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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/06  
 LAST UPDATED 1/25/06      HB 106

SPONSOR Begaye

SHORT TITLE Tribal Infrastructure Trust Fund Distribution      SB \_\_\_\_\_

ANALYST Schardin

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
300,000.0		Non-Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY06	FY07	FY08		
300,000.0			Non-Recurring	STPF-Tribal Infrastructure Account

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB41, HB47, and SB66.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Indian Affairs Department (IAD)

Department of Finance and Administration (DFA)

State Investment Council (SIC)

### SUMMARY

#### Synopsis of Bill

House Bill 106 creates the tribal infrastructure account within the severance tax permanent fund (STPF). The new account will contain all money the legislature transfers to the STPF and designates to the tribal infrastructure account. The act sets up the first designated transfer from the

general fund to the STPF in the amount of \$300 million. This transfer of \$300 million from the general fund to the tribal infrastructure account would occur on the date House Bill 106 becomes effective, which is assumed to be May 17, 2006.

The bill will require that SIC maintain separate records for the tribal infrastructure account so that STPF earnings can be distributed proportionately to the general fund and the tribal infrastructure account.

The bill also amends Section 7-27-3.3 so that beginning July 1, 2009 and every July 1 thereafter, a distribution equal to 4 percent of the preceding calendar year end market value of the tribal infrastructure account will be distributed to the tribal infrastructure trust fund for investment and distribution pursuant to the Tribal Infrastructure Act. After distribution to the tribal infrastructure fund, the remainder will be distributed to the general fund in equal monthly payments.

### **FISCAL IMPLICATIONS**

Because the effective date of the bill is assumed to be May 17, 2006, the fiscal impact of transferring \$300 million from the general fund to the STPF tribal infrastructure account will occur in FY06.

The \$300 million transferred to the tribal infrastructure account will be invested with the rest of the STPF and earnings from the \$300 million will accrue back to the tribal infrastructure account. Beginning July 1, 2009 and each July 1 thereafter, 4.7 percent of the year end market value of the tribal infrastructure account for the preceding calendar year will be transferred from the account to the tribal infrastructure trust fund.

The SIC estimates that if \$300 million is deposited in the Tribal Infrastructure Fund on July 1, 2006, and assuming that that money earns a return of 8.5 percent before fees, that by the time distributions begin in FY09 the fund will have grown to about \$350 million. At that time, distributions will be about \$14 million per year.

### **SIGNIFICANT ISSUES**

In 2005, the legislature passed and the governor signed the Tribal Infrastructure Act. (Section 9-21-17 through 9-21-24 NMSA 1978). This act created the tribal infrastructure trust fund to be invested by the state investment council in the same manner in which the state's permanent funds are invested. Every July 1, the lesser of \$10 million or 4.7 percent of the average year-end market value of the trust fund for the last five calendar years is distributed from the trust fund to the tribal infrastructure project fund. Money in the tribal infrastructure project fund may be used to fund tribal infrastructure improvement in the areas of water and wastewater, electrical, communications, roads, health, emergency response, and economic development.

In FY06, \$3 million on nonrecurring general fund was appropriated for tribal infrastructure improvements. Of that \$3 million, \$2.5 million was awarded to 12 entities that leveraged the money to accomplish about \$2 million in improvements that benefited approximately 13,500 people.

IAD feels that House Bill 106 supports the legislative intent of the Tribal Infrastructure Act (HB 868 in 2005 Session) by ensuring adequate financial resources for tribal infrastructure, providing that infrastructure is planned and developed in an efficient manner, and allowing the develop-

ment of tribal infrastructure to improve quality of life and encourage economic development.

Tribes face several funding barriers to infrastructure improvement. First, the state capital outlay process cannot meet the large needs of the state's tribal entities. In FY05, IAD received 201 capital outlay requests from New Mexico's 22 tribes totaling over \$162 million.

A recent Department of Energy survey found that almost 40 percent of homes in the Navajo Nation lacked electricity (18 thousand homes).

Second, tribes have greater difficulty leveraging funds outside the capital outlay process because of the perception that lending to tribal governments is riskier because of their sovereignty status and other financial issues.

Third, tribes rely primarily on federal funding for infrastructure development. In recent years, federal funding has been diminishing. The Indian Health Service currently has a backlog of 275 thousand Indian homes nationwide in need of improvement. Addressing this backlog would require about \$1.9 billion over 10 years.

SIC notes that part of the STPF is invested in "Economically Targeted Investments" (ETIs), including investments in the New Mexico Film Program, the New Mexico Private Equity Program, and the SIC's direct investment program. While these investments are expected to be profitable over the long run, they may experience greater volatility and longer j-curves before becoming profitable. These types of investments may not be appropriate for the Tribal Infrastructure Fund.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to House Bills 41 and 47, and Senate Bill 66. House Bills 41 and 47 transfer \$125 million and \$200 million from the general fund to the STPF, respectively. Senate Bill 66 transfers \$1 billion from the general fund to the LGPF.

### **TECHNICAL ISSUES**

SIC notes that in Paragraph C of Section 2, the "remaining" amount authorized to be distributed each month would go to the General Fund. As the Tribal Infrastructure Fund would be distributed in a manner parallel to the STPF's 4.7 percent distribution, the SIC assumes that this "remaining" amount refers to the 0.7 percent above the 4.0 percent distribution provided in the bill.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Tribal infrastructure improvements will not occur as quickly.

SS/nt:yr:mt