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FISCAL IMPACT REPORT

SPONSOR Gonzales/Garcia, H. **ORIGINAL DATE** 2/12/21
LAST UPDATED _____ **HB** _____
SHORT TITLE Rural Air Service Enhancement Act **SB** 133
ANALYST Jorgensen

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		
	\$9,000.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to an appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

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

SUMMARY

Synopsis of Bill

Senate Bill 133 (SB133) 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 twin engine turboprop aircraft. The local government would have to provide either a 10 percent match if there is no existing air service or a 50 percent match if there is existing air service. The maximum grant award would be up to \$1.25 million if there is existing air service or \$1.75 million if there is no existing air service. The grant would be for a two-year period.

SB133 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.

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.

There are 54 public use airports in the state, of which nine have commercial service. SB133 requires the airport to be serviced by twin turbo prop engine aircraft, which would exclude airports served exclusively by jet-propulsion aircraft or single-engine aircraft. This could exclude six of the nine airports offering 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.

SB133 may place additional costs on the state aviation division including overtime for existing staff, contracting costs, and other operational costs.

SIGNIFICANT ISSUES

SB133 requires air service to be provided by twin engine turboprop aircraft. This may be overly restrictive, resulting in other types of aircraft being ineligible for consideration under the terms of the grant program.

NMDOT notes:

SB 133 sets forth specific criteria for use in awarding grants to municipalities and counties. Grants are to be awarded on a competitive basis. Since the NMDOT will be implementing a state law which affects persons that are not part of the NMDOT, implementation of the program will require the adoption of a rule as prescribed by the "State Rules Act", Chapter 14, Article 4, NMSA 1978. See N.M. Att'y Gen. Op. 93-01. NMDOT adopted such a rule when it implemented the Air Service Assistance Program. See NMAC 18.11.3. At the local level, to comply with the Procurement Code or its own purchasing ordinance, a municipality or county will need to competitively solicit air service providers. As a result, implementation of the program, including distribution of the grant funds to a local government, will take time.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB133 is related to the LFC recommendation for special transportation appropriations (found on page 202 of Volume 1 of the committee's recommendation to the Legislature for FY22), which contains \$5 million to be expended for essential air service.

OTHER SUBSTANTIVE ISSUES

NMDOT reports:

Section F.(3) of SB 133 does not allow use of the funds for infrastructure improvements. Consideration should be given to eliminating this restriction since infrastructure improvements at local airports could be necessary for passenger comfort and convenience as well as to install required safety and security measures required to provide the service.

The Federal Aviation Administration has established certain certification requirements for any airport that provides scheduled air carrier operations with aircraft designed for more than 9 passenger seats but less than 31 passenger seats. Any rural airport that does not currently have a 139 Certification would need to limit the size of aircraft participating in this program to less than 9 passenger seats or obtain a 139 Certification. To obtain 139 Certification, an airport must agree to certain operational and safety standards and provide for such things as firefighting and rescue equipment. Obtaining such a certification takes time and would require both an upfront expense to acquire the certification and a continuing financial obligation on the part of the municipality or county to maintain its 139 Certification.

CJ/al sb