

<b>LFC Requester:</b>	<b>Mark Valenzuela</b>
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**AGENCY BILL ANALYSIS  
2019 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

**[DFA@STATE.NM.US](mailto: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: Date 2/4/19  
**Original**     **Amendment**        **Bill No:** SB322  
**Correction**     **Substitute**   

**Sponsor:** Sen. John M. Sapien    **Agency Code:** 924  
**Short Title:** COLLEGE DISTRICT LEASE-PURCHASE AGREEMENTS    **Person Writing** Daniel Manzano  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
NFI	NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY19</b>	<b>FY20</b>	<b>FY21</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	NFI	NFI	NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

None identified at this time.

Duplicates/Relates to Appropriation in the General Appropriation Act

None identified at this time.

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

SB 322 relates to higher education. The bill amends the College District Tax Act. SB 322 adds definitions including definitions for debt, education technology equipment, and lease-purchase arrangement. The bill adds new sections including a section on notice, process for approving lease purchase arrangements, and limitation of action, and it includes a section for tax levy, terms of lease purchase arrangements, and refunding or refinancing.

SB 322 includes a section on college district lease purchase arrangements, agreement of the state, legal investments, tax exemption, and cumulative and complete authority. It adds a section providing that the provisions shall be interpreted with a liberal interpretation, and a severability clause is included. The effective date of the bill would be effective immediately as part of an emergency clause.

**FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

**SIGNIFICANT ISSUES**

An AG Opinion 08-01 was issued on February 15, 2008, regarding provisions similar to an extent. The AG Opinion stated that the Education Technology Equipment Act's definition of lease purchase arrangement was invalid to the extent it includes debt incurred from the acquisition of educational technology equipment that is not a lease purchase arrangement contemplated under Article IX Section 11(C).

The AG Opinion noted that Article IX Section 11(C) provides an exception from the general

restrictions under Article IX, Section 11(A) of the state constitution which both generally restricts the purposes for which a school district may borrow money and requires the prior approval of the district's voters on the proposition to create the debt. Article IX Section 11(C) provides that 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.

The Attorney General Opinion wrote in its opinion that the exception clearly and unambiguously applied only to debt in the form of "a lease-purchase arrangement", and on its face, the provision does not except other forms of debt incurred by a school district to acquire education technology equipment.

The currently proposed provisions may clarify further what precise terms should be included in the "lease-purchase arrangements", to avoid it from falling under the category of debt otherwise prohibited by state constitution. It would also help eliminate questions about whether an agreement or arrangement meets the terms of the lease-purchase arrangement, or whether it falls under a debt contrary to the provisions of the Article IX, Section 11(A).

This would assist entities seeking financing in knowing what terms to include, and in the event of a default in terms on any agreement, it may assist with avoiding any appearances that the state or another public entity is otherwise bound by an agreement to which it is not directly a party.

#### **PERFORMANCE IMPLICATIONS**

None identified at this time.

#### **ADMINISTRATIVE IMPLICATIONS**

None identified at this time.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None identified at this time.

#### **TECHNICAL ISSUES**

None identified at this time.

#### **OTHER SUBSTANTIVE ISSUES**

None identified at this time.

#### **ALTERNATIVES**

None identified at this time.

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

None identified at this time.

## **AMENDMENTS**

None identified at this time.