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## FISCAL IMPACT REPORT

**SPONSOR** HAFC **ORIGINAL DATE** 03/10/21 **LAST UPDATED** 03/15/21 **HB** CS/HB325 /aHF1#1  
**SHORT TITLE** Rural Air Service Enhancement Act **SB** \_\_\_\_\_  
**ANALYST** Jorgensen

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$50.0	NFI	\$50.0	Nonrecurring	State Aviation

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to an appropriation in the General Appropriation Act of 2021  
 Relates to Senate Bill 133

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Transportation (NMDOT)  
 Economic Development Department (EDD)  
 New Mexico Attorney General (NMAG)

### SUMMARY

#### Synopsis of HF1#1 Amendment

House floor #1 amendment to the House Appropriations and Finance Committee substitute for House Bill 325 (HB325) specifies that communities that qualify for federal essential air service funding shall not qualify under the rural air service enhancement grant program. Additionally, the amendment requires that funds may only be expended by a municipality or county to an airline that has been selected through a competitive process that complies with the procurement code. Lastly, the amendment strikes the \$9 million appropriation.

#### Synopsis of Original Bill

The House Appropriations and Finance Committee substitute for House Bill 325 (HB325) creates a new aviation grant program within the Department of Transportation (DOT) to support air service to rural parts of the state. The program awards grants to municipal or county governments to be used to provide air service operators minimum revenue guarantees for new air service routes. To be eligible for a grant award, a municipality or county is required to have a minimum population of 20 thousand people residing within a 50-mile radius of the airport,

unless there is existing air service at the airport. New air routes would have to be serviced using aircraft with a passenger capacity not to exceed 9. The local government would be eligible to receive a grant up to \$1.75 million with a 10 percent match if there is no existing air service, or could receive up to \$1.25 million with a 50 percent match if there is existing air service. The grant would be for a two-year period.

HB325 creates the rural air service enhancement fund and appropriates an initial \$9 million from the general fund to the enhancement fund for expenditure in fiscal year 2022 and future fiscal years. Appropriated funds will not revert to the general fund.

HB325 allows not more than 10 percent of the funds in the rural air service enhancement fund as of July 1 of any given year to be awarded to local airports for infrastructure improvement projects associated with individual grants awarded through the air service enhancement program.

### **FISCAL IMPLICATIONS**

The appropriation of \$9 million contained in the bill is a recurring expense to the general fund. Funds appropriated to the rural air service enhancement fund shall not revert.

As shown in the estimated additional operating budget impact table, HB325 may place additional costs on the state aviation division including overtime for existing staff, contracting costs, and other operational costs. The DOT estimates that administrative costs could be up to \$50 thousand for the first year and minimal for successive years. Administrative costs would be paid from the State Aviation Fund.

There are 54 public use airports in the state, of which nine have commercial service. Because the number of airports that may participate and amounts of the potential grants are unknown, it is not possible to estimate the value of the grant awards per year.

### **SIGNIFICANT ISSUES**

NMDOT notes:

HB325 describes the purpose of the program to provide assistance to airlines through a minimum revenue guarantee. Structuring the program in such a manner raises the potential that the program could violate the Anti-Donation Clause of the New Mexico Constitution (Art. IX, section 14). With respect to the award of funds by the NMDOT to a municipality or county, a grant program which provides for a transfer of funds from a state agency to another political subdivision of the state, has been determined not to be contrary to the prohibitions of Article IX, Section 14. See *City of Gallup v. New Mexico State Park and Recreation Commission*, 1974-NMSC-084, ¶ 13, 86 N.M. 745, 527 P.2d 786; *Wiggs v. City of Albuquerque*, 1952-NMSC-013, 56 N.M. 214, 242 P.2d 865. The potential Anti-Donation concerns present themselves at the local level due to the program providing that a municipality or county would provide a private party with a revenue guarantee.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB325 is largely similar to Senate Bill 133. However, HB325 allows for spending for airport

infrastructure improvement while SB133 does not allow for infrastructure improvement. Additionally, SB133 requires service to be provided by twin engine turboprop aircraft while HB325 requires only that service be provided by aircraft with a passenger capacity of no more than 9.

HB325 is related to an appropriation of \$9 million in Section 9 of the 2021 General Appropriation Act of 2021.

CJ/al/sb/rl/al