

LFC Requester:	Emily Hilla
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 1.19.24

Bill No: SB 49

Sponsor: Siah Correa Hemphill
Short Title: Rural Infrastructure Crisis Response Act

Agency Name and Code DHSEM-795
Number: _____
Person Writing Matthew Stackpole
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
	\$100,000	Nonrecurring	Rural Infrastructure Crisis Response Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
\$0	\$0	\$0	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$400	\$400	\$1,600 (FY25- FY28)	Nonrecurring beyond FY 28	Rural Infrastructure Crisis Response Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 49 creates the Rural Infrastructure Crisis Response Act which creates the Rural Infrastructure Crisis Response Fund and the Bureau of Rural Infrastructure Crisis Response within the Local Government Division of the Department of Finance and Administration (DFA). Beginning on January 1, 2025, the Bureau of Rural Infrastructure Crisis Response can begin receiving, reviewing, and determining the eligibility of project requests for repair or replacement of critical public infrastructure that has been damaged due to a “crisis event.” To qualify for assistance, a project must fulfill several criteria:

1. The infrastructure in question must be critically important for public health, safety, or welfare, and must be damaged by an unforeseen crisis event.
2. The cost of repair must be at least half the cost of full replacement for the project to be considered for repair assistance.
3. The local authority responsible for the infrastructure must not have sufficient resources to perform the necessary repairs or replacements.
4. There must be no alternative financial assistance available to the local authority within 81 days following the crisis event.

Relief requests can be submitted to the Bureau by the governing body of a local authority or the state representative or senator representing the district in which the crisis took place. The request must include a recommendation from the regional planning commission. Upon receipt of a relief request, the bureau has 30 days to conduct an engineering and financial evaluation to ascertain if the request meets the eligibility criteria and to assess whether the local authority is in financial hardship.

The secretary of finance and administration will then make a formal determination within 15 days of receiving the bureau's evaluation. If the project is deemed eligible and the local authority is in financial hardship, the secretary will grant funds for the project. For tribal authorities, grants are awarded through the tribal infrastructure board, and for non-tribal authorities, grants go directly to respective local authority.

The bill also specifies that the secretary cannot issue more than \$1 million in total awards for infrastructure projects in a single county within a calendar year, ensuring that the assistance is spread across multiple communities as needed.

FISCAL IMPLICATIONS

Appropriation Summary: The bill appropriates \$100 million from the general fund for the purposes of implementing the act, with \$1.6 million allocated for the bureau's operational costs over FY25-FY28 and the remainder to the Rural Infrastructure Crisis Response Fund.

Appropriation Analysis:

Section 4 of Senate Bill 49 establishes the Rural Infrastructure Crisis Response Fund within the state treasury. The Department of Finance and Administration is responsible for managing the fund and may create subaccounts as necessary. The funds are designated for expenditure on approved projects and are not subject to reversion at the end of the fiscal year.

The fund is intended to grant financial assistance to local authorities or the tribal infrastructure board for approved infrastructure projects. Grants can cover up to 95% of project costs if the local authority can provide the remaining 5% from non-state sources, or up to 100% if the project is associated with a financial hardship approved by the secretary.

All construction-related projects must adhere to engineering requirements set by the bureau. Additionally, an annual report detailing the fund's status, the progress of funded projects, and the remaining demand for assistance must be submitted to the “appropriate interim legislative committee,” by November 30 each year.

Section 7 of Senate Bill 49 details the appropriation of funds for the implementation of the Rural Infrastructure Crisis Response Act. A total of \$100 million is appropriated from the general fund to the Department of Finance and Administration. Out of this amount, \$1.6 million is allocated to the Bureau of Rural Infrastructure Crisis Response for operational costs, including staffing and engineering and financial evaluations, from FY 2025 through FY 2028, with a limit of \$400,000 per fiscal year. Any remaining funds at the end of fiscal year 2028 will be transferred to the Rural Infrastructure Crisis Response Fund. The remaining \$98.4 million is designated for the Rural Infrastructure Crisis Response Fund itself, to be used for the purposes outlined in the act from fiscal year 2025 onwards. Unused funds at the end of any fiscal year will remain in the fund rather than reverting to the general fund.

SIGNIFICANT ISSUES

The Department of Homeland Security and Emergency Management has several concerns with SB 49.

Context:

The Disaster Assistance Program managed by the New Mexico Department of Homeland Security and Emergency Management (DHSEM) encompasses various efforts aimed at preparing for and responding to emergencies and disasters within the state. The program's Response and Recovery Team is tasked with overseeing state-level emergency preparedness, response, and recovery activities. This involves coordinating resources during disasters, providing expertise to emergency managers, and administrative support to aid recovery.

The NM Emergency Operations Center plays a crucial role in dispatching team members to support local emergency managers, first responders, and affected individuals during emergencies. For events that exceed local response capabilities, state-level coordination is facilitated by the DHSEM Response Team, which assists in planning and supports impacted state agencies, local jurisdictions, and tribal entities.

Moreover, the department administers two categories of federal grant funding. Disaster grants help state, tribal, and local governments, as well as certain non-profit organizations, respond to and recover from major disasters and emergencies. These grants are typically available after a presidential disaster declaration. Non-Disaster grants focus on enhancing the capacity of state and local emergency responders to prevent and mitigate the effects of various hazards.

For incidents that don't qualify for federal disaster declarations, the New Mexico Public Assistance Program offers financial or technical support to affected communities, aimed at restoring public infrastructure and operations. The department's grants section also offers various other grant programs, both related to disaster response and preparedness, as well as for enhancing general emergency management capabilities.

Concerns:

SB 49 seems to overlook the existence and efficacy of the New Mexico Department of Homeland Security and Emergency Management's (DHSEM) Disaster Assistance Program. DHSEM has established and successfully implemented the State Disaster Assistance Program to address the needs arising from disaster events. Despite the provision in Section 3(A)(4) that there be a determination that, "no other source of financial assistance is available to the local authority to repair or replace the critical public infrastructure within eighty-one days of the crisis event," the structure of SB 49 will likely, though inadvertently, incentivize local government authorities to engage in redundant activities as they seek to optimize access to funding opportunities. Concurrently, the bill does not establish a framework for state agencies to effectively coordinate and communicate, which is essential for ensuring that local entities receive comprehensive and synchronized support. This gap could lead to a scenario where local efforts are not only duplicated but also less effective due to the absence of a state-facilitated, unified approach to maximize benefits and streamline assistance.

Furthermore, SB 49 proposes a mechanism for State Representatives or State Senators to initiate requests for disaster assistance, which bypasses the established and proven chain of communication and response for local disasters. Such a precedent risks creating parallel processes that could result in confusion, duplication of efforts, and a dilution of the coordinated response that is crucial during disaster scenarios.

Lastly, while Section 4 of the Bill specifies the appropriation of funds for disaster response, there is a notable absence of provisions for the monitoring and auditing of these funds to ensure their effective and appropriate utilization. The absence of such a framework raises concerns about the accountability and oversight of the allocated funds, which is paramount for maintaining public trust and ensuring fiscal responsibility.

PERFORMANCE IMPLICATIONS

Please see those listed above; specifically those concerning duplication of efforts and reduced efficacy.

ADMINISTRATIVE IMPLICATIONS

Please see those listed above; specifically those concerning duplication of efforts and reduced efficacy.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

NA

TECHNICAL ISSUES

Please see those listed above; specifically those concerning duplication of efforts and reduced efficacy.

OTHER SUBSTANTIVE ISSUES

See above.

ALTERNATIVES

NA

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Department of Homeland Security and Emergency Management believes that the Legislature maintains the integrity and efficiency of the current disaster assistance program by not creating redundant processes and by not enacting SB 49. DHSEM has established a robust and effective disaster assistance program that is deeply integrated with local government authorities. It is imperative that we uphold and strengthen these existing channels, which are proven in delivering timely and coordinated disaster response and recovery efforts. Introducing parallel structures runs the risk of fragmenting our response capabilities, leading to inefficiencies and the dilution of the concerted efforts that are crucial during such critical times. Rather than permitting a system that could be construed as an attempt for secondary access by state representatives and senators, it is crucial for the efficacy of disaster response that these elected officials continue to work in concert with established local government authorities. This approach not only ensures streamlined and effective disaster recovery but also upholds the principles of responsible governance by preventing unnecessary duplication of effort and resources.

AMENDMENTS