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## FISCAL IMPACT REPORT

ORIGINAL DATE 2-17-2007  
 LAST UPDATED 3-14-2007    **HB** \_\_\_\_\_

SPONSOR Sanchez, M.

SHORT TITLE Tribal College Affordability Scholarships    **SB** 573/aSEC/aHEC/aHF1

ANALYST Dearing

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	*None	N/A	College Affordability Fund
	*Please see narrative		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB308/aHEC  
 Conflicts with: SB355

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Higher Education Department (HED)  
 Indian Affairs Department (IAD)

### SUMMARY

#### Synopsis of HF1 Amendment

Action on the House Floor amends Senate Bill 573/aSEC/aHEC such that;

1. Strike all senate education committee amendments.
2. Strike all house education committee amendments.
3. On page 5, line 20, after "appropriations", insert a semicolon.
4. On page 5, strike lines 21 through 25 and strike line 1 on page 6 and insert in lieu thereof "donations to the fund; and income from investment of the fund except as provided in Subsection C of this section."

5. On page 6, lines 4 and 5, strike "college affordability endowment".
6. On page 6, line 6, after "specified", insert "distributions,"
7. On page 6, lines 15 through 21, remove the brackets and line-through.
8. On page 6, line 15, after "Until", insert "fifty percent of the annual income from investment of the college affordability endowment fund is equal to or exceeds two million dollars (\$2,000,000), an annual distribution of two million dollars (\$2,000,000) shall be made from the college affordability endowment fund to the college affordability scholarship fund. Thereafter, until".
9. On page 6, line 19, after "fund" strike the remainder of the line, strike line 20 and strike line 21 up to the quotation marks and insert in lieu thereof a period and "After the corpus of the endowment fund is two hundred fifty million dollars (\$250,000,000), all of the income from investment of the fund shall be distributed to the college affordability scholarship fund."

House Floor Amendment makes substantial changes to Senate Bill 573/aSEC/aHEC. Under these amendments, the language remains in the College Affordability Scholarship act to maintain the endowment-building retained earnings framework of 50% to build principal, 50% available for scholarships in any year. However, there is a new provision providing that, until the endowment fund distribution (the 50% disbursement of earned interest) to the scholarship fund meets or exceeds \$2 million, an annual distribution of \$2 million shall be made to the scholarship fund from the endowment by default.

\*The effective date of House Bill 308/aHEC as amended by floor action is July 1, 2007. Clarification is necessary to determine whether the nonrecurring, \$2 million appropriation recommended for the scholarship fund in House Bill 2 will substitute for the default distribution mentioned above, for FY08. If the entire endowment is invested with the State Investment Council (average 8% return) at or prior to the beginning of FY08, interest earnings should substantially exceed \$2 million during the year, making any default distribution unnecessary in that year.

#### Synopsis of HEC Amendment

\*Please see the SEC amendment below. The *House* Education Committee amendment strikes language such that the time window is removed from eligibility; this amendment was made in the Senate Education Committee as well. This would have no additional impact to fund as the originally proposed amendments provide for 100% of interest to be available each year. 100% of interest would be available under this amendment. Please see the original analysis.

#### Synopsis of SEC Amendment

The amendment strikes language such that the time window is removed from eligibility. This would have no additional impact to fund as the originally proposed amendments provide for 100% of interest to be available each year. 100% of interest would be available under this amendment. Please see the original analysis.

Synopsis of Original Bill

The Senate Bill 573 amends the College Affordability Act such that 100% of the interest in the fund is available for scholarships in any given year. As amended, the college affordability endowment fund shall become a non-reverting fund. All annual interest from investment of the endowment fund will flow into the scholarship fund for expenditure. Language requiring the fund to be self-supporting through retained earnings is stricken.

Senate Bill 573 carries no appropriation from the General Fund. The bill would amend Sections 21-21L-1 through 21-21L-8 NMSA 1978, the College Affordability Act, to extend eligibility for need-based scholarships to students attending the State's Tribal colleges. The proposed legislation amends the Act to re-define the duration of eligibility for recipients. Senate Bill 573 adds or amends the Act's language to define eligible student, scholarship and Tribal college.

**FISCAL IMPLICATIONS**

**There are significant fiscal implications to this proposed statutory change of fund mechanics. Under the change, there will be a 100% increase in available scholarships the first year, however, without additional appropriations, the endowment fund would no longer keep pace with inflation, nor provide for growth in the number of scholarships available in out-years. Due to significant average inflation in the cost of Higher Education, the program would lose purchasing power each year, resulting in either fewer grants, or less valuable grants.**

This proposed change to the mechanics of the fund would significantly alter future scholarship capacity. The original language specified that 50% of earned interest would be retained in the fund, increasing the fund's balance by 50% of interest in each year. Existing statute provides for this framework to remain in place until the fund reaches \$250 million.

Under the existing statute, the endowment fund could provide \$20 million in annual scholarships when it reaches its intended terminal value.

The attached table, appendix A. shows the net benefit to maintaining the fund's current retained earnings framework. The beginning FY08 values in the table include an LFC recommended \$50 million special nonrecurring appropriation for the College Affordability Act in FY08.

Over a 30-year period, maintenance of the current statute would provide eighty-two million (\$82,000,000) in excess scholarship grants than the framework proposed in Senate Bill 573. Additionally, the endowment value would have increased to two-hundred, fifty-four million (\$253,767,000) midway through the 23<sup>rd</sup> year.

The current framework provides net future benefit exceeding two-hundred, thirty-six million (\$236,000,000) above the Senate Bill 573 proposal.

**\*Alternatives to the proposal in Senate Bill 573 include allocating 4%, or \$2 million of \$50 million recommended special appropriation to the *scholarship fund* to increase the number of scholarships available in FY08.**

Under the current legislation, students at Tribal colleges are ineligible for scholarship awards from the fund. The proposed amendments would allow the NM Department of Higher Education to allocate funds from the College Affordability Fund to eligible Tribal colleges for distribution as scholarships. Expanding eligibility to include Tribal students would have no significant impact on the fund. The allocation of funding distributed to public higher education institutions would incorporate Tribal colleges' new eligibility.

\*The proposed amendment strikes language stipulating only 8 consecutive semesters of eligibility for recipients. There would be no additional costs of extending the term of eligibility past 8 consecutive semesters, however, there would be fewer total grants available to new recipients each year if the duration is extended. As currently proposed, the change to duration of eligibility would have no affect over the next three years since the program's first grant awards were in Fall 2006. As proposed, eligible recipients would no longer have to be in a *degree program*.

\*The proposed amendment leaves language intact within the Act stipulating a *maximum* award amount of \$1000 each semester. Both the number of total awards, and the *minimum* dollar amount of each award are not provided in either the existing Act, nor in the proposed version. Setting these levels will remain a department decision through its rule promulgation process. Because of this, the possibility exists that increased eligibility might place demand pressure on the department to increase the total available awards, necessitating a reduction in the dollar amount of awards.

Many significant elements of administration of the Act would be left to rulemaking by the Higher Education department. The amended version would remove the 4-year cap on duration of eligibility, as well as a necessity that students remain in degree seeking programs. Because of this there is significant concern that rules created by the department could have a negative impact on recipients' persistence to graduation. These two items have the potential to reduce the service capacity of the fund in both total numbers and effectiveness.

## **SIGNIFICANT ISSUES**

Enacted during the 2005 regular legislative session and endowed through a \$49 million appropriation in Laws, 2006 Chapter 109, the College Affordability fund was invested in June 2006 with the local government investment pool with the State Treasurer's office. LFC recommends investment of the fund with the State Investments Council to increase the annual rate that is earned; treasury funds are held in overnight fed-funds accounts and bear significantly less interest than return potential at the SIC. Provisions for distribution of this scholarship money to students have been developed within the department, however these have not yet been compiled within New Mexico Administrative Code (NMAC).

The current language in the College Affordability Act restricts the scholarship recipients to eight consecutive semesters. The Higher Education department states that this does not allow part-time students to receive the scholarship long enough to graduate and that the issue is particularly problematic for part-time students at community colleges wishing to continue through to a bachelor's degree.

Proposed amendments to the Act would keep intact language that terminates the awards when students fail to achieve satisfactory academic progress, withdrawal, or fail to remain at half-time. HED will continue to make the determination for academic progress criteria through the

promulgation of rules.

## ADMINISTRATIVE IMPLICATIONS

Many significant elements of administration of the Act are left to rulemaking by the Higher Education department.

## CONFLICT

Senate Bill 573 conflicts with SB 355.

Senate Bill 355 amends Sections 21-21L-1 through 21-21L-7 NMSA 1978, the College Affordability Act. Senate Bill 355 defines tribal colleges by name as follows.

D. "tribal college" means:

- (1) the southwestern Indian polytechnic institute;
- (2) the Crownpoint institute of technology;
- (3) the institute of American Indian arts; and
- (4) the New Mexico campus of Dineh college."

Senate Bill 355 makes other technical adjustments to change language to make the Act parallel with the statutory change from the Commission on Higher Education (CHE), to the Higher Education Department (HED), and to incorporate its own proposed definitions.

## TECHNICAL ISSUES

Senate Bill 573 carries no appropriation from the General Fund, however, as proposed, the short-title suggests otherwise.

The proposed Enactment of Senate Bill 573 would make the following changes to the provisions of Sections 21-21L-1 through 21-21L-8 NMSA 1978.

**\*Section 21-21L-8 (c) requiring the fund to be self-supporting through retained earnings is stricken.**

**\*Clauses in Section 21-21L-6 amended to strike maximum duration of eligibility of 8 consecutive semesters.**

**\*Language is added throughout the bill such that the fund becomes a non-reverting fund.**

Clauses throughout Senate Bill 573 change language to make the Act parallel with the statutory change from the Commission on Higher Education (CHE), to the Higher Education Department (HED), and to incorporate new proposed definitions.

Section 21-21L-3 (b) defining "returning adult" is stricken.

Section 21-21L-3 (c) defining "student" is stricken.

Clauses in Section 21-21L-3 (b), (c) and (d); add definitions that define eligible student, scholarship and Tribal college

New Section 21-21L-3 (b); new section defining “eligible student” is added. Creates a change from previously used *semester* reference to “any time later than *120 days* following high-school graduation or acceptance of general educational development certificate;” includes New Mexico resident in criteria.

Clause 21-21L-4 (a); requiring an eligible student be a resident of New Mexico for the purpose of tuition payment is stricken.

\*Clause 21-21L-4 (b); amended to remove necessity of enrollment in degree program as criteria.

\*Clauses in 21-21L-5 (d) and (e); add tribal colleges to list of institutions making and administrating awards.

Clauses in Section 21-21L-8 (a) and (b); add minor linguistic changes.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Sections 21-21L-1 through 21-21L-8 NMSA 1978, the College Affordability Act would remain in statute in their current form.

ATTACHMENT

PD/nt

**Investment Growth  
8.0%**

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
1 Available for Investment, Senate Bill 573	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000
2 Available for scholarship, Senate Bill 573	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000
3 Available for Investment Status Quo	\$ 102,960,000	\$ 107,078,400	\$ 111,361,536	\$ 115,815,997	\$ 120,448,637	\$ 125,266,583	\$ 130,277,246	\$ 135,488,336	\$ 140,907,869	\$ 146,544,184
4 Available for Scholarship Status Quo	\$ 3,960,000	\$ 4,118,400	\$ 4,283,136	\$ 4,454,461	\$ 4,632,640	\$ 4,817,945	\$ 5,010,663	\$ 5,211,090	\$ 5,419,533	\$ 5,636,315
5 Diff. (Existing law -Proposed)	\$ (3,960,000)	\$ (3,801,600)	\$ (3,636,864)	\$ (3,465,539)	\$ (3,287,360)	\$ (3,102,055)	\$ (2,909,337)	\$ (2,708,910)	\$ (2,500,467)	\$ (2,283,685)
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
6 Available for Investment, Senate Bill 573	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000
7 Available for scholarship, Senate Bill 573	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000
8 Available for Investment Status Quo	\$ 152,405,952	\$ 158,502,190	\$ 164,842,277	\$ 171,435,968	\$ 178,293,407	\$ 185,425,143	\$ 192,842,149	\$ 200,555,835	\$ 208,578,068	\$ 216,921,191
9 Available for Scholarship Status Quo	\$ 5,861,767	\$ 6,096,238	\$ 6,340,088	\$ 6,593,691	\$ 6,857,439	\$ 7,131,736	\$ 7,417,006	\$ 7,713,686	\$ 8,022,233	\$ 8,343,123
10 Diff. (Existing law -Proposed)	\$ (2,058,233)	\$ (1,823,762)	\$ (1,579,912)	\$ (1,326,309)	\$ (1,062,561)	\$ (788,264)	\$ (502,994)	\$ (206,314)	\$ 102,233	\$ 423,123
	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037
11 Avail. for Investment, Senate Bill 573	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000
12 Avail. for scholarship, Senate Bill 573	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000
13 Available for Investment Status Quo	\$ 225,598,039	\$ 234,621,960	\$ 244,006,839	\$ 263,527,386	\$ 284,609,577	\$ 307,378,343	\$ 331,968,610	\$ 358,526,099	\$ 387,208,187	\$ 418,184,842
14 Available for Scholarship Status Quo	\$ 8,676,848	\$ 9,023,922	\$ 9,384,878	\$ 19,520,547	\$ 21,082,191	\$ 22,768,766	\$ 24,590,267	\$ 26,557,489	\$ 28,682,088	\$ 30,976,655
15 Diff. (Existing law -Proposed)	\$ 756,848	\$ 1,103,922	\$ 1,464,878	\$ 11,600,547	\$ 13,162,191	\$ 14,848,766	\$ 16,670,267	\$ 18,637,489	\$ 20,762,088	\$ 23,056,655
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30	<b>30-yr Excess with Current Statute</b>		<b>\$ 81,584,842</b>							
31	<b>Excess endowment value</b>									
32	<b>with existing framework</b>									
33			<b>\$ 154,767,112</b>							
34										
35										
36	<b>excess scholarship funding available under current statutory framework over 30-year horizon</b>									

**100% of interest would be available in years 2030-31 under the current statutory framework. The endowment will have reached intended terminal value of \$250 million.**