

<b>LFC Requester:</b>	<b>Liu</b>
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**AGENCY BILL ANALYSIS  
2021 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:  
**Original**     **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Date** 2/17/2021  
**Bill No:** SB318

**Sponsor:** Sen. Gerald Ortiz y Pino  
**Short**        CHARTER SCHOOL  
**Title:**        CHANGES

**Agency Name and Code**        PED - 924  
**Number:** \_\_\_\_\_  
**Person Writing**        John Sena  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		
NFI	\$1,000.0	Recurring	General Fund Operating Reserve

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
		\$1,000.0	Recurring	Public Project Revolving Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: SB41, School Funding Changes; SB43, Funding of Demolition of Abandoned Schools; SB54, Public School Facilities Authority Functions; and SB237, Charter School Duties.

Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: Senate Bill 318 (SB318) would amend portions of the New Mexico Finance Authority Act, the Charter School Act, the Public School Capital Outlay Act, the Public School Capital Improvements Act, and the Public School Buildings Act concerning charter school facilities.

SB318 would create a new section of the New Mexico Finance Authority Act to require the New Mexico Finance Authority (NMFA) to adopt policies for the public project revolving fund to provide loans for charter school facilities, including paying off lease purchase agreements.

The bill would also amend the Charter School Act to require school districts with available land or facilities not currently used for other educational purposes to notify charter schools of their availability, and for the Public School Facilities Authority (PSFA) to ensure this notification process happens annually.

SB318 amends the Public School Capital Outlay Act to change the methodology of lease assistance reimbursements so it is based on facility space instead of classroom space. This bill would also create a new section of the Public School Capital Outlay Act to create the charter facility fund to provide loans for charter school facilities, including paying off lease purchase agreements. The charter school facility fund would be administered by PSFA and authorized by the Public School Capital Outlay Council (PSCOC), which would be required to adopt rules to provide loans to charter schools for the purchase, construction, or renovation of facilities.

Additionally, this bill would amend the Public School Capital Improvements Act, commonly referred to as SB9 funds, and the Public School Buildings Act, commonly referred to as HB33 funds, to clarify the process by which a charter school is included in a school district's resolution of proposed capital improvements that is submitted to voters for their approval.

#### **FISCAL IMPLICATIONS**

SB318 appropriates \$1 million from the general fund operating reserve to the public project revolving fund for expenditure in FY22 and subsequent fiscal years to provide loans to charter

schools for the renovation, construction, purchase, or expansion of a charter school facility or to pay off qualifying charter school lease purchase agreements. Any unexpended or unencumbered balance remaining at the end of a fiscal year will not revert to any other fund.

## **SIGNIFICANT ISSUES**

SB318 amends multiple acts to address issues concerning charter school facilities, as outlined below:

**The New Mexico Finance Authority Act.** SB318 creates a new section of the New Mexico Finance Authority Act to require NMFA to adopt policies for the public project revolving fund to provide loans for the purchase, construction, expansion, or renovation of charter school facilities or to pay off lease-purchase agreements. These policies must ensure lease purchase agreements comply with the Public School Lease Purchase Act, a charter school's charter has been renewed at least once, and include a review of the last two audits of the charter school.

**The Charter School Act.** The bill would also amend the Charter School Act to require school districts with available facilities not currently used for other educational purposes to notify charter schools – both locally-authorized and state-authorized – located in their school district of available educational facilities no later than May 1 annually. SB318 would allow school districts to develop facility prioritization plans identifying which charter schools may lease, lease purchase, or purchase available school facilities. This bill would allow public school districts with available land to make this land available for lease, lease purchase, or purchase for charter schools located within their school district, but does not require school districts to do so. SB318 states school-district-owned land will not be considered available if a school district has justified future use of land through its five-year facilities master plan. SB318 requires PSFA to ensure school districts with available facilities and/or available land provide that notification to charter schools annually.

**The Public School Capital Outlay Act.** SB318 amends the Public School Capital Outlay Act to change the methodology for calculating lease assistance reimbursements. Lease assistance reimbursements are currently based on either actual lease payments or \$700 multiplied by the student membership (MEM) using the leased classroom space and adjusted by the percentage change between the penultimate calendar year and the immediately preceding calendar year of the consumer price index (CPI) for the United States, whichever is less. SB318 would amend this methodology so that it would be based on either actual lease payments or \$700 multiplied by the MEM using the entire leased facility space – not just classroom space – and adjusted by the change in the CPI, whichever is less. SB318 would define facilities as “determined by the five-year facilities master plan aligned with statewide adequacy standards for school activities.”

SB318 would also create a new section of the Public School Capital Outlay Act to create the charter facility fund to provide loans for charter school facilities, including paying off charter school lease purchase agreements. The charter school facility fund would be administered by PSFA and authorized by the Public School Capital Outlay Council (PSCOC), which would be required to adopt rules to provide loans to charter schools for the purchase, construction, or renovation of facilities.

**The Public School Capital Improvements Act and the Public School Buildings Act.** SB318 would amend the Public School Capital Improvements Act, commonly referred to as SB9, and

the Public School Buildings Act, commonly referred to as HB33, to clarify the process by which a charter school is included in a school district's resolution of proposed capital improvements that is submitted to voters for their approval. SB318 would specify that a school district would collaborate with charter schools in their school district to establish a process for the charter schools to submit necessary information to the school district. While this requirement has always been in place, SB318 makes this process more specific. SB318 would require a charter school to submit necessary information for inclusion in the resolution, including identification of the capital improvements for which the proposed revenue would be used, no later than June 1 in the calendar year in which the resolution would be considered (instead of just "timely"), and would require a point of contact in each school district for charter schools to submit information.

SB318 also includes technical cleanup, for example ensuring the Public School Capital Outlay Act correctly references the prekindergarten classroom facilities initiative on page 18, line 5.

### **PERFORMANCE IMPLICATIONS**

N/A

### **ADMINISTRATIVE IMPLICATIONS**

The Public Education Department (PED) administers Public School Capital Improvements, or SB9, funds, including the calculation of SB9 state matching funds. SB318 may increase total SB9 funds by increasing the amount of charter schools included in school district's Public School Capital Improvements resolutions by creating a more specific process. PED also reviews lease purchase agreements as required by the Public School Lease Purchase Act. SB318 requires NMFA to ensure lease purchase agreements comply with the Public School Lease Purchase Act but does not specify how NMFA will work with PED to do so.

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

SB318 relates to SB41, School Funding Changes; SB43, Funding of Demolition of Abandoned Schools; SB54, Public School Facilities Authority Functions; and SB237, Charter School Duties.

### **TECHNICAL ISSUES**

N/A

### **OTHER SUBSTANTIVE ISSUES**

Under current statute, lease assistance reimbursements are limited to classroom space as defined by the statewide adequacy standards in the New Mexico Administrative Code. Expanding lease assistance reimbursements to all facility space would increase annual lease assistance awards by PSCOC.

### **ALTERNATIVES**

N/A

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

N/A

**AMENDMENTS**

N/A