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SENATE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Siah Correa Hemphill

AN ACT

RELATING TO PUBLIC INFRASTRUCTURE; ENACTING THE RURAL
INFRASTRUCTURE CRISIS RESPONSE ACT; CREATING THE RURAL
INFRASTRUCTURE CRISIS RESPONSE FUND; ESTABLISHING ELIGIBILITY
REQUIREMENTS FOR FINANCIAL ASSISTANCE; CREATING THE BUREAU OF
RURAL INFRASTRUCTURE CRISIS RESPONSE; PROVIDING DUTIES;
AMENDING THE TRIBAL INFRASTRUCTURE ACT TO MAKE THE TRIBAL
INFRASTRUCTURE BOARD THE FISCAL AGENT FOR ASSISTANCE FROM THE
RURAL INFRASTRUCTURE CRISIS RESPONSE FUND FOR PROJECTS OWNED OR
OPERATED BY INDIAN NATIONS, TRIBES AND PUEBLOS; MAKING AN
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 4 of this act may be cited as the "Rural Infrastructure
Crisis Response Act".

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1 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the

2 Rural Infrastructure Crisis Response Act:

3 A. "bureau" means the bureau of rural
4 infrastructure crisis response of the local government division
5 of the department of finance and administration;

6 B. "crisis event" means an unforeseen power surge,
7 weather or other event that disables the use of critical public
8 infrastructure. A "crisis event" may include damage to
9 constructed infrastructure, durable equipment or the
10 unforeseeable loss of a public resource, such as loss of a
11 community water source due to a dam failure or extreme drought,
12 but does not include a foreseeable loss of a public resource
13 such as depletion of a water source due to regular pumping over
14 time;

15 C. "critical public infrastructure" means public
16 infrastructure or durable equipment that is required for public
17 health, safety or welfare of individuals or communities and
18 includes dams, transportation infrastructure and infrastructure
19 essential to the delivery of utility services;

20 D. "durable equipment" means equipment of a
21 permanent or non-depletable nature that is necessary in the use
22 of critical public infrastructure;

23 E. "eligible project" means a project that is
24 eligible for financial assistance pursuant to Subsection A of
25 Section 3 of the Rural Infrastructure Crisis Response Act;

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1 F. "fund" means the rural infrastructure crisis
2 response fund;

3 G. "local authority" means:

4 (1) a municipality that has a population of
5 less than twenty thousand according to the latest federal
6 decennial census;

7 (2) a county that has a population of less
8 than one hundred fifty thousand according to the latest federal
9 decennial census;

10 (3) an Indian nation, tribe or pueblo located
11 wholly or partially in New Mexico; or

12 (4) a mutual domestic water consumers
13 association or a water and sanitation district that maintains
14 local roads or provides utility services to fewer than six
15 thousand billed customers;

16 H. "relief request" means a request for financial
17 assistance for a project to repair or replace critical public
18 infrastructure that has experienced a crisis event;

19 I. "repair or replace" means repair or replacement
20 of critical public infrastructure to the same level of
21 functionality or service as the infrastructure provided prior
22 to a crisis event;

23 J. "secretary" means the secretary of finance and
24 administration; and

25 K. "utility services" means broadband, electricity,

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1 natural gas, solid waste, water or wastewater services.

2 SECTION 3. [NEW MATERIAL] INFRASTRUCTURE ELIGIBILITY--
3 RELIEF REQUEST--EVALUATION--DETERMINATION--PROCEDURES AND
4 RULES.--

5 A. Beginning on January 1, 2025, a project for
6 repair or replacement of critical public infrastructure is
7 eligible for financial assistance if a relief request has been
8 submitted to the bureau pursuant to Subsection B of this
9 section and the secretary has made a determination of
10 eligibility pursuant to Subsection D of this section that the
11 project meets the following requirements:

12 (1) the project is for repair or replacement
13 of critical public infrastructure damaged due to a crisis
14 event; provided that a project for repair shall only be
15 eligible for assistance if the cost of the repair is fifty
16 percent or greater than the cost of replacement;

17 (2) the damage to the critical public
18 infrastructure severely affects the public health, safety or
19 welfare of a community;

20 (3) the local authority does not have the
21 resources to repair or replace the critical public
22 infrastructure; and

23 (4) no other source of financial assistance is
24 available to the local authority to repair or replace the
25 critical public infrastructure within eighty-one days of the

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1 crisis event.

2 B. A relief request may be submitted to the bureau
3 by the governing body of a local authority or a state
4 representative or state senator due to a crisis event in the
5 district the state representative or state senator represents;
6 provided that a relief request shall include a recommendation
7 by the regional planning commission for the region in which the
8 crisis event occurred regarding the eligibility of the project
9 for financial assistance.

10 C. Within thirty days of receiving a relief request
11 pursuant to Subsection B of this section, the bureau shall
12 provide an engineering and financial evaluation to the
13 secretary regarding whether the relief request meets the
14 eligibility requirements of Subsection A of this section and
15 shall make a recommendation regarding whether the local
16 authority qualifies for financial hardship as established by
17 the bureau by rule.

18 D. Within fifteen days of receiving an evaluation
19 pursuant to Subsection C of this section, the secretary shall
20 make a formal determination regarding whether the project in a
21 relief request meets the eligibility requirements pursuant to
22 Subsection A of this section and whether the local authority
23 qualifies for financial hardship.

24 E. Upon a determination of eligibility pursuant to
25 Subsection D of this section, the secretary shall:

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1 (1) for critical infrastructure that is owned
2 by a tribal local authority, award a grant from the fund to the
3 tribal infrastructure board to repair or replace the damaged
4 critical public infrastructure in question; or

5 (2) for critical infrastructure that is owned
6 by a non-tribal local authority, award a grant from the fund to
7 the local authority to repair or replace the damaged critical
8 public infrastructure.

9 F. The secretary shall not issue a total of awards
10 pursuant to Subsection E of this section worth more than one
11 million dollars (\$1,000,000) for rural infrastructure crisis
12 response projects within any given county in a calendar year.

13 SECTION 4. [NEW MATERIAL] RURAL INFRASTRUCTURE CRISIS
14 RESPONSE FUND--CREATED--PURPOSE--APPROPRIATIONS.--

15 A. The "rural infrastructure crisis response fund"
16 is created in the state treasury. The fund consists of
17 appropriations, donations, interest from investment of the fund
18 and other money distributed to the fund. The department of
19 finance and administration shall administer the fund and may
20 establish subaccounts for the fund. Money in the fund is
21 appropriated to the department of finance and administration
22 for expenditure as provided in this section. Disbursements
23 from the fund shall be made by warrant of the secretary
24 pursuant to vouchers signed by the secretary or the secretary's
25 designee. Money in the fund shall not revert at the end of a

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1 fiscal year.

2 B. Money in the fund may be used to make grants to
3 a local authority, or to the tribal infrastructure board when
4 an eligible project is owned or operated by a tribe, for
5 eligible projects that have been approved pursuant to
6 Subsection E of Section 3 of the Rural Infrastructure Crisis
7 Response Act for up to:

8 (1) ninety-five percent of the total cost of
9 an eligible project; provided that the local authority has
10 demonstrated an ability, and has contracted, to provide the
11 remainder of the project costs from sources other than the
12 state; or

13 (2) one hundred percent of the total cost of
14 an eligible project if a financial hardship recommendation is
15 made by the bureau and approved by the secretary.

16 C. An eligible project that requires construction
17 shall be designed in compliance with engineering requirements
18 established by the bureau.

19 D. By November 30 of each year, the department of
20 finance and administration shall provide a report to the
21 appropriate interim legislative committee on the status of the
22 fund, the status of the eligible projects for which grants have
23 been made from the fund and the outstanding demand for
24 assistance from the fund.

25 SECTION 5. Section 6-29-5 NMSA 1978 (being Laws 2005,
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1 Chapter 146, Section 5) is amended to read:

2 "6-29-5. BOARD--DUTIES.--The board shall:

3 A. adopt rules governing terms, conditions and
4 priorities for providing financial assistance to tribes,
5 including developing application and evaluation procedures and
6 forms and qualifications for applicants and for projects;

7 B. provide financial assistance to tribes for
8 qualified projects on terms and conditions established by the
9 board;

10 C. authorize funding for qualified projects,
11 including:

12 (1) planning, designing, constructing,
13 improving, expanding or equipping water and wastewater
14 facilities, major water systems, electrical power lines,
15 communications infrastructure, roads, health infrastructure,
16 emergency response facilities and infrastructure needed to
17 encourage economic development;

18 (2) developing engineering feasibility reports
19 for infrastructure projects;

20 (3) inspecting construction of qualified
21 projects;

22 (4) providing special engineering services;

23 (5) completing environmental assessments or
24 archaeological clearances and other surveys for infrastructure
25 projects;

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1 (6) acquiring land, easements or rights of
2 way; and

3 (7) paying legal costs and fiscal agent fees
4 associated with development of qualified projects; and

5 D. act as the fiscal agent for projects owned or
6 operated by tribes that receive financial assistance pursuant
7 to the Rural Infrastructure Crisis Response Act."

8 SECTION 6. A new section of the Department of Finance and
9 Administration Act is enacted to read:

10 "[NEW MATERIAL] BUREAU OF RURAL INFRASTRUCTURE CRISIS
11 RESPONSE CREATED--DUTIES.--The "bureau of rural infrastructure
12 crisis response" is created within the local government
13 division of the department of finance and administration. The
14 bureau shall evaluate relief requests pursuant to Section 3 of
15 the Rural Infrastructure Crisis Response Act."

16 SECTION 7. APPROPRIATION.--One hundred million dollars
17 (\$100,000,000) is appropriated from the general fund to the
18 department of finance and administration to implement the Rural
19 Infrastructure Crisis Response Act. The money from this
20 appropriation shall be distributed as follows:

21 A. one million six hundred thousand dollars
22 (\$1,600,000) to the bureau of rural infrastructure crisis
23 response within the local government division of the department
24 of finance and administration for staffing, general office
25 expenses and contractual services for engineering and financial

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1 evaluations required by the Rural Infrastructure Crisis
2 Response Act in fiscal years 2025 through 2028; provided that
3 no more than four hundred thousand dollars (\$400,000) shall be
4 expended in any one fiscal year. Any unexpended or
5 unencumbered balance remaining at the end of fiscal year 2028
6 shall be deposited in the rural infrastructure crisis response
7 fund; and

8 B. ninety-eight million four hundred thousand
9 dollars (\$98,400,000) to the rural infrastructure crisis
10 response fund for the purposes of the fund for expenditure in
11 fiscal year 2025 and subsequent fiscal years. Any unencumbered
12 or unexpended balance at the end of a given fiscal year shall
13 not revert to the general fund.