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FISCAL IMPACT REPORT

SPONSOR: Leavell DATE TYPED: 02/07/01 HB _____
 SHORT TITLE: Create Emergency Response Fund SB 122
 ANALYST: Trujillo

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative			
	\$ 500.0			Recurring	Emergency Response Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	\$ (500.0)	\$ (500.0)	Recurring	General Fund
	\$ 500.0	\$ 500.0	Recurring	Emergency Response Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files
 Department of Public Safety (DPS)
 Taxation and Revenue Department analysis not submitted

SUMMARY

Synopsis of Bill

SB155 changes existing Section 74-4F-3 to require that hazardous material transportation permit fees shall be deposited to the credit of the newly created Emergency Response Fund, instead of the general fund. Section 2 of the bill creates that fund and charges the DPS with administering the fund for the purpose of equipping and training local first responders for emergencies involving hazardous materials, and further, to equip and train regional hazardous material task forces capable of respond-

ing outside the jurisdiction of municipalities. Various procedures govern distributions from the fund to eligible recipients. Effective date of this bill is July 1, 2001.

Significant Issues

DPS reports SB122 attempts to address the ongoing difficult problem of providing statewide prompt response to hazardous materials emergencies. DPS has overall responsibility for such response pursuant to the Emergency Management Act, but has been hampered in its efforts to provide such response due to lack of equipment and trained personnel statewide. The response cannot be maintained directly by the department from Santa Fe from current structure and resources; regional response is required.

There is no provision in the bill that would allow funding to be used for equipment or training for state level first responders, i.e., State Police, Fire Marshall, Emergency Management, etc.

PERFORMANCE IMPLICATIONS

The DPS Public Safety Support Program has reference to emergency response and hazardous materials training and response within its mission, goals, and performance measures. If this bill passes, there should be specific improvement to the *Percent Change to Emergency Management Capabilities* (current measure, and recommended by both DFA and LFC for FY 02) and the *Number of Law Enforcement Officers Trained* (new measure recommended by LFC for FY 02) measures.

FISCAL IMPLICATIONS

SB 155 would redirect hazardous materials transportation permit fees from the general fund to a newly created fund, the emergency response fund. Thus, general fund revenue is reduced, while the new fund receives the revenue. Based on recent revenue trends from the hazardous materials transportation permit fees, approximately \$500.0 in annual revenue would be involved.

SB155 also provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities. The bill would authorize reversion to the general fund. Disbursements from the fund shall be made by warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of public safety or his authorized representatives.

The bill authorizes DPS to administer the fund to equip and train local first responders to emergencies involving transportation of hazardous materials and to equip and train regional hazardous material task forces capable of responding outside the jurisdiction of municipalities. The bill outlines procedures for local governments to qualify for funding. Distributions to each county and municipality are limited to \$35,000 each. There are 33 counties and 102 incorporated municipalities in New Mexico; thus, if each entity received a distribution in a given year, the maximum amount of claims on the fund would be \$3,815,000 for municipalities and \$1,155,000 for counties, for a total of \$4,970,000.

In addition to these distributions, DPS is authorized to expend up to \$75,000 per year from the emergency response fund for training and equipping small community fire departments without hazardous materials first response capabilities. It is not clear which of these needs would be first priority. See DPS position under technical issues below.

ADMINISTRATIVE IMPLICATIONS

DPS will have significant management responsibilities regarding the distribution of this fund, but should the fund be available for this purpose, the administrative implications could be addressed from that resource.

TECHNICAL ISSUES

DPS suggests deleting language in Subsection C that sets the specific amount of 75.0 that is appropriated to DPS for direct assistance and training. DPS believes there is no real way to estimate how many small agencies will ask DPS for assistance, and it would be unfortunate to have to revert money to the GF while turning down requests due to meeting the 75.0 cap. However, it is not clear to LFC staff that the bill language spells out this funding prioritization.

DPS proposes the following amendment on these issues:

- C. In addition to distributions made to municipalities and counties pursuant to Subsection B of this section, the department of public safety may expend from the emergency response fund *the amount available after distribution* for the training and equipping of small community fire departments without hazardous first response capabilities, *and other agencies upon request.*

OTHER SUBSTANTIVE ISSUES

According to DPS, this would be the first effort in the statutes to address the need for regional response task forces, which can operate outside municipal boundaries. The department has attempted through agreements to provide such resources and the statutory authorization would make such arrangements significantly easier.

Also, the 75.0 in the bill language for DPS provides for *the training and equipping of small community fire departments without hazardous materials first response capabilities*. The 75.0 will not begin to fulfill the equipment needs of one agency, much less all the small departments in the state. The same argument could be made that 75.0 will not begin to fulfill the training needs.

LAT/njw:ar