

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Madalena DATE TYPED 1/25/05 HB 169

SHORT TITLE Tribal Land TANF Programs SB _____

ANALYST Weber

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	\$1,519 million			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department (HSD)
Indian Affairs Department (IAF)

SUMMARY

Synopsis of Bill

House Bill 169 appropriates \$1,519,999 from the GENERAL FUND) to The Human Services Department for the purpose of supporting TANF activities of the Navajo and Zuni tribal programs. The Navajo Nation is to receive \$1,333,000 and the Zuni tribal program \$186,900.

Significant Issues

The Human Services Department reports.

Both the Navajo Nation and the Zuni Tribe operate a Tribal TANF program on tribal lands that is approved and directly funded by the federal government. The bill would supplement federal dollars by authorizing HSD to provide the Navajo Nation and the

Zuni Tribe with general fund monies to spend on their tribal TANF Programs.

The Indian Affairs Department contributes.

HB 169 addresses four key areas important to Tribal communities: 1) Provide assistance to needy families with children; 2) Promote preparation for work and marriage; 3) Prevent and reduce out-of-wedlock pregnancies; and 4) Encourage two-parent families with traditional and cultural values of tribal communities. In addition, HB 169 would allow the Tribal TANF programs to assume control and administration of a major social program, exercise tribal sovereignty, demonstrate tribal self-determination while assuming direct responsibility in serving tribal members and promote individual and family self-sufficiency and economic independence.

FISCAL IMPLICATIONS

The appropriation of \$1,519,000 contained in this bill is a RECURRING expense to the GENERAL FUND. Any unexpended or unencumbered balance remaining at the end of FISCAL YEAR 2006 shall revert to the GENERAL FUND.

OTHER SUBSTANTIVE ISSUES

HSD notes the following regarding previous appropriations to the Tribal programs.

The use of general fund monies to fund the Tribal TANF expenditures will avoid the legal problems that were created by a prior 2003 appropriation of federal TANF monies associated with New Mexico's state TANF program for the tribes. While the bill avoids the pitfalls of using federal TANF monies that would trigger the imposition of contradictory state, federal and tribal requirements on funding use, the bill should be further clarified as to the character of the appropriation in relation to the state TANF program.

Basically, under the federal law relating to the state TANF program, the state is required to expend a specific amount of state general funds (so-called Maintenance of Effort, or MOE, funds) in association with the State TANF program. States are authorized to use MOE funds or state funds that are not MOE funds to supplement the funding for the Tribal TANF programs that comes from the federal government. The specific legal requirements (including reporting, timing and reimbursement requirements) that will apply to the fund transfer authorized by HB 169 will depend on whether the appropriations are part of the maintenance of effort (MOE) monies for the state TANF program or are state funds that are separate and apart from the state MOE money for the state TANF program. Fewer legal restrictions apply if the state funds are not MOE funds and HSD recommends, in fact, that any Tribal TANF funding not be part of the state MOE funds. Since HB 169 is in addition to other funding bills for the state TANF program, HSD presumes that the funds appropriated by the bill are intended to be separate and apart from, and in addition to, the appropriations to the state's TANF program for fiscal year 2006 and the MOE funding for the state program. In order to avoid any issues in the implementation of the bill, consideration should be given to explicitly clarify this point.

The IAD adds similar information.

In 2003, \$1.3 million (Navajo Nation TANF) and \$186,900 (Zuni TANF) was appropriated the

same purposes. A dilemma was created by the fact that the legislation identified the State's federal TANF funds as the funds to be appropriated to these Tribes. Because these federal funds were identified to be appropriated, the New Mexico Works Act, the Act that governs the NM State TANF plan applied to those funds. Therefore, the appropriations were subject to both state and federal requirements applicable to federal funds granted to carry out the State's TANF plan.

Both the Navajo Nation and Zuni Tribe have federally-approved tribal TANF programs in place. However, the tribal plans are subject to eligibility, work, reporting and other legal requirements that are very different from the NM State's TANF plan requirements. The Navajo Nation and Zuni Tribe discussed these issues at length and tried numerous avenues to be able to utilize the state appropriated (federal) funds. However, because the 2003 appropriations would subject the Nation and the Tribe to follow state and federal requirements that are inconsistent with the tribal requirements, agreement could not be reached on how the funds would be utilized and the funds reverted..

In an effort to prevent the same problem from occurring, HB 169 must contain language that would allow the tribal TANF programs to receive General Fund money that are separate and apart from the State's federal TANF money.

POSSIBLE QUESTIONS

Since the Navajo Nation TANF program operates in three states, will the New Mexico funds be used in other states?

MW/lg