

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

ORIGINAL DATE 1/22/08

SPONSOR Madalena LAST UPDATED _____ HB 116

SHORT TITLE Tribal Infrastructure Project Fund SB _____

ANALYST Schardin

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	6,450.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	6,450.0	6,920.0	Recurring	Tribal Infrastructure Project Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Indian Affairs Department (IAD)

Gaming Control Board (GCB)

Department of Transportation (DOT)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 116 would direct the department of finance and administration to transfer an amount equal to 10 percent of the prior fiscal year's tribal revenue sharing payments from tribal gaming entities from the general fund to the tribal infrastructure project fund. The appropriation from the general fund to the tribal infrastructure project fund would occur each year by August 1. Money transferred would be restricted for use for transportation-related projects, including roads, bridges and maintenance facilities, equipment and operations.

Because no effective date is provided in the bill, its provisions will become effective 90 days after the 2008 legislative session adjourns on May 14, 2008. The first transfer will take place on August 1, 2008 based on revenue received in FY08 (see Technical Issues).

FISCAL IMPLICATIONS

The December 2007 consensus revenue estimate for tribal revenue sharing payments to the general fund are \$64.5 million in FY08 and \$69.2 million in FY09. Therefore the appropriation from the general fund to the tribal infrastructure project fund will be \$6.45 million in FY09 and \$6.92 million in FY10 (see Technical Issues).

This bill provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

Slow-growing revenues and high project cost inflation have challenged the Department of Transportation's ability to serve the state's growing transportation needs. According to the Final Report of the House Memorial 35 Study, after adjusting for inflation and population growth, New Mexico dedicates 23 percent less to transportation funding than it did 20 years ago. The report also states that about 15 percent of state highways and 16 percent of state bridges are currently in poor condition.

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, an endowment fund to be invested by the state investment council in the same manner in which the state's permanent funds are invested. The act also created the tribal infrastructure project fund, which receives a distribution from the trust fund every year. On 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 project fund. Money in the 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. To date, the trust fund balance is insignificant, so no major distributions have been made to the project fund.

In FY06, \$3 million of 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.

In FY07, \$5 million of nonrecurring general fund was appropriated for tribal infrastructure improvements. That funding has been appropriated to the 17 projects detailed in the table below.

FY07 Nonrecurring Appropriations: Name of Project Funded	TIF Amount
INFRASTRUCTURE PROJECTS	
Santa Clara Pueblo Regional Adult Day Care Center	\$500,000
Acoma Pueblo North Acomita Wastewater Treatment Project	890,000
San Ildefonso Pueblo Mesa Vista Affordable Housing Development	574,023
Sandia Pueblo Community Water System Improvements	300,000
Mexican Springs Chapter Road Improvement Project	100,000
San Felipe Pueblo Regional Wastewater Treatment Facility	500,000
Huerfano & Nageezi Chapter Table Egg Production Facility	340,000
Isleta Pueblo Village Proper Water Main Replacement	750,000
Nambe Pueblo Development Corporation New Nambe Water System	500,000
PLANNING PROJECTS	
Laguna Pueblo Water/Waste Water Infrastructure Planning Project	\$50,000
Shiprock Youth Home	50,000
Crownpoint Judicial & Public Safety Complex	50,000
Tohatchi Chapter Community Warehouse	50,000
Baahaali Chapter Pinehaven Development Site	50,000
Standing Rock Chapter Waste Water Lagoon	50,000
Ohkay Owingeh Plan for Upgrade of Outdated Infrastructure	50,000
Lake Valley Chapter Powerline Project	50,000
TOTAL TIF AWARDS	\$4,854,023
Uncommitted Amount Remaining	\$145,977

Source: Indian Affairs Department

Tribes face several funding barriers to infrastructure improvement. The state capital outlay process cannot meet the large needs of the state’s tribal entities. Tribes also 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. Tribes rely primarily on federal funding for infrastructure development. In recent years, federal funding has been diminishing.

PERFORMANCE IMPLICATIONS

Transportation infrastructure enables a state’s economy to grow and allows safe transportation of people and goods. Extreme infrastructure deficiencies in tribal areas create great barriers to economic development, health and safety.

ADMINISTRATIVE IMPLICATIONS

Because the state operates on a modified accrual basis rather than a cash basis, the bill will be difficult to administer as drafted (see Technical Issues).

TECHNICAL ISSUES

Assuming the intent of the bill is to impact 10 percent of revenues recognized on an accrual basis in the previous fiscal year, it will not be possible for DFA to know with certainty the amount of tribal revenue sharing payments that were made in the previous fiscal year by August 1. The

House Bill 116 – Page 4

state operates on a 60 day modified accrual basis, meaning that revenues are accrued back to the time period in which a taxable event took place for up to 60 days past the end of the fiscal year. The bill should be amended to allow the transfer to take place at a later date, such as January 1 of each year. The amendment should also make clear that the transfer from the general fund to the tribal infrastructure project fund will be based on 10 percent of revenues earned, not received, in the prior fiscal year, to conform to the state's modified accrual accounting method.

SS/mt