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AN ACT  
RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL LEASE  
PURCHASE ACT TO CLARIFY THE DEFINITION OF "GOVERNING BODY";  
ESTABLISHING THE RELATIONSHIP BETWEEN A GOVERNING BODY AND A  
SCHOOL DISTRICT OR A CHARTER SCHOOL IN THE ACQUISITION OF  
PUBLIC SCHOOL FACILITIES PURSUANT TO LEASE PURCHASE  
ARRANGEMENTS; REPEALING A SECTION OF THE NMSA 1978.

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

SECTION 1. Section 22-26A-3 NMSA 1978 (being Laws 2007,  
Chapter 173, Section 3) is amended to read:

"22-26A-3. DEFINITIONS.--As used in the Public School  
Lease Purchase Act:

A. "financing agreement" or "lease purchase  
arrangement" means an agreement for the leasing of a building  
or other real property with an option to purchase for a price  
that is reduced according to the payments made, which  
periodic lease payments composed of principal and interest  
components are to be paid to the holder of the agreement and  
pursuant to which the owner of the building or other real  
property may retain title to or a security interest in the  
building or other real property and may agree to release the  
security interest or transfer title to the building or other  
real property to the school district for nominal  
consideration after payment of the final periodic lease  
payment; and

B. "governing body" means:

1 (1) the governing structure of a charter  
2 school, as set forth in its approved charter; or

3 (2) a local school board as the governing  
4 structure of a school district."

5 SECTION 2. Section 22-26A-4 NMSA 1978 (being Laws 2007,  
6 Chapter 173, Section 4, as amended) is amended to read:

7 "22-26A-4. NOTICE OF PROPOSED LEASE PURCHASE  
8 ARRANGEMENT--APPROVAL OF DEPARTMENT.--

9 A. When a governing body determines, pursuant to  
10 Subsection B of Section 22-26A-6 NMSA 1978, that a lease  
11 purchase arrangement is in the best interest of the school  
12 district or the charter school, the governing body shall  
13 forward to the department a copy of the proposed lease  
14 purchase arrangement and the source of funds that the  
15 governing body has identified to make payments due under the  
16 lease purchase arrangement.

17 B. A governing body shall not enter into a lease  
18 purchase arrangement without the approval of the department."

19 SECTION 3. Section 22-26A-5 NMSA 1978 (being Laws 2007,  
20 Chapter 173, Section 5, as amended) is amended to read:

21 "22-26A-5. LEASE PURCHASE ARRANGEMENTS--TERMS.--Lease  
22 purchase arrangements:

23 A. may have payments payable annually or more  
24 frequently as determined by the governing body;

25 B. may be subject to prepayment at the option of  
the governing body at such time or times and upon such terms  
and conditions with or without the payment of such premium or

1 premiums as determined by the governing body;

2 C. may have a final payment date not exceeding  
3 thirty years after the date of execution;

4 D. may be acquired or executed at a public or  
5 negotiated sale;

6 E. may be entered into between the governing body  
7 and the owner of the building or other real property who may  
8 be a trustee or other person that issues or sells  
9 certificates of participation or other interests in the  
10 payments to be made under the lease purchase arrangement, the  
11 proceeds of which may be used to acquire the building or  
12 other real property;

13 F. shall specify the principal and interest  
14 component of each payment made under the lease purchase  
15 arrangement; provided that the net effective interest rate  
16 shall not exceed the maximum permitted by the Public  
17 Securities Act;

18 G. shall provide that, if the school district or  
19 charter school makes capital improvements to the building or  
20 other real property, there shall be no change in the lease  
21 payments or final payment without a written amendment  
22 approved by the department;

23 H. shall provide that, if state, school district  
24 or charter school funds, above those required for lease  
25 payments, are used to construct or acquire improvements, the  
cost of the improvements shall constitute a lien on the real  
estate in favor of the school district or charter school and

1 then, if the lease purchase arrangement is terminated prior  
2 to the final payment and the release of the security interest  
3 or the transfer of title at the option of the school district  
4 or charter school:

5 (1) the school district or charter school  
6 may foreclose on the real estate lien; or

7 (2) the current market value of the building  
8 or other real property at the time of termination, as  
9 determined by an independent appraisal certified by the  
10 taxation and revenue department, in excess of the outstanding  
11 principal due under the lease purchase arrangement shall be  
12 paid to the school district or charter school;

13 I. shall provide that there is no legal obligation  
14 for the school district or charter school to continue the  
15 lease purchase arrangement from year to year or to purchase  
16 the building or other real property;

17 J. shall provide that the lease purchase  
18 arrangement shall be terminated if sufficient money is not  
19 available to meet any current lease payment;

20 K. shall provide that, with the prior approval of  
21 the lessor, which shall not be unreasonably withheld, the  
22 lease purchase arrangement is assignable, without cost to the  
23 school district, or charter school and with all of the rights  
24 and benefits of its predecessor in interest being transferred  
25 to the assignee, to:

- (1) a school district or charter school; or
- (2) the state or one of its institutions,

1 instrumentalities or other political subdivisions; and

2 L. shall provide that amendments to the lease  
3 purchase arrangement, except amendments that would improve  
4 the building or other real property without additional  
5 financial obligations to the school district or charter  
6 school, shall be approved by the department."

7 SECTION 4. Section 22-26A-6 NMSA 1978 (being Laws 2007,  
8 Chapter 173, Section 6, as amended) is amended to read:

9 "22-26A-6. AUTHORIZING LEASE PURCHASE ARRANGEMENTS--  
10 RESOLUTION.--

11 A. If a governing body proposes to acquire a  
12 building or other real property through a lease purchase  
13 arrangement, it shall comply with the requirements of this  
14 section and the provisions of the Open Meetings Act.

15 B. At a regular meeting or at a special meeting  
16 called for the purpose of considering the acquisition of a  
17 building or other real property through a lease purchase  
18 arrangement, a governing body shall:

19 (1) make a determination of the necessity  
20 for acquiring the building or other real property through a  
21 lease purchase arrangement;

22 (2) determine the estimated cost of the  
23 buildings or other real property needed;

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

(4) identify the source of funds for the  
lease purchase payments;

1 (5) if obtaining all or part of the funds  
2 needed requires or anticipates the imposition of a property  
3 tax, determine the estimated rate of the tax and what, if  
4 any, the percentage increase in property taxes will be for  
5 real property owners in the school district; and

6 (6) if the governing body determines that  
7 the lease purchase arrangement is in the best interest of the  
8 school district or charter school, forward a copy of the  
9 arrangement to the department pursuant to Section 22-26A-4  
10 NMSA 1978.

11 C. After receiving department approval of the  
12 lease purchase arrangement, the governing body may adopt a  
13 final resolution approving the lease purchase of the building  
14 or other real property.

15 D. If a local school board finds that obtaining  
16 all or part of the funds needed for a lease purchase  
17 arrangement requires the imposition of a property tax, the  
18 board may adopt a resolution to be presented to the voters  
19 pursuant to Section 22-26A-8 NMSA 1978.

20 E. If the governing body of a charter school finds  
21 that obtaining all or part of the necessary funds requires  
22 the imposition of a property tax, the local school board of  
23 the school district in which the charter school is located  
24 may adopt a resolution to be presented to the voters,  
25 pursuant to Section 22-26A-8 NMSA 1978; provided that the  
governing body of the charter school has notified the local  
school board that the charter school has been approved to

1 enter into a lease purchase arrangement and has identified  
2 revenue from the proposed tax as a necessary source of funds.

3 The local school board:

4 (1) shall include the tax revenue needed by  
5 the charter school in the resolution if the school's charter  
6 has been renewed at least once; and

7 (2) may include the tax revenue needed by  
8 the charter school in the resolution if the charter school is  
9 a locally chartered charter school prior to its first renewal  
10 term.

11 F. If a local school board adopts a resolution  
12 that includes tax revenue for a charter school, and, if the  
13 tax is approved in an election pursuant to Sections 22-26A-8  
14 through 22-26A-12 NMSA 1978, the local school board shall  
15 distribute an amount of the tax revenue, as established in  
16 its resolution, to the charter school to be used in the lease  
17 purchase arrangement.

18 G. The local school board shall not adopt a  
19 resolution for or approve a lease purchase arrangement for a  
20 term that exceeds thirty years."

21 SECTION 5. Section 22-26A-7 NMSA 1978 (being Laws 2007,  
22 Chapter 173, Section 7, as amended) is amended to read:

23 "22-26A-7. PAYMENTS UNDER LEASE PURCHASE  
24 ARRANGEMENTS.--A school district or charter school may apply  
25 any legally available funds to acquire or improve buildings  
or other real property subject to a lease purchase  
arrangement or to the payments due under a lease purchase

1 arrangement, including any combination of:

2 A. money from the school district's or charter  
3 school's general fund;

4 B. investment income actually received from  
5 investments;

6 C. proceeds from taxes imposed pursuant to the  
7 Public School Capital Improvements Act or the Public School  
8 Buildings Act;

9 D. loans, grants or lease payments received from  
10 the public school capital outlay council pursuant to the  
11 Public School Capital Outlay Act;

12 E. state distributions to the school district or  
13 charter school pursuant to the Public School Capital  
14 Improvements Act;

15 F. fees or assessments received by the school  
16 district;

17 G. proceeds from the sale of real property and  
18 rental income received from the rental or leasing of school  
19 district or charter school property;

20 H. grants from the federal government as  
21 assistance to those areas affected by federal activity  
22 authorized in accordance with Title 20 of the United States  
23 Code, commonly known as "PL 874 funds" or "impact aid";

24 I. revenues from the tax authorized pursuant to  
25 Sections 22-26A-8 through 22-26A-12 NMSA 1978, if proposed by  
the local school board and approved by the voters; and

J. legislative appropriations."

1 SECTION 6. Section 22-26A-13 NMSA 1978 (being Laws  
2 2007, Chapter 173, Section 13) is amended to read:

3 "22-26A-13. PUBLICATION OF NOTICE--VALIDATION.--

4 A. After adoption of a resolution approving a  
5 lease purchase arrangement, the governing body shall publish  
6 notice of the adoption of the resolution once in a newspaper  
7 of general circulation in the school district in which the  
8 governing body's school is located.

9 B. After the passage of thirty days from the  
10 publication required by Subsection A of this section, any  
11 action attacking the validity of the proceedings taken by the  
12 governing body preliminary to and in the authorization of and  
13 entering into the lease purchase arrangement described in the  
14 notice is perpetually barred."

15 SECTION 7. Section 22-26A-14 NMSA 1978 (being Laws  
16 2007, Chapter 173, Section 14) is amended to read:

17 "22-26A-14. REFUNDING OR REFINANCING LEASE PURCHASE  
18 ARRANGEMENTS.--School districts and charter schools may enter  
19 into lease purchase arrangements for the purpose of refunding  
20 or refinancing any lease purchase arrangements then  
21 outstanding, including the payment of any prepayment premiums  
22 thereon and any interest accrued or to accrue to the date of  
23 prepayment maturity of the outstanding lease purchase  
24 arrangements. Until the proceeds of the lease purchase  
25 arrangements issued for the purpose of refunding or  
refinancing outstanding lease purchase arrangements are  
applied to the prepayment or retirement of the outstanding

1 lease purchase arrangements, the proceeds may be placed in  
2 escrow and invested and reinvested. The interest, income and  
3 profits, if any, earned or realized on any such investment  
4 may, in the discretion of the governing body, also be applied  
5 to the payment of the outstanding lease purchase arrangements  
6 to be refunded or refinanced by prepayment or retirement, as  
7 the case may be. After the terms of the escrow have been  
8 fully satisfied and carried out, any balance of such proceeds  
9 and interest, if any, earned or realized on the investments  
10 thereof may be returned to the governing body to be used for  
11 payment of the refunding or refinancing lease purchase  
12 arrangement. If the proceeds from a tax imposed pursuant to  
13 Sections 22-26A-8 through 22-26A-12 NMSA 1978 were used as a  
14 source of payments for the refunded lease purchase  
15 arrangement, the proceeds may continue to be used for the  
16 refunding or refinancing lease purchase arrangements without  
17 the requirement of an additional election on the issue."

18 SECTION 8. Section 22-26A-15 NMSA 1978 (being Laws  
19 2007, Chapter 173, Section 15, as amended) is amended to  
20 read:

21 "22-26A-15. AGREEMENT OF THE STATE.--The state does  
22 hereby pledge to and agree with the holders of any lease  
23 purchase arrangement, certificates of participation or other  
24 partial interest in a lease purchase arrangement entered into  
25 under the Public School Lease Purchase Act that the state  
will not limit or alter the rights vested in school districts  
or charter schools to fulfill the terms of any lease purchase

1 arrangement or related sublease arrangement or in any way  
2 impair the rights and remedies of the holders of lease  
3 purchase arrangements, certificates of participation or other  
4 partial interests in lease purchase arrangements until the  
5 payments due thereon, and all costs and expenses in  
6 connection with any action or proceedings by or on behalf of  
7 those holders, are fully met and discharged. School  
8 districts and charter schools are authorized to include this  
9 pledge and agreement of the state in any lease purchase  
10 arrangement or related sublease arrangement."

11 SECTION 9. Section 22-26A-17 NMSA 1978 (being Laws  
12 2007, Chapter 173, Section 17, as amended) is amended to  
13 read:

14 "22-26A-17. TAX EXEMPTION.--The state covenants with  
15 the original holder and all subsequent holders and  
16 transferees of lease purchase arrangements entered into by  
17 governing bodies, in consideration of the acceptance of and  
18 payment for the lease purchase arrangements entered into  
19 pursuant to the Public School Lease Purchase Act, that lease  
20 purchase arrangements, certificates of participation and  
21 other partial interests in lease purchase arrangements and  
22 the interest income from the lease purchase arrangements,  
23 certificates of participation and other partial interests  
24 shall at all times be free from taxation by the state, except  
25 for estate or gift taxes and taxes on transfers."

SECTION 10. Section 22-26A-18 NMSA 1978 (being Laws  
2007, Chapter 173, Section 18) is amended to read:

1 "22-26A-18. CUMULATIVE AND COMPLETE AUTHORITY.--The  
2 Public School Lease Purchase Act shall be deemed to provide  
3 an additional and alternative method for acquiring buildings  
4 and other real property authorized thereby and shall be  
5 regarded as supplemental and additional to powers conferred  
6 by other laws and shall not be regarded as a derogation of  
7 any powers now existing. The Public School Lease Purchase  
8 Act shall be deemed to provide complete authority for  
9 acquiring buildings and other real property and entering into  
10 lease purchase arrangements contemplated thereby, and no  
11 other approval of any state agency or officer, except as  
12 provided therein, shall be required with respect to any lease  
13 purchase arrangements, and the governing body acting  
14 thereunder need not comply with the requirements of any other  
15 law applicable to the issuance of debt by school districts."

16 SECTION 11. REPEAL.--Section 22-26A-19 NMSA 1978 (being  
17 Laws 2007, Chapter 173, Section 19, as amended) is repealed.

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18 SECTION 12. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is July 1, 2015. \_\_\_\_\_  
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