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FISCAL IMPACT REPORT

SPONSOR Lujan, B DATE TYPED 3/6/05 HB 868/aHGUAC/aHAFC

SHORT TITLE Tribal Infrastructure Act SB _____

ANALYST Weber

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Department of Indian Affairs (DIA)

No Response Received From
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of House Appropriations and Finance Committee Amendment

On page 9 line 14 after the first comma insert “the lesser of one percent of the project fund or” relating to the amount available for DFA administration.

On page 9 line 11 after the first comma insert “the lesser of five percent of the project fund or:

relating to the amount available for Indian Affairs Department administration.

Section 9 is deleted and with it the \$10 million appropriation.

Synopsis of House Government and Urban Affairs Committee

The amendments make a variety of minor changes in language but do not change the substance of the bill.

Synopsis of Original Bill

House Bill 868 appropriates \$10 million from the general fund to a newly created Tribal Infrastructure Trust Fund as part of the Tribal Infrastructure Act. The bill indicates that the legislature finds poor infrastructure on tribal lands has contributed to a lack of economic development, uncertain health conditions and social maladies. Funds are appropriated to address these issues through consistent improvement of basic infrastructure on tribal lands.

The purposes of the Tribal Infrastructure Act fall into three categories.

- Ensure adequate financial resources for infrastructure development for tribal communities;
- Provide for the planning and development of infrastructure in an efficient and cost-effective manner; and
- Develop infrastructure in tribal communities to improve the quality of life and encourage economic development.

A board is created consisting of nine voting members and three non-voting members. The board shall meet at the call of the chair or whenever three voting members submit a request in writing to the chair, but not less than twice each calendar year.

The continuing duties of the board are to authorize funding for qualified projects. The projects outlined are for broad-based infrastructure such as such as but not limited to water related, electrical, communications, roads, and health. Qualified expenses include engineering environmental and land acquisition.

In addition to the trust fund a tribal infrastructure project fund is created and administered by the Department of finance and Administration. Funds in the project fund are to carry out the provisions of the Tribal Infrastructure Act. In addition from the project fund \$100 thousand is appropriated annually to DFA and \$500 thousand to IAD to administer the Tribal Infrastructure Act. The balance in the fund is appropriated to DFA to provide loans and grants for qualified projects.

The following legislative oversight is to apply.

- Rules proposed by the board and the department of finance and administration pursuant to the Tribal Infrastructure Act shall be reviewed by the legislative interim Indian Affairs Committee prior to approval;
- The legislative interim Indian Affairs Committee shall be briefed by the board on grant and loan proposals submitted to the board and shall review the list of grants and loans made by the board and,

- The board shall report to the legislative interim Indian Affairs Committee no later than October 1 of each year regarding the total expenditures from the project fund for the previous fiscal year, the purposes for which expenditures were made, an analysis of the progress of the projects funded and proposals for legislative action in the subsequent legislative session.

Significant Issues

The Indian Affairs Department notes.

As stated in State of the State Address, the Tribal Infrastructure Fund as proposed will: 1) provide NM Indian tribes equal access to the NM capital outlay process; and 2) will give NM Tribes access to investments needed for basic infrastructure development.

HB 868 would provide a mechanism to address the long-standing barriers to infrastructure development in tribal communities. One challenge is that limited state funding available through the state capital outlay process cannot meet large project needs. As an example, the Indian Affairs Department received 201 capital outlay requests from the 22 NM tribes totaling over \$162 million. These projects were certified by the tribes as being project ready and as their top priorities. The State cannot afford to fund all these needs at one time and may take up to 10 years for a major infrastructure project to be completed due to the limited or piecemeal funding. There is a need for other funding sources to assist in order for projects to be completed.

Another example of tribal infrastructure need comes from a DOE study on the Navajo Nation which revealed that close to 40% of homes were without electricity (18,000 homes) – many of these in NM. Based on that study, Congress authorized \$15 million for 5 years which would have electrified almost all if not all those homes. Only a little over \$6 million, however, was ever federally appropriated. The problem is still large and if those homes do not have electricity, more than likely they do not have running water or phone lines.

Another barrier is that Indian tribes have difficulty leveraging funds outside of the capital outlay process. There is a perceived higher risk of private lending to tribal governments because of their sovereignty status and due to jurisdictional and financial issues.

Further, Indian tribes rely primarily on federal funding for a majority of the infrastructure development. However, federal funding for essential sanitation facilities, such as safe drinking water and adequate sewage systems has been diminishing. In fact, the Indian Health Service, the primary provider of these services, has a backlog of 275,000 Indian homes nationally and would require approximately \$1.9 billion to serve existing homes in 10 years. Many of these homes are located in tribal communities throughout New Mexico. With inflation, new environmental requirements and population growth in Indian communities, the current federal appropriations for infrastructure cannot address the immediate infrastructure needs of tribal communities.

Trying to address the standard of living issues in Indian communities through capital outlay has not solved the problem and has proven too expensive for the State. The tribal infrastructure fund design would encourage other funding sources to contribute to qualifying infrastructure projects. Tribal communities will no longer have to rely on the capital outlay process as their only source of funding. Finally, the tribal infrastructure fund would help address the infrastructure needs in a creative and business savvy manner.

FISCAL IMPLICATIONS

The appropriation of \$10 million contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY06 shall revert to the Tribal Infrastructure Project Fund.

MW/lg:yr