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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/05/09  
 SPONSOR HAFC LAST UPDATED 02/27/09 HB 50/aHAFCs  
 SHORT TITLE American Indian Post-secondary Ed Act SB \_\_\_\_\_  
 ANALYST Williams

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		Additional resources needed by HED, but not quantified	Additional resources needed by HED, but not quantified		Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to House Bill 49, Tribal Colleges in Dual Credit Act; House Bill 139, Create Dual Credit Textbook Fund; and Senate Bill 196, State-Tribal Collaboration Act

Relates to existing appropriation for Higher Education Department operating budget contained in the General Appropriation Act (House Bill 2)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

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

### SUMMARY

#### Synopsis of Original Bill

The House Appropriations and Finance Committee substitute for House Bill 50 would enact the American Indian Post-secondary Education Act. The bill would create a new division, the American Indian post-secondary education division, within the Higher Education Department. The bill provides for the following duties for this division:

- Develop and implement policy to positively affect post-secondary educational success of American Indian students;
- Provide assistance to colleges and universities, including tribal colleges, in planning, developing, implementing and evaluating recruitment and retention strategies;

- Seek funding to assist all colleges and universities to develop support services, including academic support and transition programs; financial support;
- Develop a data collection and sharing system focusing on American Indian student enrollment, retention and graduation rates;
- Conduct outreach to tribes regarding financial aid opportunities for American Indian students; and
- Serve as liaison with the Indian education advisory council.

The bill authorizes memoranda of understanding between the Secretary and tribal colleges, bureau of Indian education schools and tribes for data collection and data sharing and other purposes. The bill requires annual reporting by public post-secondary institutions to address American Indian student recruitment, retention, attrition, remediation needs, graduation rates, student financial aid data and annual goals and objectives. Tribal colleges may be required to provide the same annual status reports under agreements with the Department.

Finally, the bill creates the new American Indian Post-secondary Education Fund and authorizes expenditures from that fund. Grants from the fund may be awarded for American Indian student recruitment, retention and graduation, including student conferences, cultural awareness training for faculty and staff at public and tribal colleges, academic support, transition programs and other projects as determined by the division. Grant application criteria and reporting mechanisms are at the discretion of the division director.

## **FISCAL IMPLICATIONS**

The House Appropriations and Finance Committee Substitute for House Bill 150 does not contain an appropriation; however, there are several key fiscal components with potential impact. First, the bill would create a new division for which additional staff and resources would be required. HED has not quantified this additional impact.

The creation of a new division would parallel the organizational structure of PED. 9-25-4 NMSA 1978 specifies 8 divisions for HED, and this bill would create a ninth division. In FY09, the legislature authorized a total of 47.0 FTE staff at HED, compared to 325.8 FTE at PED.

This bill creates a new, non-reverting fund and provides for continuing appropriations. 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.

## **SIGNIFICANT ISSUES**

From an organizational design perspective, it is not clear why the organizational structure of the Higher Education Department should attempt to parallel that of the Public Education Department.

Senate Bill 196, the State-Tribal Collaboration Act, requires cabinet level agencies to designate a full-time-equivalent tribal liaison. Agencies could also experience increased operating costs due to increased training, travel and administrative duties contained in that bill.

According to the February 2009 revenue estimate, FY10 recurring revenue will only support a base expenditure level that is \$575 million less than the FY09 appropriations before the 2009 solvency reductions. All appropriations and potential budget expansions outside of the general appropriation act will be viewed in this declining revenue context.

The IAD notes that “New Mexicans of American Indian ancestry participate less often and less successfully in higher education than do other groups.”<sup>1</sup> Even when American Indians do enroll in higher education, “many first-time American Indian college students are placed in remedial courses that offer no credit.”<sup>2</sup> According to a 2004 study conducted by the Department of Finance and Office of Education Accountability, “public high school graduates readiness for college level work by ethnicity shows that sixty-six percent of American Indian public high school graduates place in remedial classes in their first year of college.”<sup>3</sup> A 2007 report conducted by the Higher Education Department indicated that Native American Indian enrollment in higher education institutions in New Mexico is 11,613.<sup>4</sup> However, only forty percent (40%) of those Native Americans are graduating from those institutions.<sup>5</sup> “Statistics indicate that American Indian students who enroll in Tribal colleges are more likely to graduate than those who attend public college and universities. This is due to the support of family, extended family, and a college student population that reflects their culture and identity.”<sup>6</sup>

The Indian Education Act, passed in 2003 and amended in 2007, sought “to ensure equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for American Indian students enrolled in public schools”. This Act created an Indian Education Division at PED as well as the Indian Education Advisory Council. In Sections 1 and 3 of the Act, the Act calls for “the successful and seamless transition of American Indian students into post-secondary education and training.” The Act directs PED to “develop a plan to establish a post-secondary investment system for tribal students”.

Indian Affairs Department (IAD) notes a 2004 study by the Office of Education Accountability which found “public high school graduate readiness for college level work by ethnicity shows that sixty-six percent of American Indian public high school graduates place in remedial classes in their first year of college.” The agency also notes American Indian students who enroll in tribal colleges are more likely to graduate than those who attend public colleges and universities.

HED notes American Indian enrollment is 9.5 percent of the total New Mexico college enrollment, compared to 10.5 percent of the state’s population is Native American. Native American student enrollments are stronger in the two-year college sector, rather than the four-year university sector.

Tribal colleges are part of the HED Articulation Task Force to address transferability of courses between schools, specifically modules for engineering, business, early childhood education and film and digital media.

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<sup>1</sup> See, “State of New Mexico Tribal-State Indian Education Summit Report,” Released June 21, 2006, <http://www.ped.state.nm.us/indian.ed/IndianEdSummit%20%2062106.pdf>.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> See, “American Indian Students in Higher Education and the Indian Education Act,” <http://hed.state.nm.us/cms/kunde/rtshedstatenmus/docs/799100768-11-08-2007-11-03-02.pdf>.

<sup>5</sup> *Ibid.*

<sup>6</sup> See, “State of New Mexico Tribal-State Indian Education Summit Report,” Released June 21, 2006, <http://www.ped.state.nm.us/indian.ed/IndianEdSummit%20%2062106.pdf>.

HED notes this bill is a priority of the department and is consistent with its strategic priorities and goals. In 2007, the department signed a Memorandum of Agreement with the four tribal colleges to strengthen partnerships to improve access, retention and educational opportunities.

**ADMINISTRATIVE IMPLICATIONS CONFLICT, DUPLICATION,  
COMPANIONSHIP, RELATIONSHIP**

See fiscal impact discussion for potential additional resources required for HED.

**TECHNICAL ISSUES**

The formal name of New Mexico Indian Education Advisory Council should be used.

**OTHER SUBSTANTIVE ISSUES**

Tribal colleges would be Dine College, Institute of American Indian Arts, Navajo Technical College (formerly Crownpoint Institute of Technology) and the Southwestern Indian Polytechnic Institute.

**ALTERNATIVES**

2007 Amendments to the Indian Education Act relating to post-secondary education: “the (PED) shall collaborate and coordinate efforts with the higher education department and institutions of higher education, including tribal colleges and teacher education institutions and tribal education departments, to facilitate the successful and seamless transition of American Indian students into post-secondary education and training” (22-23A-4.1 NMSA 1978).

**POSSIBLE QUESTIONS**

1. What detail and key assumptions are available on the various components of potential fiscal impact discussed above?
2. How many additional staff would be required?
3. How would the authorizations in this bill relate to Senate Bill 196, the State-Tribal Collaboration Act?
4. In a declining revenue environment, where could appropriations be reduced in order to accommodate the increased operating costs associated with this bill?
5. How would performance outcomes be measured?
6. What models of best practices for American Indian student enrollment, retention and graduation are available?
7. Since the Higher Education Department already enters into memoranda of understanding with tribal colleges, why is this language necessary?