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HOUSE BILL 1304

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

DANICE PICRAUX

AN ACT

RELATING TO SCHOOL DISTRICTS; ENACTING THE EDUCATION TECHNOLOGY
EQUIPMENT ACT; AMENDING A CERTAIN SECTION OF THE NMSA 1978;
DECLARING AN EMERGENCY.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1
through 16 of this act may be cited as the "Education Technology
Equipment Act".

SECTION 2. [NEW MATERIAL] PURPOSE-- The purpose of the
Education Technology Equipment Act is to implement the provision
of Article IX, Section 11 of the constitution of New Mexico, as
approved by the voters of the state of New Mexico at the general
election held in November, 1996, which declare that a school
district may create a debt under the constitution of New Mexico
by entering into a lease-purchase arrangement to acquire

1 education technology equipment without submitting the
2 proposition to a vote of the qualified electors of the school
3 district.

4 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the
5 Education Technology Equipment Act:

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

10 B. "education technology equipment" means any
11 computer equipment, communication equipment, video equipment or
12 other technological equipment, including related hardware,
13 software, wiring, fiber optics cables, installation costs,
14 furnishings and other improvements necessary to fully utilize
15 the equipment found and determined by the local school board to
16 be education technology equipment;

17 C. "lease-purchase arrangement" means a financing
18 arrangement constituting debt of a school district pursuant to
19 which periodic lease payments composed of principal and interest
20 components are to be paid to the holder of the lease-purchase
21 arrangement and pursuant to which the owner of the education
22 technology equipment may retain title to or a security interest
23 in the equipment and may agree to release the security interest
24 or transfer title to the equipment to the school district for
25 nominal consideration after payment of the final periodic lease

Underscored material = new
[bracketed material] = delete

1 payment. "Lease-purchase arrangement" also means any debt of
2 the school district incurred for the purpose of acquiring
3 education technology equipment pursuant to the Education
4 Technology Act whether designated as a lease, bond, note, loan,
5 warrant, debenture, obligation or other instrument evidencing a
6 debt of the school district;

7 D. "local school board" means the governing body of
8 a school district; and

9 E. "school district" means an area of land
10 established as a political subdivision of the state for the
11 administration of public schools and segregated geographically
12 for taxation and bonding purposes.

13 Section 4. [NEW MATERIAL] NOTICE OF PROPOSED LEASE-
14 PURCHASE ARRANGEMENTS. --When a school district contemplates
15 entering into a lease-purchase arrangement payable in whole or
16 in part from ad valorem taxes, the local school board, before
17 initiating any proceedings for approval of such lease-purchase
18 arrangement, shall forward to the school budget planning unit of
19 the state department of public education, a written notice of
20 the proposed lease-purchase arrangement.

21 Section 5. [NEW MATERIAL] SCHOOL BUDGET PLANNING UNIT OF
22 THE STATE DEPARTMENT OF PUBLIC EDUCATION TO FURNISH INFORMATION,
23 TRANSCRIPTS OF PROCEEDINGS AND DISPOSITION. --The school budget
24 planning unit of the state department of public education, upon
25 the receipt of the notice mentioned in Section 4 of the

Underscored material = new
[bracketed material] = delete

1 Education Technology Equipment Act shall furnish all necessary
2 information with reference to the valuation, present outstanding
3 bonded indebtedness, present outstanding lease-purchase
4 arrangements and limitations as to tax rates and debt
5 contracting power and other information useful to the local
6 school board in the consideration of a proposed lease-purchase
7 arrangement. Upon entering into a lease-purchase arrangement,
8 the local school board shall prepare two true and complete
9 transcripts of proceedings relating to the lease-purchase
10 arrangement, one to be immediately filed with the school budget
11 planning unit of the department of public education and one to
12 be kept by the local school board.

13 Section 6. [NEW MATERIAL] TAX LEVY FOR PAYMENT OF LEASE-
14 PURCHASE AGREEMENT. --The officials charged by law with the duty
15 of levying ad valorem taxes for the payment of bonds and
16 interest shall, in the manner provided by law, make an annual
17 levy sufficient to meet the payments due on lease-purchase
18 arrangements. Nothing herein contained shall be so construed as
19 to prevent a school district from applying any other funds that
20 may be in its general fund or investment income actually
21 received from investments and available for that purpose to the
22 payments due or any pre-payment premium payable in connection
23 with such lease-purchase arrangements as the same become due;
24 and upon such payments, the levy or levies herein provided may
25 thereupon to that extend be reduced.

Underscored material = new
[bracketed material] = delete

1 Section 7. [NEW MATERIAL] LEASE- PURCHASE ARRANGEMENTS--
2 TERMS.--Lease purchase arrangements may:

3 A. have interest, appreciated principal value, or
4 any part thereof, payable at intervals or at maturity as may be
5 determined by the local school board;

6 B. be subject to prior redemption or prepayment at
7 the option of the local school board as such time or times and
8 upon such terms and conditions with or without the payment of
9 such premium or premiums as may be determined by the local
10 school board;

11 C. have a final payment date or mature at any time
12 or times not exceeding ten years after the date of issuance;

13 D. be payable at one time or in installments or may
14 be in such other form as may be determined by the local school
15 board;

16 E. be priced at, above or below par and at a price
17 that results in a net effective interest rate that does not
18 exceed the maximum permitted by the Public Securities Act; and

19 F. be sold or issued at public sale, negotiated sale
20 or private sale to the New Mexico finance authority.

21 Section 8. [NEW MATERIAL] RESOLUTION AUTHORIZING LEASE-
22 PURCHASE ARRANGEMENTS.--At a regular or special meeting called
23 for the purpose of approving a lease-purchase arrangement as
24 authorized in the Education Technology Equipment Act, the local
25 school board may authorize and approve a lease purchase

1 arrangement by adoption of a resolution that:

2 A. declares the necessity for entering into the
3 lease-purchase arrangement;

4 B. authorizes entering into the lease-purchase
5 arrangement by an affirmative vote of a majority of all the
6 members of the local school board; and

7 C. designates the sources of payment for the lease-
8 purchase arrangement.

9 Section 9. [NEW MATERIAL] PUBLICATION OF NOTICE--
10 VALIDATION--LIMITATION OF ACTION.--

11 A. After adoption of a resolution approving a lease-
12 purchase arrangement, the local school board shall publish
13 notice of the adoption of the resolution once in a newspaper of
14 general circulation in the school district.

15 B. After the passage of thirty days from the
16 publication required by Subsection A of this section, any action
17 attacking the validity of the proceedings had or taken by the
18 local school board preliminary to and in the authorization of an
19 entering into the lease-purchase arrangement described in the
20 notice is perpetually barred.

21 Section 10. [NEW MATERIAL] REFUNDING OR REFINANCING
22 LEASE-PURCHASE ARRANGEMENTS.--School districts are authorized to
23 enter into lease-purchase arrangements for the purpose of
24 refunding or refinancing any lease-purchase arrangements then
25 outstanding, including the payment of any pre-payment of

Underscored material = new
[bracketed material] = delete

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

23 Section 11. [NEW MATERIAL] AGREEMENT OF THE STATE. --The
24 state does hereby pledge to and agree with the holders of any
25 lease-purchase arrangement entered into under the Education

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1 Technology Equipment Act that the state will not limit or alter
2 the rights hereby vested in school districts to fulfill the
3 terms of any lease-purchase arrangement or in any way impair the
4 rights and remedies of the holders of lease-purchase
5 arrangements until the payments due thereon, and all costs and
6 expenses in connection with any action or proceedings by or on
7 behalf of those holders, are fully met and discharged. School
8 districts are authorized to include this pledge and agreement of
9 the state in any lease-purchase arrangement.

10 Section 12. [NEW MATERIAL] LEGAL INVESTMENTS FOR PUBLIC
11 OFFICERS AND FIDUCIARIES. -- Lease-purchase arrangements entered
12 into under the authority of the Education Technology Equipment
13 Act shall be legal investments in which all insurance companies,
14 banks and savings and loan associations organized under the laws
15 of the state, public officers and public bodies and all
16 administrators, guardians, executors, trustees and other
17 fiduciaries may properly and legally invest funds.

18 Section 13. [NEW MATERIAL] TAX EXEMPTION. -- The state
19 covenants with the purchasers and all subsequent holders and
20 transferees of lease-purchase arrangements entered into by the
21 local school boards, in consideration of the acceptance of and
22 payment for the lease-purchase arrangements entered into
23 pursuant to Technology Equipment Act, that lease-purchase
24 arrangements and the income from the lease-purchase arrangements
25 shall at all times be free from taxation by the state, except

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1 for estate or gift taxes and taxes on transfers.

2 Section 14. [NEW MATERIAL] CUMULATIVE AND COMPLETE
3 AUTHORITY. --The Education Technology Equipment Act shall be
4 deemed to provide an additional and alternative method for
5 acquiring education technology equipment authorized thereby and
6 shall be regarded as supplemental and additional to powers
7 conferred by other laws and shall not be regarded as a
8 derogation of any powers now existing. The act shall be deemed
9 to provide complete authority for acquiring education technology
10 equipment and entering into lease-purchase arrangements
11 contemplated thereby and no other approval of any state agency
12 or officer, except as provided therein, shall be required with
13 respect to any lease-purchase arrangements and the local school
14 board acting thereunder need not comply with the requirements of
15 any other law applicable to the issuance of debt by school
16 districts.

17 Section 15. LIBERAL INTERPRETATION. --The Education
18 Technology Equipment Act, being necessary for the welfare of the
19 state and its inhabitants, shall be liberally construed to the
20 effect of the purposes of the act.

21 Section 16. SEVERABILITY. --If any part or application of
22 the Education Technology Equipment Act is held invalid, the
23 remainder or its application to other circumstances shall not be
24 affected.

25 Section 17. Section 7-37-8 NMSA 1978 (being Laws 1978,

Underscored material = new
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1 Chapter 128, Section 1, as amended) is amended to read:
2 "7-37-8. SCHOOL TAX RATES. --No later than August 15 of
3 each year, the state department of public education shall submit
4 to the secretary of finance and administration the property tax
5 rates for the succeeding tax year for each school district and
6 the commission on higher education shall submit to the secretary
7 of finance and administration the property tax rates for the
8 succeeding tax year for each technical and vocational district,
9 area vocational school district, junior college district and
10 branch community college district. The rates required to be
11 submitted pursuant to this section shall separately state by
12 county and by school district the rate to be levied for
13 operational purposes and the rate to be levied for payment of
14 principal and interest on general obligation ~~bonds~~ debt issued
15 or entered into by the district. "

16 Section 18. EMERGENCY. --It is necessary for the public
17 peace, health and safety that this act take effect immediately.

State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 12, 1997

Mr. Speaker:

Your EDUCATION COMMITTEE, to whom has been referred

HOUSE BILL 1304

has had it under consideration and reports same with
recommendation that it DO PASS amended as follows:

1. On page 1, line 23, strike "declare" and insert in lieu
thereof "declares".

2. On page 4, line 25, strike "extend" and insert in lieu
thereof "extent".

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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3. On page 6, line 17, strike "had or" and on line 18,
strike "an" and insert in lieu thereof "and".

Respectfully submitted,

Samuel F. Vigil, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Beam, McSherry, Nicely, Wright

Absent: None

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FORTY-THIRD LEGISLATURE

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March 14, 1997

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HOUSE FLOOR AMENDMENT number 1 to HOUSE BILL 1304, as amended

Amendment sponsored by Representative Danice Picraux

1. On page 7, lines 17 and 18, strike "for use in any lawful manner" and insert in lieu thereof "to be used for payment of the refunding or refinancing lease-purchase arrangement".

Danice Picraux

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 18, 1997

Mr. President:

Your EDUCATION COMMITTEE, to whom has been referred

HOUSE BILL 1294, as amended

has had it under consideration and reports same with recommendation that
it DO PASS.

Respectfully submitted,

Cynthia Nava, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

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FORTY-THIRD LEGISLATURE
FIRST SESSION

1 HB 1304, aa

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3 Date _____

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The roll call vote was 7 For 0 Against

6

Yes: 7

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No: 0

8

Excused: Duran, Garcia, Maloof

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Absent: None

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 18, 1997

Mr. President:

Your EDUCATION COMMITTEE, to whom has been referred

HOUSE BILL 1304, as amended

has had it under consideration and reports same with recommendation that
it DO PASS.

Respectfully submitted,

Cynthia Nava, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

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FORTY-THIRD LEGISLATURE
FIRST SESSION

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3 Date _____

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The roll call vote was 7 For 0 Against

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Yes: 7

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No: 0

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Excused: Duran, Garcia, Maloof

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Absent: None

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FORTY-THIRD LEGISLATURE

FIRST SESSION

March 19, 1997

SENATE FLOOR AMENDMENT number _____ to HOUSE BILL 1304, as amended

Amendment sponsored by Senator Cynthia Nava

1. On page 2, line 10, strike "any", strike all of lines 11 through 15, strike line 16 up to the semicolon and insert in lieu thereof:

"tools used in the educational process that constitute learning resources and may include closed-circuit television systems, educational television and radio broadcasting, cable television, satellite, copper and fiber optic transmission, computer, video and audio laser and CD ROM discs, video and audio tapes or other technologies and the maintenance, equipment and computer infrastructure information, techniques and tools used to implement technology in classrooms and library and media centers".

2. On page 5, line 12, strike "ten" and insert in lieu thereof "five".

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[bracketed material] = delete

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Cynthi a Nava

Adopted _____ Not Adopted _____
(Chi ef Clerk) (Chi ef Clerk)

Date _____

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