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SENATE BILL 697

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Leonard Tsosie

AN ACT

RELATING TO FORENSIC INVESTIGATIONS; ESTABLISHING THE TRIBAL
FORENSIC INVESTIGATION FUND; MAKING AN APPROPRIATION; DECLARING
AN EMERGENCY.

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

Section 1. [NEW MATERIAL] TRIBAL FORENSIC INVESTIGATION
FUND--CREATED--ADMINISTRATION.--

A. The "tribal forensic investigation fund" is
created in the state treasury.

B. The tribal forensic investigation fund shall be
administered by the secretary of Indian affairs to pay for the
extraordinary services provided by the office of the state
medical investigator or a district medical investigator on land
in New Mexico within the exterior boundaries of an Indian
nation, tribe or pueblo.

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1 C. Money in the tribal forensic investigation fund
2 is appropriated to the Indian affairs department for
3 expenditure to pay for the extraordinary costs of forensic
4 investigations and other services that are not within the
5 ordinary and usual duties and responsibilities of the office of
6 the state medical investigator or a district medical
7 investigator and are provided on land located in New Mexico
8 within the exterior boundaries of an Indian nation, tribe or
9 pueblo.

10 D. Any unexpended or unencumbered balance remaining
11 in the tribal forensic investigation fund at the end of a
12 fiscal year shall not revert to the general fund.

13 E. Earnings on the tribal forensic investigation
14 fund shall be transferred to the general fund.

15 F. Money in the tribal forensic investigation fund
16 shall be expended pursuant to vouchers signed by the secretary
17 of Indian affairs upon warrants issued by the department of
18 finance and administration.

19 G. The state medical investigator or a district
20 medical investigator shall submit to the secretary of Indian
21 affairs charges for which reimbursement from the tribal
22 forensic investigation fund is requested. The request for
23 reimbursement shall be accompanied by documentation from the
24 state medical investigator or district medical investigator
25 providing the service as to the nature of the service provided,

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1 why the service is considered extraordinary and whether any
2 other similar services have been provided in the state for a
3 fee or free of charge.

4 H. Prior to disbursing money from the tribal
5 forensic investigation fund, the secretary of Indian affairs
6 shall review the documentation from the state medical
7 investigator or a district medical investigator to ensure that
8 the services for which the fund is being charged are not
9 services that the state medical investigator or a district
10 medical investigator is required to provide through the
11 ordinary and usual operations of the office of the state
12 medical investigator.

13 I. The ordinary and usual services provided by the
14 office of the medical investigator to communities of New Mexico
15 residents living within the exterior boundaries of an Indian
16 nation, tribe or pueblo shall be provided without charge to the
17 extent that those services are provided without charge to all
18 other municipalities or counties in the state.

19 Section 2. Section 24-11-2 NMSA 1978 (being Laws 1971,
20 Chapter 112, Section 2, as amended) is amended to read:

21 "24-11-2. MEETINGS--DUTIES.--

22 A. The board of medical [~~investigations~~]
23 investigators shall meet at least annually and as often as
24 necessary to conduct the business of the board. Additional
25 meetings may be called by the [~~chairman~~] chair or by a majority

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1 of the members of the board.

2 B. At the first annual meeting of the board, the
3 members shall elect one of [~~their number~~] the members as
4 [~~chairman~~] chair.

5 C. The board of medical [~~investigations~~]
6 investigators shall formulate broad policy for the operation of
7 the office of the state medical investigator and the offices of
8 the district medical investigators, including ensuring that
9 forensic investigations and other services that are provided in
10 the ordinary and usual course of the operation of the office of
11 the state medical investigator or a district medical
12 investigator are provided on an equal basis to all communities
13 in New Mexico and in all areas of the state, including forensic
14 investigations and other services that are provided on land in
15 New Mexico within the exterior boundaries of an Indian nation,
16 tribe or pueblo. The state medical investigator or a district
17 medical investigator may charge a fee, not to exceed the cost
18 of the service provided, for all services provided on federal
19 military reservations within the state.

20 D. The board of medical [~~investigations~~]
21 investigators shall employ and fix the compensation of a
22 qualified state medical investigator who shall be assigned as
23 an employee of the university of New Mexico school of
24 medicine."

25 Section 3. Section 24-11-3 NMSA 1978 (being Laws 1971,
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1 Chapter 112, Section 3, as amended) is amended to read:

2 "24-11-3. STATE MEDICAL INVESTIGATOR--QUALIFICATIONS--
3 DUTIES--OFFICE.--

4 A. The state medical investigator shall be a
5 physician licensed to practice in New Mexico. Insofar as
6 practicable, the medical investigator shall be trained in the
7 fields of pathology and forensic medicine.

8 B. The state medical investigator shall maintain
9 [his] an office at the [~~school of medicine at the~~] university
10 of New Mexico school of medicine.

11 C. The state medical investigator shall appoint
12 district medical investigators and, where necessary, deputy
13 medical investigators who shall serve at [his] the
14 investigator's pleasure. The state medical investigator may
15 assign deputy medical investigators to districts to work under
16 the supervision of a district medical investigator. The
17 district medical investigator shall be a licensed physician.
18 When deemed necessary by the state medical investigator, [he]
19 the investigator may direct a deputy or district medical
20 [~~examiner~~] investigator to enter another district for the
21 purpose of carrying out medical investigations.

22 D. Any district created by the state medical
23 investigator to be staffed by a district medical investigator
24 shall be coextensive with one or more counties.

25 E. The state medical investigator may enter into

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1 agreements for services to be performed by persons in the
2 course of medical investigations.

3 F. The state medical investigator shall, subject to
4 the approval of the board of medical ~~[investigations]~~
5 investigators, promulgate rules ~~[and regulations]~~ for the
6 proper investigation of deaths occurring within this state,
7 including deaths occurring in New Mexico within the exterior
8 boundaries of an Indian nation, tribe or pueblo. Services
9 provided in New Mexico within the exterior boundaries of an
10 Indian nation, tribe or pueblo are services provided on the
11 same basis as services provided in any other part of New
12 Mexico. No fee may be charged that would not be charged to a
13 municipality or county in the state. Services provided on a
14 federal military reservation in New Mexico may be provided for
15 a fee not to exceed the cost of the service.

16 G. The state medical investigator shall maintain
17 records of the deaths occurring within this state ~~[which]~~ that
18 are investigated by either state or district medical
19 investigators.

20 H. In addition to other duties prescribed in this
21 section, the state medical investigator shall also serve as the
22 district medical investigator for Bernalillo county.

23 I. Funds for the operation of the state and
24 district medical investigators' offices shall be appropriated
25 to and administered by the university of New Mexico school of

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1 medicine.

2 J. The state medical investigator shall develop and
3 promulgate rules, subject to the approval of the board of
4 medical investigators, to define:

5 (1) the ordinary and usual services that are
6 provided by the office of the state medical investigator and
7 district medical investigators at no fee to the recipient
8 jurisdiction, except as otherwise permitted in this section;
9 and

10 (2) the extraordinary services that are
11 provided by the office of the state medical investigator and
12 district medical investigators for which fees shall be
13 assessed, not to exceed the cost of the service provided, and
14 set forth a fee schedule for provision of those services.

15 K. The office of the state medical investigator
16 shall have no authority to assess fees except for the authority
17 granted by this section. Fees charged to any entity in New
18 Mexico without express authority provided in this section or
19 pursuant to the rules approved by the board of medical
20 investigators and promulgated by the state medical investigator
21 are void."

22 Section 4. APPROPRIATION.--Three hundred seventy-five
23 thousand dollars (\$375,000) is appropriated from the general
24 fund to the tribal forensic investigation fund for expenditure
25 in fiscal year 2006 and subsequent fiscal years to fund the

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1 extraordinary costs of forensic investigations and other
2 services provided by the office of the medical investigator or
3 a district medical investigator on land located in New Mexico
4 within the exterior boundaries of an Indian nation, tribe or
5 pueblo. Any unexpended or unencumbered balance remaining at
6 the end of a fiscal year shall not revert to the general fund.

7 Section 5. EMERGENCY.--It is necessary for the public
8 peace, health and safety that this act take effect immediately.

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