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FISCAL IMPACT REPORT

ORIGINAL DATE 2/6/2009

SPONSOR Varela LAST UPDATED _____ HB 350

SHORT TITLE Department of Transportation Material Donations SB _____

ANALYST Moser

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Department of Transportation (NMDOT)

SUMMARY

Synopsis of Bill

House Bill 350 amends Chapter 67, Article 3 NMSA to authorize the New Mexico Department of Transportation (NMDOT) to donate available surplus personal property or materials to local government entities to repair damage to public roads, highways, and bridges in New Mexico resulting from natural or man-made causes. The damage must be sudden and unforeseen and result in an emergency that places the public at risk of injury. Furthermore, the entities must certify that they do not have the funds to purchase the materials or property and that the materials will be used only for the purpose of making the repairs necessary to address the emergency. NMDOT must also certify that the donated property or materials will not affect NMDOT's ability to carry out its statutory obligations.

FISCAL IMPLICATIONS

No impact to the NMDOT.

SIGNIFICANT ISSUES

HB350 will allow the NMDOT to directly donate surplus property or materials to local governments under emergency situations from natural or man-made causes in a timely manner when the personal property or materials is most needed.

The bill provides safeguards to ensure administrative accountability. Additionally, the bill requires local government certification that the local government does not have the resources to acquire the requested personal property or materials for an emergency situation.

Current law allows the NMDOT to sell or donate surplus or obsolete personal property or materials to local governments under certain conditions. (*See* Sections 13-6-1 and Section 13-6-2, NMSA 1978.) These sections of law require fairly complex and time-consuming documentation and procedures and are not designed to respond to an emergency preventing a timely response in an emergency.

Furthermore, it appears that Section 13-6-2 does not apply to the NMDOT. While NMDOT may also enter into a cooperative agreement with a local government entity pursuant to Section 67-3-28, NMSA 1978, and contribute NMDOT property as part of a joint effort to address emergency repairs, it also provides that an administrative process of drafting and executing an agreement which can be time consuming and may prevent a quick response in an emergency.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The current process which the NMDOT utilizes to donate personal property or materials to local governments requires the execution of a cooperative agreement between the NMDOT and the local government. For property with a value of less than \$5,000.00 (five thousand dollars), the NMDOT may also comply with fairly complex procedures for the disposition of this property pursuant to Section 13-6-2. Both alternatives require substantial lead time to execute, which makes these provisions less than ideal to use in an emergency situation. The current process would remain in effect.

GM/mt