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AN ACT

RELATING TO EXPENDITURE OF PUBLIC MONEY; PROVIDING FOR
CAPITAL EXPENDITURES; ESTABLISHING CONDITIONS FOR PROJECTS
WITHIN THE NAVAJO NATION; PROVIDING FOR DIRECT PAYMENTS TO
VENDORS; DEFINING INDIGENCY; DECLARING AN EMERGENCY.

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

Section 1. LEGISLATIVE FINDINGS AND PURPOSE.--

A. The legislature finds that many residents of
this state living within Indian country are impoverished and
are involuntarily living without electric service, indoor
plumbing, adequate potable water, telecommunications or
related infrastructure due to federal government policies
over the decades. This finding is based upon federal
decennial census data showing that Native Americans living in
Indian country have a long history of income below federal
poverty levels and a lack of basic domestic amenities.
Living under such adverse circumstances has a negative impact
on the education of children at the elementary and secondary
school levels and on the health and welfare of Native
Americans in general.

B. Since the nineteenth century, the federal
government has assumed a trust responsibility for Native
Americans, but since New Mexico attained statehood, it has
had a responsibility for its Native American residents.

1 C. The legislature finds it is the policy of the
2 state of New Mexico to improve the basic quality of life of
3 residents within Indian country through the use of any means
4 available.

5 D. The purpose of this act is in part to enable
6 the state, in compliance with the provisions of the
7 constitution of New Mexico, to provide financial assistance
8 to residents within Indian country so that they may be served
9 by basic residential services such as electric service,
10 indoor plumbing, sewer, adequate potable water,
11 telecommunications and related infrastructure.

12 E. The state has developed
13 government-to-government relationships and agreements with
14 the twenty-two Indian nations, tribes and pueblos in New
15 Mexico regarding education and other topics. To better
16 provide services to Native Americans, many state agencies
17 have designated divisions or liaisons to work with the
18 nations, tribes and pueblos.

19 F. The state has worked with Indian nations,
20 tribes and pueblos, of which the Navajo Nation is the largest
21 tribal government, and recognizes that the Navajo Nation is
22 divided into political subdivisions designated as chapters.

23 G. Due to federal, state and tribal policies
24 related to the implementation of capital outlay and other
25 projects, delays in implementation due to bureaucratic red

1 tape have resulted in the reversion of millions of dollars in
2 capital outlay funds designated for projects in Indian
3 country.

4 H. Tribal governments and their subdivisions have,
5 through the years, organized nonprofit entities to assist in
6 the provision of education and other basic services.

7 Section 2. FISCAL AGENTS FOR NAVAJO NATION

8 PROJECTS.--The state recognizes the chapters of the Navajo
9 Nation as local tribal entities having the capability and
10 capacity to apply for and implement capital improvement
11 projects. The state also recognizes as local tribal entities
12 those nonprofit entities organized under the supervision of
13 tribal governments whose mission or objective is to provide
14 education and other basic services and who may apply for and
15 implement capital improvement projects. Therefore, the state
16 may contract through a fiscal agent other than the Navajo
17 Nation for the expenditure of state funds on behalf of local
18 tribal entities of the Navajo Nation. Unless otherwise
19 negotiated, an administrative fee of no more than five
20 percent of a project's cost may be charged by the entity that
21 serves as fiscal agent.

22 Section 3. PUBLIC EMPLOYMENT PROGRAMS.--Local tribal
23 entities may be considered as vendors when they utilize their
24 own resources to implement capital improvement projects.

25 Section 4. DIRECT PAYMENTS.--

1 A. In the case of capital outlay projects located
2 within Indian country and authorized to the Indian affairs
3 department or other state agencies, the state may make
4 payments directly to third-party contractors for services
5 rendered or goods supplied regarding such projects. Upon
6 approval by the Indian affairs department or other state
7 agency of a billing statement submitted on behalf of a vendor
8 by a tribal government or a local tribal entity, the
9 department may arrange for payment of that statement directly
10 to the vendor. Capital outlay projects may be invoiced and
11 paid in phases.

12 B. The department of finance and administration is
13 authorized to make payments directly to third-party
14 contractors for services rendered or goods supplied regarding
15 capital outlay projects located within Indian country and
16 authorized to the Indian affairs department or other state
17 agency.

18 Section 5. NAVAJO NATION PROJECTS--GENERAL FUND
19 APPROPRIATIONS.--Money appropriated from the general fund to
20 several chapters of the Navajo Nation located in New Mexico
21 for the same or similar purposes may be pooled by those
22 chapters to create a regional or centralized project upon
23 review of the Indian affairs department and approval by the
24 state board of finance.

25 Section 6. TRIBAL INFRASTRUCTURE ACT.--The provisions

1 of this act also may be used to implement the provisions of
2 the Tribal Infrastructure Act.

3 Section 7. PRESUMPTION OF INDIGENCY.--For the purposes
4 of capital outlay projects located within Indian country and
5 authorized to the Indian affairs department, pursuant to
6 Subsection A of Section 14 of Article 9 of the constitution
7 of New Mexico, persons who reside in Indian country who are
8 not served by electric service, water service, indoor
9 plumbing, sewers, telecommunications or related
10 infrastructure are presumed to be indigent. State agencies
11 may contract with and make payment to local tribal entities
12 to assist the indigent in local tribal entities.

13 Section 8. RULEMAKING AUTHORITY.--The department of
14 finance and administration or the Indian affairs department
15 shall promulgate rules necessary to implement the provisions
16 of this act.

17 Section 9. EMERGENCY.--It is necessary for the public
18 peace, health and safety that this act take effect
19 immediately.

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