holders of any lease-purchase arrangement entered into
8 pursuant to the College District Tax Act that the state will
9 not limit or alter the rights hereby vested in college
10 districts to fulfill the terms of any lease-purchase
11 arrangement or in any way impair the rights and remedies of
12 the holders of lease-purchase arrangements until the payments
13 due thereon, and all costs and expenses in connection with
14 any action or proceedings by or on behalf of those holders,
15 are fully met and discharged. College districts are
16 authorized to include this pledge and agreement of the state
17 in any lease-purchase arrangement.

18 B. Lease-purchase arrangements entered into
19 pursuant to the College District Tax Act shall be legal
20 investments in which all insurance companies, banks and
21 savings and loan associations organized under the laws of the
22 state, public officers and public bodies and all
23 administrators, guardians, executors, trustees and other
24 fiduciaries may properly and legally invest funds.

25 C. The state covenants with the purchasers and all

1 subsequent holders and transferees of lease-purchase
2 arrangements entered into by boards, in consideration of the
3 acceptance of and payment for the lease-purchase arrangements
4 entered into pursuant to the College District Tax Act, that
5 lease-purchase arrangements and the income from the lease-
6 purchase arrangements shall at all times be free from
7 taxation by the state, except for estate or gift taxes and
8 taxes on transfers.

9 D. The College District Tax Act shall be deemed to
10 provide an additional and alternative method for acquiring
11 educational technology equipment and shall be regarded as
12 supplemental and additional to powers conferred by other laws
13 and shall not be regarded as a derogation of any powers now
14 existing. The College District Tax Act shall be deemed to
15 provide complete authority for acquiring educational
16 technology equipment and entering into lease-purchase
17 arrangements. No other approval of any state agency or
18 officer, except as provided in that act, shall be required
19 with respect to any lease-purchase arrangements, and the
20 board acting pursuant to provisions of that act need not
21 comply with the requirements of any other law applicable to
22 the issuance of debt by college districts; provided, however,
23 that a board may submit to a vote of qualified electors of
24 the college district the question of creating debt by
25 entering into a lease-purchase arrangement; and provided

1 further that the board shall abide by the vote of the
2 majority of those persons voting on the question."

3 SECTION 5. A new section of the College District Tax
4 Act is enacted to read:

5 "LIBERAL INTERPRETATION.--The College District Tax Act,
6 being necessary for the welfare of the state and its
7 inhabitants, shall be liberally construed to the effect of
8 the purposes of the act."

9 SECTION 6. A new section of the College District Tax
10 Act is enacted to read:

11 "SEVERABILITY.--If any part or application of the
12 College District Tax Act is held invalid, the remainder or
13 its application to other situations or persons shall not be
14 affected."

15 SECTION 7. EMERGENCY.--It is necessary for the public
16 peace, health and safety that this act take effect
17 immediately. _____

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