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FISCAL IMPACT REPORT

ORIGINAL DATE 01/26/06

SPONSOR Madalena LAST UPDATED _____ HB 96

SHORT TITLE Tribal College Scholarship Act SB _____

ANALYST Williams

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
\$2,200.0	\$2,200.0	Recurring	Tribal Scholarship Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to various bills on state funds for scholarships at tribal colleges

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY06	FY07	FY08		
Earmarks General Fund Revenue essentially reducing amount available for legisla- tive appropriation by \$2.1 million			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Higher Education Department (HED)

Public Education Department (PED)

Office of Indian Affairs (OIA)

SUMMARY

Synopsis of Bill

The bill creates a new mechanism to provide for state student financial aid at tribal colleges in New Mexico. It also defines conditions of eligibility for tribal college scholarships based on residency, degree sought, enrollment, financial need, satisfactory academic progress. There is a criminal misdemeanor provision in the act for knowingly submitting false information punishable by a fine not more than \$1000.00 and/or restitution.

The bill earmarks general fund revenue to the extent that 5 percent of tribal gaming revenues dedicated to the general fund would be transferred each August 1 to the tribal scholarship fund. This calculation would be based on prior fiscal year actual receipts. This new, non-reverting fund would receive continuing appropriations.

FISCAL IMPLICATIONS

The bill earmarks general fund revenue to the extent that 5 percent of tribal gaming revenues dedicated to the general fund would be transferred each August 1 to the tribal college scholarship fund. This calculation would be based on prior fiscal year actual receipts. Based on the December 2005 consensus revenue estimates, the reduction in general fund revenue available to the legislature for appropriation would be \$2.1 million.

This bill earmarks general fund revenues, essentially setting precedent for earmarks beyond those currently existing for public schools.

This bill creates a new non-reverting fund, the tribal college scholarship fund, and provides for continuing appropriations. Specifically, The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

The bill also establishes a 5 percent set aside for HED administrative costs. This amount would be just over \$100,00 annually and would increase over time.

SIGNIFICANT ISSUES

HED and PED note:

- “The tribal colleges in New Mexico are chartered by the Navajo Nation, Bureau of Indian Affairs and Congress and are in a unique funding situation. They do not receive funding from state government due to their status as trust territories, and tribal governments cannot levy property taxes. This is in accord with treaty obligations and trust responsibility between sovereign Indian tribes or nations and the U.S. government. Most funding comes from the Tribally Controlled College and University Assistance Act of 1978 (TCCUAA), which is administered by the Bureau of Indian Affairs. Funds, primarily from Title I, are allocated to colleges based on the number of Indian students from federally recognized tribes that are enrolled. The lack of state jurisdiction over tribes, including tribal colleges, creates a challenge in how HED will

prepare guidelines and administer the lottery tuition scholarship fund to tribal colleges that are chartered either by the tribe, Bureau of Indian Affairs or Congress. These issues of nation-to-nation jurisdictions will need to be worked out.

- The unique charter status of tribal colleges creates a challenge in how the Tribal College Scholarship funds will be allocated, administered and adhered to in regards to performance accountability.
- HED as a state entity has no jurisdiction over tribes and tribal colleges. These challenges will have to be addressed.”

ADMINISTRATIVE IMPLICATIONS

See fiscal issues.

OTHER SUBSTANTIVE ISSUES

The Department of Indian Affairs notes: A tribal college as defined by HB 96 includes a tribally, federally or congressionally chartered post-secondary educational institution located in New Mexico that is accredited by the north central association of colleges and school. Tribal colleges in New Mexico are: Dine College, Southwest Indian Polytechnic Institute (SIPI), Institute of American Indian Arts (IAIA) and the Crownpoint Institute of Technology (CIT). Accreditation status of Crownpoint Institute of Technology is not clear at the present time.

Department of Indian Affairs notes tribal Colleges were created in response to the higher education needs of American Indians, and generally serve geographically isolated populations that have no other means of accessing education beyond the high school level. Tribal colleges have become increasingly important for educational opportunities for American Indian students, an importance achieved in a relatively brief period of time. Tribal Colleges are unique institutions that combine personal attention with cultural relevance, in such a way as to encourage American Indians - especially those living on reservations - to overcome the barriers they face to higher education. (American Indian Higher Education Consortium, www.aihec.org)

The bill would address areas important to Tribal communities:

1. Provide scholarship assistance to Native American students enrolled in tribal colleges especially those with financial needs with satisfactory academic performance;
2. Increase the enrollment of Native American students at Tribal colleges
3. Allow affordable access for Native American students seeking degrees in tribal colleges (for Indian communities: parents, extended relatives, clan relatives, brothers, sisters)

Standards of quality in American Indian Education will be defined and determined by the Higher Education Department at the state concerning tribal college scholarship eligibility and compliance as stated in HB 96.