

LFC Requester:	Rachel Gudgel
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**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment** _____

Correction _____ **Substitute** _____

Date Feb. 10, 2015

Bill No: HB 382

Sponsor: Rep. Brian Egolf **Agency Code:** Attorney General's Office - 305

Short Title: Some Debt Questions To School District Voters **Person Writing:** Joseph Dworak, AAG

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

BILL SUMMARY

Synopsis: House Bill 382 amends several sections of the Education Technology Equipment Act (NMSA 1978, §§6-15A-1 to -16) to allow local school boards to submit the question to enter into lease-purchase arrangement for technology equipment to the voters of the school district.

FISCAL IMPLICATIONS N/A

SIGNIFICANT ISSUES

The language in HB 382 may conflict with the state constitution by imposing certain parameters which would restrict a school district’s constitutional authority to enter into lease-purchase arrangements. Article 9, Section 11 of the New Mexico Constitution provides: “A school district may create a debt by entering into a lease-purchase arrangement to acquire education technology equipment without submitting the proposition to a vote of the qualified electors of the district ...” Additionally, current Subsection 6-15A-14(A) states the Educational Technology Equipment Act “shall not be regarded as a derogation of any powers now existing.” Page 5, lines 2 to 4 of HB 382, proposed Subsection 6-15A-8(D), provides if the issue is put to voters and the voters reject the question for incurring debt, “the local school board shall not enter into a lease-purchase arrangement for education technology equipment for at least one year.” Although the state constitution’s grant of authority for districts to enter into lease-purchase arrangements is not explicitly unlimited, some consideration to be given to whether imposing such restrictions as waiting one year after voters reject the question would create an unintended conflict.

Proposed Subsection 6-15A-8(D), as currently written, would prohibit a district from entering into any lease-purchase arrangement for one year if a question proposing a lease-purchase arrangement is presented to and rejected by the voters. It is unclear whether the intent is to prohibit districts from entering into a lease-purchase arrangement that is the same as rejected by the voters or if districts are prohibited from entering into any lease-purchase arrangement for any education technology equipment for one year after voters reject any proposed lease-purchase arrangement. If the intent is to prohibit any lease-purchase arrangement for a year, the language does not need revision.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

- 1) Page 1, line 24 should specify how the school is entering into the arrangement. Suggested change: "... purchase arrangement on its own determination as provided in Article 9, Section 11 of ..." Additional language would be consistent with identical clarifying language proposed in Subsection 6-15A-8(A) of HB 382.
- 2) Page 4, lines 11 to 23 of HB 382, in Subsection 6-15A-14(A), the Education Technology Equipment Act is referenced by its full name in the first and second sentences, but the third sentence only includes two references to "that act." The first reference in the third sentence should be the full name of the act or, alternatively, the act should only be referenced by its full name once in the first sentence and consistent references should be applied to the rest of the Subsection.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A