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SENATE BILL 1015

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Leonard Tsosie

AN ACT

RELATING TO INFRASTRUCTURE; ENACTING THE TRIBAL INFRASTRUCTURE ACT; CREATING A BOARD; PRESCRIBING POWERS AND DUTIES; CREATING A TRUST FUND; CREATING A PROJECT FUND; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. --This act may be cited as the "Tribal Infrastructure Act".

Section 2. FINDINGS AND PURPOSE. --

A. The legislature finds that:

(1) tribes lack basic infrastructure resulting in poor social, health and economic conditions of tribal communities;

(2) adequate infrastructure such as water and wastewater systems, major water systems, electrical power lines, communications, roads, health and emergency response

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1 facilities and infrastructure needed for economic development
2 are essential to improved health, safety and welfare of all New
3 Mexicans, including residents of tribal communities;

4 (3) local tribal efforts and resources have
5 been insufficient to develop and maintain a consistent and
6 adequate level of infrastructure in tribal communities;

7 (4) addressing the urgent need of replacing,
8 improving and developing tribal infrastructure through the use
9 of an alternative financing mechanism is a long-term cost
10 savings benefit to both the state and the tribes; and

11 (5) adequate infrastructure development on
12 tribal land will allow tribal members to achieve the basic
13 conditions necessary to improve the quality of their lives.

14 B. The purposes of the Tribal Infrastructure Act
15 are to:

16 (1) ensure adequate financial resources for
17 infrastructure development for tribal communities;

18 (2) provide for the planning and development
19 of infrastructure in an efficient and cost-effective manner;
20 and

21 (3) develop infrastructure in tribal
22 communities to improve the quality of life and encourage
23 economic development.

24 Section 3. DEFINITIONS.--As used in the Tribal
25 Infrastructure Act:

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- 1 A. "board" means the tribal infrastructure board;
2 B. "department" means the Indian affairs
3 department;
4 C. "financial assistance" means providing grants or
5 loans on terms and conditions approved by the board;
6 D. "governor" means the governor of New Mexico;
7 E. "project fund" means the tribal infrastructure
8 project fund;
9 F. "qualified project" means a tribal
10 infrastructure project selected by the board for financial
11 assistance pursuant to the Tribal Infrastructure Act;
12 G. "tribe" means a federally recognized Indian
13 nation, tribe or pueblo located wholly or partially in New
14 Mexico or any of its governmental entities or subdivisions; and
15 H. "trust fund" means the tribal infrastructure
16 trust fund.

17 Section 4. TRIBAL INFRASTRUCTURE BOARD CREATED. --

- 18 A. The "tribal infrastructure board" is created and
19 is administratively attached to the department.
20 B. The board shall consist of nine voting members
21 and four non-voting members.
22 C. The voting ex-officio members are:
23 (1) the secretary of Indian affairs, or the
24 secretary's designee from the department, who shall be chair of
25 the board;

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1 (2) the secretary of finance and
2 administration or the secretary's designee from the department
3 of finance and administration;

4 (3) the secretary of health or the secretary's
5 designee from the department of health;

6 (4) the secretary of environment or the
7 secretary's designee from the department of environment; and

8 (5) the executive director of the New Mexico
9 finance authority or the executive director's designee from the
10 New Mexico finance authority.

11 D. The following four voting members who have
12 experience with capital projects development or administration
13 from tribes shall be appointed by the governor:

14 (1) one person who is a member of a pueblo;

15 (2) one person who is a member of the
16 Jicarilla Apache Nation;

17 (3) one person who is a member of the
18 Mescalero Apache tribe; and

19 (4) one person who is a member of the Navajo
20 Nation.

21 E. There shall be four non-voting members as
22 follows:

23 (1) one representative from the federal bureau
24 of Indian affairs, Albuquerque area office, designated by the
25 regional director;

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1 (2) one representative from the federal bureau
2 of Indian affairs, Navajo area office, designated by the
3 regional director;

4 (3) one representative from the Albuquerque
5 area Indian health services designated by the area director;
6 and

7 (4) one representative from the Navajo area
8 Indian health services designated by the area director.

9 F. The board shall meet at the call of the chair or
10 whenever four voting members submit a request in writing to the
11 chair, but not less than twice each calendar year. A majority
12 of members constitutes a quorum for the transaction of
13 business. The affirmative vote of at least a majority of a
14 quorum shall be necessary for an action to be taken by the
15 board.

16 G. Each member of the board appointed by the
17 governor shall be appointed to a two-year term. Vacancies
18 shall be filled by appointment by the governor for the
19 remainder of the unexpired term.

20 H. Members of the board appointed by the governor
21 may receive per diem and mileage as provided for non-salaried
22 public officers in the Per Diem and Mileage Act and shall
23 receive no other compensation, perquisite or allowance.

24 Section 5. BOARD--DUTIES.--The board shall:

25 A. adopt rules governing terms, conditions and

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1 priorities for providing financial assistance to tribes,
2 including developing application and evaluation procedures and
3 forms and qualifications for applicants and for projects;

4 B. provide financial assistance to tribes for
5 qualified projects on terms and conditions established by the
6 board;

7 C. authorize funding for qualified projects,
8 including:

9 (1) planning, designing, constructing,
10 improving, expanding or equipping water and wastewater
11 facilities, major water systems, electrical power lines,
12 communications infrastructure, roads, health infrastructure,
13 emergency response facilities and infrastructure needed to
14 encourage economic development;

15 (2) developing engineering feasibility reports
16 for infrastructure projects;

17 (3) inspecting construction of qualified
18 projects;

19 (4) providing special engineering services;

20 (5) completing environmental assessments or
21 archaeological clearances and other surveys for infrastructure
22 projects;

23 (6) acquiring land, easements or rights of
24 way; and

25 (7) paying legal costs and fiscal agent fees

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1 associated with development of qualified projects.

2 Section 6. TRIBAL INFRASTRUCTURE TRUST FUND--CREATED--
3 INVESTMENT--DISTRIBUTION.--

4 A. The "tribal infrastructure trust fund" is
5 created in the state treasury. The trust fund shall consist of
6 money that is appropriated, donated or otherwise accrues to it.
7 Money in the trust fund shall be invested by the state
8 investment officer in the manner that land grant permanent
9 funds are invested pursuant to Chapter 6, Article 8 NMSA 1978.
10 Income from investment of the trust fund shall be credited to
11 the fund. Money in the trust fund shall not be expended for
12 any purpose, but an annual distribution from the trust fund
13 shall be made to the project fund pursuant to this section.

14 B. On July 1 of each year in which adequate money
15 is available in the trust fund, an annual distribution shall be
16 made from the trust fund to the project fund in the amount of
17 ten million dollars (\$10,000,000) until the distribution is
18 less than an amount equal to four and seven-tenths percent of
19 the average of the year-end market values of the trust fund for
20 the immediately preceding five calendar years. Thereafter, the
21 amount of the annual distribution shall be four and seven-
22 tenths percent of the average of the year-end market values of
23 the trust fund for the immediately preceding five calendar
24 years.

25 Section 7. TRIBAL INFRASTRUCTURE PROJECT FUND--CREATED--

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1 PURPOSE- - APPROPRIATIONS. - -

2 A. The "tribal infrastructure project fund" is
3 created in the state treasury and:

4 (1) the department of finance and
5 administration shall administer the project fund;

6 (2) the project fund shall consist of:

7 (a) distributions made to it from the
8 trust fund;

9 (b) payments of principal and interest
10 on loans for qualified projects;

11 (c) other money appropriated by the
12 legislature or distributed or otherwise allocated to the
13 project fund for the purpose of supporting qualified projects;
14 and

15 (d) income from investment of the money
16 in the project fund that shall be credited to the project fund;

17 (3) balances in the project fund at the end of
18 a fiscal year shall not revert to the trust fund or to the
19 general fund; and

20 (4) the project fund may consist of
21 subaccounts as determined to be necessary by the department of
22 finance and administration.

23 B. The department of finance and administration may
24 establish procedures and adopt rules as required to administer
25 the project fund and to originate grants or loans for qualified

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1 projects approved by the board.

2 C. Beginning in fiscal year 2006 and in subsequent
3 years, one hundred thousand dollars (\$100,000) is appropriated
4 from the project fund to the department of finance and
5 administration for expenditure in the fiscal year in which it
6 is appropriated, to administer the project fund. Any
7 unexpended or unencumbered balance remaining at the end of any
8 fiscal year shall revert to the project fund.

9 D. Beginning in fiscal year 2006 and in each
10 subsequent year, five hundred thousand dollars (\$500,000) is
11 appropriated from the project fund to the Indian affairs
12 department for expenditure in the fiscal year in which it is
13 appropriated to administer the Tribal Infrastructure Act, to
14 pay per diem and mileage as required by that act and for
15 operation of the board. Any unexpended or unencumbered balance
16 remaining at the end of any fiscal year shall revert to the
17 project fund.

18 E. The balance in the project fund not otherwise
19 appropriated in this section is appropriated to the department
20 of finance and administration for expenditure in fiscal year
21 2006 and in subsequent fiscal years to carry out the provisions
22 of the Tribal Infrastructure Act by providing grants or loans
23 for qualified projects. Any unexpended or unencumbered balance
24 remaining at the end of a fiscal year shall revert to the
25 project fund.

