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FISCAL IMPACT REPORT

SPONSOR Youngberg ORIGINAL DATE 2/1/06
LAST UPDATED _____ HB 405
SHORT TITLE Construction of Northwest Albuquerque School SB _____
ANALYST Aguilar

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
\$130,000.0		Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB-432, SB-450 SB-211, SB-247

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)
Department of finance and Administration (DFA)
Public Schools Facility Authority (PSFA)

SUMMARY

Synopsis of Bill

House Bill 405 appropriates \$130 million from the General Fund to the Public Education Department (PED) for expenditure in FY06-09 for the purposes of planning, designing, constructing, equipping and furnishing a new northwest high school in the Albuquerque Public School District (APS).

HB-405 declares an emergency.

FISCAL IMPLICATIONS

The PSCOC awarded funding to APS during the 2004-2005 allocation cycle (September 2004) for the purpose of constructing a new northwest high school to relieve overcrowding at Cibola High School. The award of \$23.3 million was derived as follows:

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Original District Request:	\$70.9 M
Approved Project to Adequacy:	\$60.8 M
State Match (46%):	\$28.0 M
Direct Appropriation Offset:	(\$4.7 M)
Net Award:	\$23.3 M

The current timeline calls for a 9th grade academy to open fall 2007 with the remaining facilities to be open fall 2008. According to the district, the current anticipated cost to build the high school is \$81.2 million due to increases in construction costs since the original application. The District has committed \$16.7 million from HB33 funds for this project, leaving a current shortfall to complete the project of approximately \$41.2 million.

The appropriation of \$130 million contained in this bill is a nonrecurring expense to the general fund. Funds received as payment for the loan proceeds shall be deposited to the general fund.

SIGNIFICANT ISSUES

Expenditures are to take place in fiscal years 2006 through 2009. The appropriation is allocated pursuant to the following criteria:

- 53% of the total cost of the school shall be in the form of an interest-free loan subject to a loan agreement between the PED and APS. The loan shall provide:
 - The district pays the loan within 10 years;
 - Loan payments be made from any available resources, including cash balances
 - Loan payments shall be made to the PED and deposited in the general fund.

PED notes if this bill is enacted, it may be viewed as a direct legislative appropriation to APS. Currently all capital outlay grant awards made by the Public School Capital Outlay Council (PSCOC) are being reduced by a percentage of direct appropriations for capital outlay projects received by a school district.

The amount of the reduction is determined by the state-local match formula and equals the direct legislative appropriation percentage amount for the school district multiplied by the amount of the direct appropriations for individual school projects. This offset was implemented as a direct result of the Zuni lawsuit, to mitigate the disequalization effect of direct legislative appropriations to individual schools.

TECHNICAL ISSUES

A question that arises is whether or not PED has the authority to lend funds and act as a banking institution. The general duties of the PED do not include these functions pursuant to 22-2-1 NMSA 1978. The bill also does not identify what happens if the district defaults on the loan.

Pursuant to Article 9, section 11 of the New Mexico Constitution, no school district shall borrow money unless the proposition to create debt has been submitted to a vote of the qualified electors of the district and a majority voted in favor of creating such debt. Enacting this bill may be inconsistent with this section of the New Mexico Constitution.

OTHER SUBSTANTIVE ISSUES

The PSCOC already awarded funds to APS during the 2004-2005 allocation cycle for the purpose of constructing a new northwest high school to relieve overcrowding at Cibola High School. The award was for \$23,300.0. According to the district, the current anticipated cost to build the high school is \$81,200.0. The District has committed \$16.7 million from HB 33 funds for this project, leaving a current shortfall to complete the project of approximately \$41,200.0. The appropriation in HB 405 exceeds the estimated cost for Northwest High School and probably includes funds needed to build the Southwest High School, which was funded by the PSCOC during the 2005-2006 award cycle.

PA/mt