

LFC Requester:

Cally Carswell

**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*Date Prepared: 1/30/2026

Check all that apply:

Bill Number: HB149Original  Correction Amendment  Substitute Sponsor: Garratt, Ortez, and JohnsonShort Title: CHARTER SCHOOLS &NMFAAgency Name  
and CodeNM Public School Facilities  
Authority 940

Number:

Person Writing

Marcos TrujilloPhone: 505-810-2123Email [mtrujillo@nmpsfa.org](mailto:mtrujillo@nmpsfa.org)**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
	20,000.0	Nonrecurring	PCOF
	5,300.0	Recurring	PCOF (lease assistance)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis ( ) indicate revenue decreases)

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

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

#### **Synopsis:**

House Bill 149 (HB149) amends the New Mexico Finance Authority Act definition for "qualified entity" to include a nonprofit foundation or support organization affiliated with a charter school. The bill authorizes the New Mexico Finance Authority (NMFA) to make loans from the "Charter School Facility Revolving Fund (revolving fund)" to nonprofit foundations or support organizations affiliated with charter schools. The loans can be used to purchase, build, expand, or renovate facilities or to pay off lease-purchase agreements. In the bill, the funding mechanism for the revolving fund includes a one-time transfer from the Public School Capital Outlay Fund (PSCOF) in the amount of twenty million dollars (\$20 million). Money held in the revolving fund is deemed to be used for necessary administrative and other costs incurred by NMFA in evaluating, processing, originating and servicing loans.

HB149 amends the Public School Capital Outlay Act (PSCOA) by adjusting the amount of lease assistance that may be granted to a charter school from the PSCOF. The proposed amount would be the greatest possible authorized amount, but in no case less than one thousand fifty-two dollars (\$1,052) per MEM. The bill amends the allowable uses of lease assistance grant funds for charter schools, permitting them to be used to repay principal, interest, and other fees or charges on a charter school facility loan imposed by NMFA.

HB149 limits the local share for charter school PSCOC projects qualified under the educational adequacy category to ten percent.

### **FISCAL IMPLICATIONS**

The PSCOF is the source of state-match funds for standards-based, systems-based, and Pre-K capital outlay programs; SB-9 funds; lease assistance and facilities master plan assistance; and other programs under the PSCOA. Revenues to the fund are principally from supplemental severance tax bond proceeds. Allocations from the fund are authorized by the Public School Capital Outlay Council (PSCOC).

Under existing state law, the PSCOF is designated only for capital expenditures deemed necessary by the Council for an adequate educational program. Money in the fund shall be disbursed by warrant of the Department of Finance and Administration on vouchers signed by the Secretary of Finance and Administration following certification by the Council that an application has been approved or an expenditure has been ordered by a court pursuant to Section 22-24-5.4 NMSA 1978.

### **SIGNIFICANT ISSUES**

#### **Changes to Local Match Share**

House Bill 149 (HB149) amends Section 22-24-5(B) to establish that a charter school's local share for projects qualifying under the educational adequacy category shall not exceed ten percent, with

all other charter school projects subject to the existing local share calculation under Paragraph (5). On the surface, this creates a simple maximum, but several points of ambiguity remain.

District-chartered and state-chartered charter schools are largely exempt from educational adequacy standards, except for minimum general classroom net square footage requirements. This exemption raises questions about exactly when the ten-percent local-share cap would apply. Further, the bill does not explicitly clarify whether the cap applies to district-chartered charter schools, state-chartered charter schools, or both.

Under current statute and practice, the local match obligation for district-chartered charter schools is tied to their authorizing school district, while the obligation for state-chartered charter schools is tied to the school district within which the school is geographically located. Applying a uniform ten-percent maximum could conflict with these existing structures and may challenge the equity objectives underlying the District Capital Program (DCP).

Only Constitutional Special Schools currently have an explicit statutory local match requirement—set at fifty percent for projects funded through the Public School Capital Outlay Fund (PSCOF) under Section 22-24-5(B)(10) NMSA 1978. These schools meet their match obligations through alternative funding sources, by contrast with other charter schools that would have no clear guidance under HB149.

Finally, establishing a ten-percent maximum local share for charter schools may produce sequential effects on local match reduction practices. School districts currently may request local match reductions when affordability constraints arise relative to project costs. It is unclear whether charter schools would have access to sufficient revenue to support even a ten-percent contribution to large-scale capital projects, including projects approaching one hundred million dollars.

### **Shift in Fiscal Responsibility**

HB149 also would make a significant funding shift by transferring \$20 million from the Public School Capital Outlay Fund to the Charter School Facility Revolving Fund. This transfer would place full fiscal responsibility for charter school facility needs on the state, calling into question the original state-local cost-sharing intent of the DCP.

### **Lease Assistance and PSCOF Grant Changes**

HB149 amends Section 22-24-4(I) to modify both the amount and the allowable uses of lease assistance funds provided to charter schools. These changes would have both fiscal and administrative implications.

HB149 amends Section 22-24-4(I)(1)(b) to change the criteria used to calculate lease assistance awards. Specifically, the bill would raise the FY26 approved PSCOC rate per MEM by \$212.85. The net effect would be to increase the total dollar value of lease assistance awards statewide by approximately \$5.3 million (see chart below). As with current practice, individual school awards would continue to fluctuate annually based on changes in MEM and lease terms.

## FY26 Potential Lease Assistance Scenarios - Summary

% Change	PSCOC Rate per MEM	Potential Lease Assistance Award Amount	# of Awards Based on MEM	# of Awards Based on Lease	Average % Lease Covered by Award	Average Award \$ per Student
0.00%	\$815.60	\$23,444,686	93	14	63%	\$796.38
2.90%	\$839.25	\$24,059,700	92	15	64%	\$816.89
29.00%	\$1,052.10	\$29,354,835	78	29	75%	\$990.21

The amended statutory language (HB149, Section 22-24-4(I)(1)(b)) also introduces potential ambiguity regarding the interaction between the minimum lease assistance and amount and the cap on actual annual lease payments. The bill provides that lease assistance awards shall not exceed actual annual lease payments, while also establishing a minimum award equal to \$1,052 multiplied by the school’s MEM. In cases where the calculated minimum award exceeds a charter school’s annual lease obligation, it is unclear which provision would control, creating uncertainty regarding how to calculate an award and ensure program compliance.

HB149 also amends Section 22-24-4(I)(2) to expand the allowable uses of lease assistance funds. Under the amended language, lease assistance grants could now be used not only for lease payments, but also for:

- Repayment of principal or interest accrued on a charter school facility loan, and
- Other fees or charges imposed by NMFA in connection with that loan.

This change represents a shift in the nature of the lease assistance program, allowing funds that were previously tied solely to lease assistance to also be used to support long-term debt obligations associated with charter school facilities.

Under the existing program structure, assistance reimbursements are made on a quarterly basis and are not disbursed without proof of actual lease payments. Additionally:

- A school’s lease assistance award may fluctuate from year to year due to changes in MEM and or lease agreement terms.
- PSFA reviews lease agreements and other required documents every year to ensure they are current. If a charter school does not submit all required documentation, it does not receive a lease assistance award for that year.

Based on the proposed amendments to Section 22-24-4(I)(2), PSFA will need to adjust the program administration to accommodate evidence of loan-related payments, rather than lease payments alone. Because lease assistance awards fluctuate annually, this variability may create challenges for repayment schedules of principal and interest, potentially affecting the terms and conditions of charter school facility loans.

If the minimum award is applied regardless of actual lease obligations, some charter schools could receive lease assistance exceeding their annual payments. This would effectively decouple awards from lease costs, raising questions about the ongoing relevance of annual lease documentation and increasing the need for careful oversight of lease-purchase agreements and related financing arrangements.

Charter schools operating in privately owned facilities remain ineligible for most PSCOC capital funding programs and would continue to rely solely on lease assistance. As a result, the primary effect of HB149 for these schools would be higher lease assistance payments, which may flow to private facility owners without improving educational outcomes or enhancing access to PSCOC capital resources.

## **PERFORMANCE IMPLICATIONS**

HB149 does not include statutory language establishing a waiver framework or criteria for charter schools, even though waivers are relied on to support affordability across the broader public school system.

Furthermore, PSCOC eligibility and prioritization for capital funding are based on statewide wNMCI rankings reflecting facility condition and adequacy deficiencies. The funding structure created by HB149 would not align with the wNMCI ranking system, which is the primary tool PSFA uses to prioritize public school facility needs.

## **ADMINISTRATIVE IMPLICATIONS**

PSFA currently lacks the specialized expertise and staffing capacity needed to evaluate the financial risk associated with lease-purchase arrangements, a common charter school facility financing mechanism. Implementing the proposed funding approach would therefore require additional resources to build and sustain this capability, further complicating administration.

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

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

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

## **AMENDMENTS**