

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 273

51st Legislature, 1st Session, 2013

Tracking Number: 190441.4

Short Title: Public School Capital Outlay Lease Payments

Sponsor(s): Representative Sheryl Williams Stapleton and Others

Analyst: Sarah Amador-Guzman

Date: February 7, 2013

**FOR THE PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE AND
THE LEGISLATIVE EDUCATION STUDY COMMITTEE**

Bill Summary:

HB 273 amends the *Public School Capital Outlay Act* by:

- removing language that requires the Public School Capital Outlay Council (PSCOC) to adjust facility lease payments based on the consumer price index for FY 09 and subsequent fiscal years thereafter; and
- making the consumer price index an optional adjustment for lease payments.

Fiscal Impact:

HB 293 does not contain an appropriation.

Fiscal Issues:

The Consumer Price Index (CPI) adjustment implemented by the PSCOC has naturally increased the total amount awarded in lease assistance. According to the bill analysis by the Public School Facilities Authority (PSFA):

- the increase from FY 09 to FY 13 is estimated to be 6.3 percent, for a total of \$1.2 million;
- the CPI adjustment has also raised the student membership (MEM) multiplier under the lease assistance program from \$700 in FY 11 to \$733.35 in FY 12, and, if continued would increase the multiplier to \$756.83 in FY 13;
- the PSCOC in making awards for FY 13 determined that, since the lease-assistance program is discretionary, the automatic CPI adjustment was discretionary as well and therefore did not authorize an increase.

See Attachment A for a sample awards list by school and district.

Substantive Issues:

According to the PSFA bill analysis, the Public School Capital Outlay Oversight Task Force (PSCOOTF) identified the following issues for consideration with the lease-assistance programs:

- costs of the program have increased over 20 percent per year, and are now at \$13.5 million;
- over 50 percent of the program funds are used to pay leases for privately owned facilities;
- the majority of charter schools are not in public buildings and there is a possibility that the 2015 statutory deadlines to be in public buildings will be extended and will extend the high cost of the program;
- the statutory allowance for school districts to receive lease payments from charters for underutilized space has been ineffective, resulting in charters leasing from private entities and other public entities;
- the annual adjustment of the disbursement rate by the CPI is a concern because the CPI may not be an appropriate adjustment for commercial property rents whose prices do not move in concert with consumer prices;
- there is generally insufficient facility knowledge and experience to support effective acquisition and operation of facilities;
- there are no state-issued standard lease documents suitable for public education providers available to public school districts or charter schools for leasing facilities or land; and
- the lack of a standardized lease document results in a lack of consistency and transparency.

Technical Issues:

According to the PSFA bill analysis, the growth of charter schools may be difficult to project given the provisions in the *Charter Schools Act*, which allows up to 15 new start-up charters per year with carry-over to 75 in a five-year period.

Background:

PSCOOTF has statutory authority with monitoring the progress and effectiveness of programs administered by the PSCOC and PSFA. According to the PSFA bill analysis, as part of their 2012 Interim Work Plan, the task force examined a number of issues related to the lease assistance program and charter school facilities. Additionally, it is important to note that charter schools are the primary recipients of the lease-assistance program.

According to the *State of New Mexico PSCOC and PSFA FY 12 Annual Report*:

- since FY 05, lease payment assistance for charter schools and other public schools has increased annually at a rate of 21.9 percent on average representing a total of 440 percent; and
- in FY 12, the PSCOC awarded \$10.8 million for lease assistance to 83 charters and seven public schools in 43 districts.

The table below provides a history of the lease assistance payments since FY 05:

Lease Payment Assistance Awards for Charters and Public Schools



Committee Referrals:

HEC/HJC

Related Bills:

HB 314 *Charter School Facility Procedures*

HB 354 *Charter School Facility Conditions*

**ATTACHMENT A: PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL LEASE ASSISTANCE AWARDS
SY 2011-2012**

District	School	Student Enrollment (SY11-12)	Grade Level	State (S) or Local (L) Charter	Charters in Public Building/Exception	Lessor	Total Sq. Ft. of Leased Space	Lease Amount	Cost /Sq Ft	Cost /MEM
Albuquerque	ACADEMIA DE LENGUA Y CULTURA	87	6-8	L			15,538	163,400	10.52	\$1,878
Albuquerque	Academy of Trades & Technology	170	9-12	S	Z	N-LWOP	20,771	179,800	8.66	\$1,058
Albuquerque	ACE Leadership High School	181.5	9-12	S			12,000	120,000	10.00	\$661
Albuquerque	Albuquerque Institute for Math & Science	261	6-12	S	X	U	18,372	230,419	12.54	\$883
Albuquerque	Albuquerque School of Excellence	225.5	1-9	S			10,465	380,000	36.31	\$1,685
Albuquerque	Albuquerque Talent Development	143.5	9-12	L			13,506	213,175	15.78	\$1,486
Albuquerque	Alice King Community School	245	K-6	L			20,804	290,008	13.94	\$1,184
Albuquerque	Amy Biehl High School	278	9-12	S	X	F	42,101	1,200	0.03	\$4
Albuquerque	Bataan Military Academy	138.5	9-12	L			13,611	173,698	12.76	\$1,254
Albuquerque	Career Academic & Technical Academy	137	9-12	L			13,332	155,114	11.63	\$1,132
Albuquerque	Cesar Chavez	181.5	9-12	S	Z	N	20,022	321,360	16.05	\$1,771
Albuquerque	Christine Duncan's Heritage Academy	121	K-8	L			13,332	93,600	7.02	\$774
Albuquerque	Cien Aguas International School	182	K-7	S			13,644	143,262	10.50	\$787
Albuquerque	Corrales International School	196.5	K-10	L			16,286	264,984	16.27	\$1,349

**ATTACHMENT A: PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL LEASE ASSISTANCE AWARDS
SY 2011-2012**

District	School	Student Enrollment (SY11-12)	Grade Level	State (S) or Local (L) Charter	Charters in Public Building/Exception	Lessor	Total Sq. Ft. of Leased Space	Lease Amount	Cost /Sq Ft	Cost /MEM
Albuquerque	Cottonwood Classical Preparatory School	347.5	8-12	S			16,824	465,199	27.65	\$1,339
Albuquerque	Creative Education Prep. Institute #1	175.5	9-12	S			15,334	155,273	10.13	\$885
Albuquerque	Digital Arts and Technology Academy HS	293	9-12	L			46,991	604,313	12.86	\$2,063
Albuquerque	East Mountain High School	356.5	9-12	S	Z	N	39,846	336,000	8.43	\$942
Albuquerque	El Camino Real Academy	488.5	K-12	L			61,500	700,000	11.38	\$1,433
Albuquerque	Gilbert L. Sena Charter H.S.	175	9-12	S			14,535	186,140	12.81	\$1,064
Albuquerque	Gordon Bernell Charter School	302.5	9-12	L	X	C	13,360	175,000	13.10	\$579
Albuquerque	Horizon Academy West	421	K-6	S			17,176	522,853	30.44	\$1,242
Albuquerque	La Academia de Esperanza	320	6-12	L	Z	N	13,680	360,000	26.32	\$1,125
Albuquerque	La Promesa Charter School	193	K-8	S			9,416	69,996	7.43	\$363
Albuquerque	La Resolana Leadership Academy	63	6-8	S			4,148	118,084	28.47	\$1,874
Albuquerque	Los Puentes	187	7-12	L	Z	N	19,579	288,000	14.71	\$1,540
Albuquerque	Media Arts Collaborative Charter School	175	9-12	S	Y	N-LWOP	10,800	184,248	17.06	\$1,053
Albuquerque	The Montessori Elementary School	353	K-8	S	Z	N	35,019	667,314	19.06	\$1,890

**ATTACHMENT A: PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL LEASE ASSISTANCE AWARDS
SY 2011-2012**

District	School	Student Enrollment (SY11-12)	Grade Level	State (S) or Local (L) Charter	Charters in Public Building/Exception	Lessor	Total Sq. Ft. of Leased Space	Lease Amount	Cost /Sq Ft	Cost /MEM
Albuquerque	Montessori of the Rio Grande	192.5	K-6	L	X	D	14,727	124,719	8.47	\$648
Albuquerque	Mountain Mahogany Community	168	K-7	L			12,223	102,000	8.34	\$607
Albuquerque	Native American Community Academy	402.5	6-12	L	X	D	29,871	279,871	9.37	\$695
Albuquerque	New America School	283	9-12	S	Z	N	11,684	613,517	52.51	\$2,168
Albuquerque	North Valley Academy	485	K-8	S			37,958	569,424	15.00	\$1,174
Albuquerque	Nuestros Valores Charter School	134.5	9-12	L	X	C	8,152	49,536	6.08	\$368
Albuquerque	Public Academy for Performing Arts	342.5	6-12	L	X	D	22,800	320,874	14.07	\$937
Albuquerque	Ralph J. Bunche Academy	97.5	K-7	S	X	SL	11,000	56,650	5.15	\$581
Albuquerque	Robert F. Kennedy Charter High School	254.5	9-12	L	X	D	20,932	176,833	8.45	\$695
Albuquerque	SIATech	298.5	9-12	L	X	F	5,981	101,600	16.99	\$340
Albuquerque	South Valley Academy	228	9-12	L	Z	N	12,795	180,000	14.07	\$789
Albuquerque	South Valley Preparatory School	92.5	6-8	S			10,304	127,264	12.35	\$1,376
Albuquerque	SW Intermediate Learning Center	112	7-8	S			12,480	92,307	7.40	\$824
Albuquerque	SW Primary Learning Center	105.5	4-6	S			15,000	88,294	5.89	\$837
Albuquerque	SW Secondary Learning Center	275	7-12	S			20,520	220,733	10.76	\$803
Albuquerque	The Albuquerque Sign Language Academy	52.75	K-6	S	X	C	7,171	86,052	12.00	\$1,631

**ATTACHMENT A: PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL LEASE ASSISTANCE AWARDS
SY 2011-2012**

District	School	Student Enrollment (SY11-12)	Grade Level	State (S) or Local (L) Charter	Charters in Public Building/Exception	Lessor	Total Sq. Ft. of Leased Space	Lease Amount	Cost /Sq Ft	Cost /MEM
Albuquerque	The International School at Mesa del sol	137	K-6	S			14,330	94,591	6.60	\$690
Albuquerque	The Learning Community Charter School	212	6-12	S	Z	N	26,465	240,000	9.07	\$1,132
Albuquerque	Tierra Adentro	163	6-11	S			8,141	137,144	16.85	\$841
Albuquerque	21 st Century Public Academy	239	5-8	L			25,432	184,006	7.24	\$770
Aztec	Mosaic Academy	180	K-8	L			18,000	116,000	6.44	\$644
Bernalillo	Village Academy	42	6-8	S			3,957	45,800	11.57	\$1,090
Carlsbad	Jefferson Montessori Academy	160.5	K-12	L	X	D	15,736	117,703	7.48	\$733
Cimarron	Moreno Valley High School	80	9-12	L			8,640	60,000	6.94	\$750
Clovis	Choices - Alternative Learning Center	N/A	7-12				13,229	99,600	7.53	N/A
Deming	Deming Cesar Chavez	145.5	9-12	L	X	D	11,454	100,000	8.73	\$687
Espanola	Carinos Charter School	218.5	K-7	L	X	D	25,000	139,923	5.60	\$640
Espanola	San Juan Elementary (Land)	N/A	K-6				54,471	10,134	0.19	N/A
Gadsden	Anthony Charter School	67.5	7-12	L	X	D	5,723	51,000	8.91	\$756
Gadsden	La Union JTP/Alvarez Farms	N/A	9-12				15,646	18,000	1.15	N/A
Gallup	Chief Manuelito MS (Land)	N/A	6-8			SL	45,014	8,436	0.19	N/A
Gallup	Churchrock Academy (Land)	N/A	K-5			T	37,586	5,500	0.15	N/A
Gallup	David Skeet ES (Land)	N/A	K-5			SL	17,236	3,557	0.21	N/A

**ATTACHMENT A: PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL LEASE ASSISTANCE AWARDS
SY 2011-2012**

District	School	Student Enrollment (SY11-12)	Grade Level	State (S) or Local (L) Charter	Charters in Public Building/Exception	Lessor	Total Sq. Ft. of Leased Space	Lease Amount	Cost /Sq Ft	Cost /MEM
Gallup	Middle College High School	60	10-12	L	X	U	3,584	15,130	4.22	\$252
Gallup	Ramah Middle School (Land)	N/A	6-12			SL	18,979	4,858	0.26	N/A
Jemez Valley	San Diego Riverside	102.5	K-8	L	X	T	12,079	75,168	6.22	\$733
Jemez Valley	Walatowa High Charter School	68	9-12	L			3,732	46,900	12.57	\$690
Las Cruces	Alma d'arte Charter HS	171.5	9-12	S	X	D	17,031	125,770	7.38	\$733
Las Cruces	Families and Youth Inc./Las Montanas Charter school	300.5	9-12	L			28,662	359,625	12.55	\$1,197
Las Cruces	La Academia Dolores Huerta	120	6-8	L			9,996	114,661	11.47	\$956
Los Lunas	School of Dreams Academy	217.5	7-12	S			20,000	241,758	12.09	\$1,112
Questa	Red River Valley Charter	59	K-8	S	X	D	7,893	43,268	5.48	\$733
Questa	Roots & Wings Community School	44	K-1,5-8	L			4,000	40,044	10.01	\$910
Rio Rancho	The ASK Academy	162	9-11	S			24,100	367,130	15.23	\$2,266
Roswell	Sidney Gutierrez Middle School	59.5	6-8	L	X	M	18,803	12,000	0.64	\$202
Santa Fe	Monte del Sol Charter school	355.5	7-12	L	Z	N	27,905	253,752	9.09	\$714
Santa Fe	New Mexico School for the Arts	160.5	9-12	S			38,029	150,000	3.94	\$935

**ATTACHMENT A: PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL LEASE ASSISTANCE AWARDS
SY 2011-2012**

District	School	Student Enrollment (SY11-12)	Grade Level	State (S) or Local (L) Charter	Charters in Public Building/Exception	Lessor	Total Sq. Ft. of Leased Space	Lease Amount	Cost /Sq Ft	Cost /MEM
Santa Fe	The Academy for Technology & the Classics	357	7-12	L			41,177	537,545	13.05	\$1,506
Santa Fe	The MASTERS Program	121.5	10-12	S	X	U	5,147	69,999	13.60	\$576
Santa Fe	Tierra Encantada Charter High School	186	7,9-12	L	X	D	17,224	101,500	5.89	\$546
Santa Fe	Turquoise Trail Charter School	463.5	PreK-6	L	X	D	59,899	335,683	5.60	\$724
Silver	Aldo Leopold High School	98	9-12	S			10,822	72,000	6.65	\$735
Socorro	Cottonwood Valley Charter School	170	K-8	L			10,310	123,870	12.01	\$729
Taos	Anansi Charter School	110.5	K-5	L	Y	N-LWOP	12,516	112,296	8.97	\$1,016
Taos	Taos Academy Charter School	120.5	5-12	S			11,700	90,000	7.69	\$747
Taos	Taos Integrated School for the Arts	102	K-5	S			9,001	72,000	8.00	\$706
Taos	Taos Municipal Charter School	203	K-8	L	Z	N	10,086	142,100	14.09	\$700
Taos	Vista Grande High School	103	9-12	L			6,400	84,600	13.22	\$821
West Las Vegas	Rio Gallinas School	107.5	1-8	L	X	D	10,327	75,300	7.29	\$700

**ATTACHMENT A: PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL LEASE ASSISTANCE AWARDS
SY 2011-2012**

District	School	Student Enrollment (SY11-12)	Grade Level	State (S) or Local (L) Charter	Charters in Public Building/Exception	Lessor	Total Sq. Ft. of Leased Space	Lease Amount	Cost /Sq Ft	Cost /MEM
Albuquerque	NEW MEXICO INTERNATIONAL SCHOOL	95	K-2	S			10,781	129,600	12.02	\$1,364
Albuquerque	The GREAT Academy	177	10-12	S			15,370	180,480	11.74	\$1,020
Las Cruces	JOHN PAUL TAYLOR ACADEMY	157	K-8	S			7,200	109,200	15.17	\$696
TOTAL / AVERAGE	90	16,020			37	41	1,634,403	16,269,745	11.11	\$1,016

NOTES: X=Public Building; Y=Lease Purchase; Z=Lease from Non-Profit
C=County(3); D=District(13); F=Federal(2); M=Municipal(1); N=Nonprofit(13); SL=State Land Office(4); T=Tribal(2); U=University(3)
Consumer Price Index: FY09=1.9%; FY10=1.6%; FY11=-0.4%; FY12=1.6%