

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 950

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
CREATING THE TRIBAL INFRASTRUCTURE FUND; PROVIDING FOR
DISTRIBUTION OF CERTAIN INDIAN GAMING REVENUES; ESTABLISHING A
TRIBAL INFRASTRUCTURE PAYMENT PROGRAM; 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. DEFINITIONS. -- As used in the Tribal
Infrastructure Act:

A. "fund" means the tribal infrastructure fund;
and

B. "tribe" means an Indian nation, tribe or pueblo
located in New Mexico that has entered into a tribal-state
gaming compact with the state of New Mexico approved by the

1 first session of the forty-fifth legislature and affirmatively
2 approved by the secretary of the interior.

3 Section 3. TRIBAL INFRASTRUCTURE FUND. --

4 A. The "tribal infrastructure fund" is created in
5 the state treasury and shall be administered by the department
6 of finance and administration. The fund shall consist of
7 money appropriated to the fund from Indian gaming revenue-
8 sharing payments and payments from the settlement of *State of*
9 *New Mexico v. Jicarilla Apache Tribe, et al.* Money in the
10 fund shall be used to make payments to tribes for
11 reimbursement of tribal infrastructure expenditures pursuant
12 to the Tribal Infrastructure Act and to fund the
13 administration of the tribal infrastructure payment program.

14 B. Separate accounts shall be created within the
15 fund for each tribe. An amount of money shall be deposited in
16 each account in accordance with the provisions of Section 4 of
17 the Tribal Infrastructure Act. Money in each tribe's account
18 shall be available solely for reimbursement of eligible
19 infrastructure expenditures made by that tribe and the costs
20 of administering the tribal infrastructure payment program.

21 C. Earnings from investment of the tribal
22 infrastructure fund shall accrue to the fund. Balances in the
23 fund at the end of any fiscal year shall not revert to the
24 general fund but shall remain in the fund for the purposes of
25 the fund.

1 Section 4. DETERMINATION OF ELIGIBLE TRIBAL
2 INFRASTRUCTURE AMOUNTS. --

3 A. A tribe shall be eligible for fifty percent of
4 the following amounts certified by the attorney general:

5 (1) the total amount of all payments made by
6 the tribe to the state of New Mexico pursuant to a revenue-
7 sharing agreement authorized by Section 11-13-2 NMSA 1978; and

8 (2) the sum of all payments the tribe has
9 agreed to make to the state of New Mexico pursuant to the
10 terms of the settlement agreement of *State of New Mexico v.*
11 *Jicarilla Apache Tribe, et al.*

12 B. Fifty percent of every payment made by a tribe
13 pursuant to the terms of the settlement agreement of *State of*
14 *New Mexico v. Jicarilla Apache Tribe, et al.* and deposited in
15 the general fund shall be transferred to the fund and credited
16 to the account of the tribe making the payment and is
17 appropriated to the New Mexico office of Indian affairs to
18 make payments to that tribe for reimbursement of eligible
19 infrastructure expenditures, and to pay related administrative
20 costs pursuant to the Tribal Infrastructure Act.

21 C. Twenty-five percent of all quarterly revenue-
22 sharing payments made pursuant to a tribal-state gaming
23 compact entered into by tribes with the state of New Mexico
24 after January 1, 2001 shall be deposited in the fund and
25 allocated to the tribes' accounts in proportion to the total

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underscored material = new
[bracketed material] = delete

1 amount that each tribe is certified to have paid pursuant to
2 Paragraph (1) of Subsection A of this section, and the money
3 is appropriated to the New Mexico office of Indian affairs to
4 make payments to tribes for reimbursement of eligible
5 infrastructure expenditures, and to pay related administrative
6 costs pursuant to the Tribal Infrastructure Act. The
7 distribution from the quarterly revenue-sharing payments shall
8 cease when an amount has been distributed that is equal to
9 fifty percent of the amount certified by the attorney general
10 to have been paid by the tribes pursuant to a revenue-sharing
11 agreement authorized by Section 11-13-2 NMSA 1978.

12 Section 5. TRIBAL INFRASTRUCTURE PAYMENT PROGRAM
13 ESTABLISHED--OFFICE OF INDIAN AFFAIRS.--

14 A. The New Mexico office of Indian affairs shall
15 establish a tribal infrastructure payment program to make
16 payments from the fund for reimbursement of eligible tribal
17 infrastructure expenditures. The office shall develop a
18 process, procedures and forms for tribes to apply for payment
19 of eligible tribal infrastructure expenditures and for review
20 and determination of eligibility for payment. To be eligible
21 for reimbursement, the tribe must have made the expenditures
22 for eligible infrastructure after January 1, 2001.

23 B. The following infrastructure expenditures are
24 eligible for reimbursement if they are made for any tribal
25 activity, purpose or program other than a gaming-related

1 activity or purpose:

2 (1) planning, designing, engineering,
3 constructing, repairing, renovating, acquiring, equipping or
4 furnishing buildings or other facilities or structures,
5 including the improvement or equipping of the grounds
6 surrounding the buildings, facilities or structures;

7 (2) construction, acquisition or improvements
8 to water or wastewater facilities or systems, including water
9 or sewer lines, storm sewers and other drainage improvements;

10 (3) utilities;

11 (4) construction and improvement of roads and
12 streets, including acquisition of rights of way and parking
13 facilities;

14 (5) acquisition of vehicles;

15 (6) acquisition of computers and other
16 related technology, software, books and other materials;

17 (7) any other similar capital outlay for
18 tribal purposes; and

19 (8) any indebtedness, including bonds, loans
20 and interest on such debt, incurred for any of the eligible
21 infrastructure purposes in this section.

22 C. The actual costs incurred by the New Mexico
23 office of Indian affairs to administer the tribal
24 infrastructure payment program, not to exceed one hundred
25 thousand dollars (\$100,000) in any fiscal year, shall be paid

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1 from the fund. The administrative costs shall be paid
2 proportionately from each tribe's account.

3 D. Payments shall be made to the tribes on
4 warrants issued by the department of finance and
5 administration pursuant to vouchers issued by the New Mexico
6 office of Indian affairs. The department together with the
7 office shall develop a vouchering system and procedures for
8 making payments to the tribes in a timely manner.

9 Section 6. REPORT TO LEGISLATURE. -- The New Mexico office
10 of Indian affairs shall report annually to the appropriate
11 interim committee and the legislative finance committee on the
12 payments made to tribes, including the tribal purposes for
13 which eligible expenditures were made.