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SENATE BILL 49

**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.