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FISCAL IMPACT REPORT

ORIGINAL DATE 02/06/12

SPONSOR Begaye LAST UPDATED _____ HB 100

SHORT TITLE Repeal Charter School Capital Outlay Fund SB _____

ANALYST Gudgel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

Public School Facilities Authority (PSFA)

SUMMARY

Synopsis of Bill

House Bill 100 repeals the delayed repeal of the Charter School Capital Outlay Fund. Under current law the Fund will be repealed on July 1, 2012.

FISCAL IMPLICATIONS

The bill would continue existence of the Charter School Capital Outlay Fund. The Charter School Capital Outlay Fund was created in 2007, with a repeal date of July 1, 2012, and language requiring any unencumbered balances in the fund that are attributable to the proceeds of severance tax bond to revert to the severance tax bonding fund on July 1, 2012. During the 2007 session, \$4.5 million in severance tax bond proceeds was appropriated to the Fund through the capital outlay bill. Language in the capital outlay bill established that unexpended funds would revert on June 30, 2011. As of June 30, 2011, \$3.1 million of the \$4.5 million appropriation was expended. Because of the language in the capital bill the unexpended balance of \$1.4 reverted to the severance tax bonding fund.

Due to the reversion of the STB appropriation the fund currently has a \$0 balance and future awards will depend on additional appropriations.

The Public Education Department indicates the fund is a viable funding source for charter schools. If the repeal is not repealed an alternative funding source will need to be sought to provide financial support to assist charter schools to be in public buildings by 2015.

SIGNIFICANT ISSUES

The Charter School Capital Outlay Fund (Fund) was created in 2007. The fund was created to make grants to state-chartered charter schools to assist with the local match needed for an approved public school capital outlay project or to assist charter schools in moving to public buildings or to buildings being acquired by charter schools pursuant to a lease purchase agreement. Charter school facilities are ranked alongside other public school facilities in the statewide ranked list of facility needs maintained by the Public School Facilities Authority. Additionally, all charter schools are required to be in a publically-owned facility by 2015 or meet other statutory exemptions.

Pursuant to Section 22-2B-4.2 NMSA 1978 requires charter schools to be renewed at least once before they are eligible to apply for a standards-based capital outlay award. Under current law, charter schools are required to submit renewal application every five years. The Public Education Commission was granted authority to become a charter school authorizer (of state-chartered charter schools) in 2007. This means that no state-chartered charter school would be able to take advantage of the fund until after July 1, 2012. This is the primary reason money in the Fund was not expended and reverted.

OTHER SUBSTANTIVE ISSUES

According to the Public Education Department:

The Charter Schools Act mandates a charter school that is approved or renewed on or after July 1, 2015 to be located in a public building, a building acquired under an approved lease purchase agreement, or a building that meets adequacy standards and is leased from a charter schools nonprofit or a landlord who contracts to comply with adequacy standards. Eliminating this fund will make this upcoming deadline more difficult for the state-authorized charter schools, which now constitute 53 of the 96 charters approved in New Mexico, to acquire facilities that meet the requirements of the Public School Facilities Authority.

In addition, the Public School Facilities Authority has used this fund in the past to provide financial assistance to state-authorized charter schools to develop facilities master plans. The PSFA, through internal policy, has recently required newly approved state-authorized charter schools to develop a facility master plan prior to commencing operations. This requirement is imposed prior to receiving operational dollars. By eliminating the fund and the potential for future appropriations or eligible contributions to this fund, state charter schools will have a significant financial hurdle when attempting to comply with all of the mandated PSFA requirements for opening a school facility.

One of the biggest issues facing charter schools is that they do not have a sufficient funding source for capital. Pursuant to the property tax code, a charter school has no taxable value of property allocated to it. Therefore, a charter school has no ability to impose a debt service or tax levy for major capital needs unless the charter school existed at the time of, and was included in, the tax levy resolution. The only major source of capital dollars for a charter school is through

direct legislative appropriations or through lease assistance payments from the lease payment assistance program. The majority of charter schools in New Mexico are in private facilities. This statutory requirement may result in charter schools going out of business. The charter school capital outlay fund is a creative solution to assist in resolving the capital issues for charter schools to ensure that the state meets its current constitutional responsibility of establishing and maintaining a uniform system of public schools sufficient for education to all children of the state.

The Public School Facilities Authority (PSFA) notes that of the 83 lease payment assistance applications received from charter schools for the 2011-2012 Lease Payment Assistance Awards, only 27 were either in a public building (24) or lease-purchase arrangement (3). Fifty-six of the charter schools which applied are not in a public school building

RG/svb