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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/10/13

SPONSOR Larrañaga LAST UPDATED \_\_\_\_\_ HB 314

SHORT TITLE Charter School Facility Procedures SB \_\_\_\_\_

ANALYST Gudgel

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

For the Public School Capital Outlay Oversight Task Force and the Legislative Education Study Committee

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration (DFA)  
 Public Education Department (PED)  
 Public School Facilities Authority (PSFA)

### SUMMARY

#### Synopsis of Bill

House Bill 314 enacts a new section of the Public School Capital Outlay Act requiring the Public School Capital Outlay Council to develop a program for assisting charter schools to be located in public buildings or in lease-purchase agreements. The bill also creates a new Charter School Capital Outlay Fund and establishes criteria for grant awards from the fund. Both of these sections were repealed July 1, 2012.

### FISCAL IMPLICATIONS

This bill creates a new fund, the Charter School Capital Outlay Fund, and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

The Charter School Capital Outlay Fund was repealed effective July 1, 2012. Re-establishing the fund will allow state-chartered charter schools to seek a grant from the Public School Capital Outlay Council to assist in making the local match needed for an approved public school capital outlay project. If funds are available, the PSCOC may make grant awards to both state and locally chartered charter schools for the purpose of being located in a public building or acquiring a building, in the following priority order:

- Grant to a state-chartered charter school for its share of a PSCOC project;
- Grants to local or state charter schools to assist them to be located in public buildings or in buildings being acquired by charter schools pursuant to a lease-purchase agreement.

### **SIGNIFICANT ISSUES**

There are currently 95 charter schools in New Mexico, and this number continues to grow. Charter schools do not have a sufficient capital funding source, making it difficult to obtain adequate spaces and difficult to meet the statutory requirement that they be located in public buildings by 2015. Charter schools are not able to self-impose a debt service or tax levy for major capital needs – if certain conditions are met, charter schools are included in local SB9 and HB33 tax elections, and receive a per-MEM allocation based on enrollment. Other capital funding sources include direct legislative appropriations and/or lease assistance payments from the lease payment assistance program.

Until July 1, 2012, there were not any state-chartered charter schools that were able to seek matching funds needed for an approved public school capital outlay project because the Public Education Commission as authorized to authorize charter schools in 2007 – a charter school must be renewed at least once before they are eligible to apply for standards-based funding (charter schools have a 5 year renewal term). All charter schools facilities (state-chartered and district-chartered) are ranked alongside other public school facilities in the statewide ranked list of facility needs maintained by the Public School Facilities Authority (PSFA) – charter schools get included in this ranked list after they are renewed at least once. Reinstating the fund will allow state-chartered charter schools to seek assistance with the local match requirement for standards based projects when funds are appropriated to the fund.

Re-establishing the fund and the statutory language requiring the PSCOC to assist charter schools to be located in public buildings will assist charter schools in meeting the requirement to be located in public facilities by July 1, 2015 pursuant to Section 22-8B-4.2 NMSA 1978. Currently, the majority of charter schools are located in private facilities.

### **ADMINISTRATIVE IMPLICATIONS**

The fund and the program to assist charter schools in being located in public buildings existed up to July 1, 2012 when the fund was repealed. There are very few administrative implications as the PSCOC made allocations from the fund and will not need to develop a new program for making allocations from the fund.

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

House Bill 268 will reduce the number of districts that qualify for waivers of the local match under the standards-based capital outlay process. All locally-chartered and state-chartered

charter schools qualify for a waiver using the same criteria as the school district in which they reside.

### **OTHER SUBSTANTIVE ISSUES**

#### According to PSFA

Laws 2007, Chapter 214 (Senate Bill 634), established the Charter School Capital Outlay Fund and provided for distribution of funds for making grants to state-chartered charter schools to assist with meeting the local match for PSCOC projects. The legislature appropriated \$4.5 million in severance tax bonds in 2007 to fund this distribution.

Prior to June 30, 2011 the Charter Fund incurred \$3,141,442.46 in expenditures. The Board of Finance executed an operating transfer to revert \$1,358,557.54 to the Severance Tax Bonding Fund leaving a \$0 balance in the fund for future awards.

The principal reason for the un-awarded/un-expended amount reverted was due to the prerequisite of eligibility for a standards-based award that charter schools be renewed at least once pursuant to Paragraph A of Section 22-8B-4.2 NMSA 1978. Renewal of a schools charter occurs five years after initial authorization (six including the planning year) and every five years thereafter. Due to this requirement, state-chartered charter schools that were only recently created were ineligible for a standards-based award.

### **ALTERNATIVES**

Require school districts to add charter schools to resolutions when they go to the voters for approval of local general obligation bonds.

RSG/svb