

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 Campos DATE TYPED 2/22/05 HB _____

SHORT TITLE Emergency Fund Grants to Indian Tribes SB 1aSFC

ANALYST Hadwiger

APPROPRIATION (in \$000s)

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	none				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration, Board of Finance (BOF)
 Attorney General (AG)
 Department of Indian Affairs (DIA)

SUMMARY

Synopsis of SFC Amendment

The amendment restricts potential Board of Finance emergency loans or grants to tribes to only those Indian nations, tribes or pueblos located in whole or in part in New Mexico. This amendment addresses the technical question below.

Synopsis of Bill

Senate Bill 1 would amend Section 6-1-2 NMSA 1978 to allow the Board of Finance to make emergency loans or grants to any Indian nation, tribe or pueblo.

Significant Issues

According to the Department of Indian Affairs (DIA), that agency has received inquiries in the past from tribes indicating a need for loans or grants for emergency situations. DIA indicates there are many tribal entities that do not have the cash flow available to address emergencies that

may severely affect the quality of government services, i.e., police or fire protection services inoperable for unforeseen reasons, broken pumps on water and waste water systems causing flooding or no access to water by tribal community, loss of basic public health and safety services during a crisis, and other such emergencies that affect a community's quality of life. Examples include the fires at Taos and Nambe Pueblos in 2003. This bill would provide a mechanism to address these situations.

The Attorney General (AG) indicates SB1 presents no significant legal issues. According to the AG, Article IV, §31 of the New Mexico Constitution is not a barrier to this legislation. The Attorney General's Office interprets this section as imposing limits on the legislature's authority to appropriate money, not as limiting an agency's disposition of an appropriation. *See* 1975 Op. Att'y Gen. No. 75-10. Similarly, the Anti-donation Clause in Article IX, §14 of the New Mexico Constitution presents no barrier because Indian Tribes are recognized by the Attorney General's Office as public entities. The AG notes that this is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Opinion letter. This is a staff analysis in response to the agency's, committee's, or legislator's request.

FISCAL IMPLICATIONS

The bill does not include an appropriation. Any grants or loans to tribes as a result of this legislation would come from the general fund operating reserve.

ADMINISTRATIVE IMPLICATIONS

The Board of Finance indicates there would be no administrative issues from SB1.

TECHNICAL ISSUES

The Board of Finance that this bill needs to be clarified to insure that the emergency funds can only be issued for Indian nations, tribes or pueblos located in whole or in part in New Mexico. This would allow inclusion of the Navajo Nation. The SFC amendment addresses this concern.

DH/lg