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FISCAL IMPACT REPORT

ORIGINAL DATE 08/16/08
 SPONSOR Jennings LAST UPDATED 8/18/08 HB _____
 SHORT TITLE Flood Damage in Lincoln and Otero Counties SB 29/aSCW
 ANALYST Weber

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
\$5,000.0		Non-recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB16 and SB 2

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of SCW Amendment

The Senate Committee as a Whole Amendment to Senate Bill 29. On page1, line 17 the appropriation to the Department of Transportation is changed to \$4.9 million from \$5 million.

Synopsis of Original Bill

Senate Bill 29 appropriates monies for two purposes.

1. Five million dollars is appropriated to the Department of Transportation to plan, design and construct improvements to roads and bridges damaged by flooding in Lincoln and Otero Counties.
2. One hundred thousand is appropriated to the Department of Homeland Security and Emergency Management for emergency relief for flood victims along the Rio Ruidoso as provided in Section 12-11-25.

FISCAL IMPLICATIONS

The appropriation of \$5 million contained in this bill to DOT is a Non-recurring expense to the General fund. Any unexpended or unencumbered balance remaining at the end of FY2013 shall revert to the General Fund.

The appropriation of \$100 thousand contained in this bill to DHLSEM is a Non-recurring expense to the General fund. Any unexpended or unencumbered balance remaining at the end of FY2010 shall revert to the General Fund.

SIGNIFICANT ISSUES

Severe rains July 26 and 27 spawned by the remnants of Hurricane Dolly led to damaging and dangerous flooding in Lincoln and Otero Counties. On July 28 Governor Richardson issued Executive Order 2008-042 declaring a disaster in Lincoln County thereby releasing \$750 thousand to the Department of Homeland Security and Emergency Management (DHLSEM) to help defray local costs associated with the disaster.

After the initial emergency and rescue operations by DHLSEM and the National Guard, assessment teams from both the state and the Federal Emergency Management Agency (FEMA) began estimating infrastructure damage and costs to rehabilitate the area. Information gathered by the teams pointed to damage being extensive enough to meet federal thresholds to qualify for FEMA funding. Presently DHLSEM information estimates a swift final approval of the federal aid for this purpose. Federal aid allows for a state-federal matching arrangement of 25 percent state to 75 percent federal. The state funds can be a combination of state and local monies.

Worksheets provided by DHLSEM estimate the total required expenditures at approximately \$5.1 million. This total includes \$2.9 million for Lincoln County and \$47 thousand for Otero County for roads and bridges. DHLSEM cautions however that this should NOT be construed as the final total costs but is rather a rough projection to determine if federal thresholds for FEMA aid were met. Until requests for proposals are issued and bids received the actual costs are somewhat uncertain and difficult to estimate.

Once all the funding is in place the federal funds are handled on a reimbursement basis with generally local authorities taking the lead for plan design and construction management. For this reason it may be advisable to direct the appropriation to Local Government Division of the Department of Finance and Administration. This division has direct contact and arrangements on how to coordinate local community capital projects which this type of infrastructure repair appears to be.

The \$100 thousand appropriation to DHLSEM indicates the expenditure should be for emergency relief for flood victims along the Rio Ruidoso as provided in Section 12-11-25 NMSA 1978. The section states “The funds shall be expended by the governor or any agent or agency designated by him for those purposes, either as a state project or for securing matching federal funds”. Further along "state project" is defined as “an expenditure by a state agency to provide those resources and services necessary to avoid or minimize economic or physical harm until a situation becomes stabilized and again under local self-support and control. State project" may include any expenditure on a temporary, emergency basis for lodging, sheltering, health care, food, any transportation or shipping necessary to protect lives or public property; or for any other action necessary to protect the public health, safety and welfare”. This could be construed to mean the funds are to repay governmental entities such as the National Guard or State Police for their services in the emergency phase.

TECHNICAL ISSUES

It may be advisable to include language that clarifies how the \$5 million relates to the state matching requirement for FEMA federal funds. It is unclear if these funds are just an appropriation for roads and bridges in Lincoln and Otero or if some or all of the \$5 million should act as the state matching requirement. If this is not clear and the funds are not spent in the proper chronology it could result in not having state matching funds available at the required time with the resultant loss of the 75 percent federal portion. For example, language could provide that the primary purpose of the \$5 million is to act as match and any non-matched funds could only be expended after the depletion of FEMA funds.

MW/mt