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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 2nd Session, 2024

Bill Number	<u>HB207</u>	Sponsor	<u>Garratt/Hernandez</u>
Tracking Number	<u>.227052.2</u>	Committee Referrals	<u>HEC/HAFC</u>
Short Title	<u>Public School Capital Outlay Grants</u>		
Analyst	<u>Bedeaux</u>	Original Date	<u>1/30/2024</u>
		Last Updated	<u>2/7/2024</u>

BILL SUMMARY

Synopsis of House Appropriations and Finance Committee Amendment

The House Appropriations and Finance Committee amendment to House Bill 207 (HB207/aHAFC) strikes a \$10 million appropriation for loans pursuant to the charter school facility revolving fund.

Synopsis of Bill

House Bill 207 (HB207) would require that the Public School Capital Outlay Council (PSCOC) make an annual distribution for the lease assistance program. Currently, disbursements for the lease assistance program are optional and are made at PSCOC's discretion. HB207 also contains a \$10 million appropriation for loans pursuant to the charter school facility revolving fund.

FISCAL IMPACT

HB207/aHAFC amends the lease assistance program in the Public School Capital Outlay Act, making the program a mandatory distribution, rather than an optional distribution. Despite the program being optional under current law, PSCOC has never opted to forego the lease assistance distribution since the program's inception. For FY24, [PSCOC distributed \\$21.8 million to 109 charter schools](#). HB207/aHAFC will not result in a significant impact to the public school capital outlay fund and will not limit PSCOC's capacity to fund public school construction projects.

[Section 6-21-6.16 NMSA 1978](#) contains the governing statute for the charter school revolving fund, a fund administered by the New Mexico Finance Authority (NMFA). NMFA staff explained the original \$10 million appropriation to the charter school facility revolving fund was difficult to expend for two reasons:

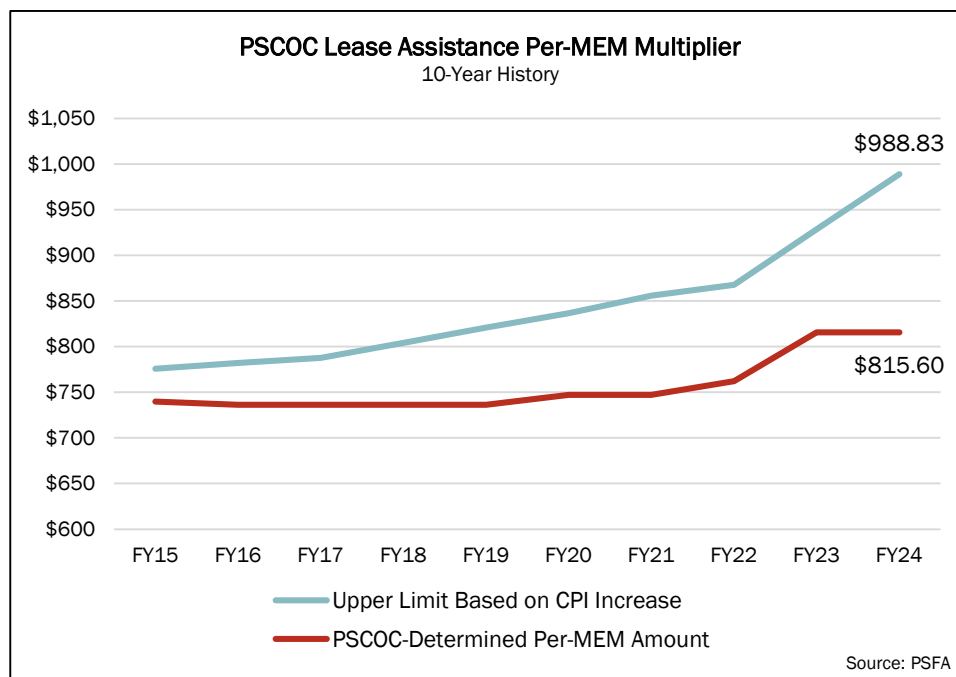
1. The amount was too small to make meaningful loans for charter school facilities; and
2. The discretionary nature of the lease assistance program made the revenues from the program uncertain, negatively impacting charter schools' credit on loan applications.

Analysis from NMFA indicates codifying the lease assistance program as a reliable annual revenue stream for charter schools will improve their favorability on loan applications, and increasing the amount available for charter school facility loans will help NMFA make charter school facility loans with a greater impact.

SUBSTANTIVE ISSUES

HB207/aHAFC would maintain continued annual support for lease assistance from the public school capital outlay fund. The charter school lease assistance program was established by [Laws 2004, Chapter 125 \(Senate Bill 399\)](#) to support charter school facility costs by covering a portion of their lease. Under the lease assistance program, charter schools are entitled to the lesser of two calculations: the actual cost of the school’s lease, or the school’s membership (MEM) times a per-MEM amount.

While HB207/aHAFC would make the lease assistance distribution mandatory rather than discretionary, the bill would not eliminate certain discretionary aspects of the lease assistance program, such as the ability of PSCOC to set the annual per-MEM distribution rate. Statute establishes an upper limit for the program; the limit was set at \$700 per MEM in FY09, adjusted annually based on the percent increase of the consumer price index (CPI). In FY24, the upper limit of the program was \$988.83 per MEM. While statute requires that payments “not exceed” the upper limit, PSCOC is able to set a lower per-MEM multiplier at the council’s discretion. In December 2023, at the recommendation of Public School Facilities Authority (PSFA) staff, PSCOC voted to hold the program multiplier flat at \$815.60 per MEM. In discussion at the PSCOC awards subcommittee, PSCOC members pointed out that there is little evidence to suggest that the actual cost of leases is increasing every year in tandem with the CPI.



The charter school facility revolving fund was created by [Laws 2022, Chapter 19 \(House Bill 48\)](#) to provide charter schools with loans for the purchase, construction, expansion, or renovation of facilities or to pay off lease-purchase agreements. By virtue of being unable to levy taxes, charter schools are unable to generate funds specifically for capital expenditures using the same tax

structures available to school districts. The charter school facility revolving fund was created to give charter schools a new source of revenue for facility expenditures. Statute also includes general requirements charter schools must meet to be eligible for facility loans from NMFA; namely, charter schools must have been renewed at least once, have two satisfactory audits, and have lease-purchase agreements that comply with the Public School Lease Purchase Act.

ADMINISTRATIVE IMPLICATIONS

To achieve the stated purpose of the appropriation, DFA would be required to transfer the funds to the charter school facility revolving fund. Alternatively, the Legislature could consider amending the appropriation to be made directly to the charter school facility revolving fund.

OTHER SIGNIFICANT ISSUES

The lease assistance program is open to school districts and charter schools alike, but currently, only charter schools receive lease assistance payments. Analysis from PSFA points out the lease assistance program has benefited from recent amendments. [Laws 2022, Chapter 19 \(House Bill 48\)](#) increased the state’s share of lease assistance to charter schools by changing the methodology for lease reimbursement to include the total square footage of a leased facility, rather than the eligible classroom and administrative square footage.

Similar to other aspects of the Public School Capital Outlay Act, the lease assistance program has been amended piecemeal over two decades, contributing to a complicated system that is difficult for schools to navigate. PSCOC, PSFA, and the Public School Capital Outlay Oversight Task Force (PSCOOTF) have begun to consider changes to other aspects of the act, including the state and local match calculation and the statutory waiver criteria. It may be prudent for the Legislature to revisit the entirety of the Public School Capital Outlay Act. [A joint presentation by LESC and LFC staff to PSCOOTF](#) in November 2023 urged the task force to envision what the “ideal system” for school facility funding should look like, then adjust the law to better reflect that system.

RELATED BILLS

Related to SB76, School Local Share Adjustment Waiver, which makes a technical change to the Public School Capital Outlay Act to ensure micro-districts maintain eligibility for waivers of required their local match throughout the temporary local match reduction.

SOURCES OF INFORMATION

- LESC Files
- New Mexico Finance Authority (NMFA)
- Public School Facilities Authority (PSFA)

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