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## FISCAL IMPACT REPORT

SPONSOR SIAC DATE TYPED 02/16/04 HB \_\_\_\_\_

SHORT TITLE Tribal College Act SB 588/SIACS

ANALYST Williams

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
	\$9,100.0			Recurring	General Fund (redirected to newly created tribal college fund)

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
	Could be \$9,100.0 *see technical note in text below	\$10,600.0	Recurring	Tribal College Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates HSB 569  
Relates to HB 179 and SB 568

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Gaming Control Board  
Office of Indian Affairs (OIA)  
Public Education Department (PED)  
Commission on Higher Education (CHE)

## SUMMARY

### Synopsis of Bill

Senate Indian and Cultural Affairs Committee Substitute for Senate Bill 588, the Tribal College Act, appropriates 25 percent of class III tribal gaming revenues received by the state general fund through revenue sharing to a newly created fund, the tribal college fund. The tribal college fund would be a non-reverting fund in the state treasury to be administered by the CHE.

Beginning in 2005, balances in the tribal college fund would be distributed each August by the CHE to tribal colleges based on the number of eligible students registered in the previous spring term. An eligible student is defined as one who: 1) lives in New Mexico at time of acceptance, (2) is a member of an Indian tribe; (3) graduates from a secondary school located in New Mexico; and (4) is considered a resident student for tuition and budget and revenue calculation purposes according to 21-1-3 NMSA 1978.

### Significant Issues

Two- and four-year post secondary institutions created by an Indian nation, tribe or pueblo or federal government which may be eligible to participate include the following: Dine College with campuses at Shiprock and Crownpoint, Institute of American Indian Arts (IAIA), Southwest Indian Polytechnic Institute (SWIPI) and Crownpoint Institute of Technology (CIT). Currently, CIT is not accredited; therefore, it does not receive state funding. According to the Higher Learning Commission (HLC), the HLC board validated the initial candidacy of CIT in the accreditation process in October 2003.

The OIA notes "enrollments at tribal colleges are rising because Native Americans are choosing to attend institutions which are tailored to their educational choices, rising tuition costs at non-tribal schools and also to be closer to their homes" and notes strong retention rates for Native American students attending tribal colleges. Further, OIA notes the need to address rising enrollments with new buildings and learning facilities.

The bill defines a New Mexico resident and references 21-1-3 NMSA 1978 on page 2, lines 6 through 8. OIA notes "the bill relates to Indian education issues identified in HB 179 and SB 568, focused on changing laws to expand the definition of "resident student" to Native Americans attending tribal colleges or to include eligible tribal colleges in the NM lottery scholarship." It is unclear whether Senate Bill 588 would create a tuition waiver program for certain students attending all post-secondary institutions in the state and/or expand eligibility for lottery tuition scholarships.

This bill would earmark a general fund revenue source.

## FISCAL IMPLICATIONS

The bill appropriates 25 percent of class III tribal gaming revenues received by the state general fund through revenue sharing to a newly created fund, the tribal college fund. Based on the latest General Fund consensus revenue projections, this distribution would range from \$9.1 million in FY05 to \$10.6 million in FY06.

Beginning in 2005, balances in the tribal college fund shall be distributed each August by the

commission to tribal colleges based on the number of eligible students registered in the previous spring term.

### Continuing Appropriations

This bill creates a new fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

### **ADMINISTRATIVE IMPLICATIONS**

OIA notes tribal colleges receiving these funds would need to work with the CHE to ensure funds are utilized in accordance with legislative intent. PED notes there is no information on the purpose for the use of these funds and no specific outcome or performance measures to indicate the impact of these funds or their effectiveness.

### **TECHNICAL ISSUES**

The legislature may want to consider specifying the tribal colleges which would be eligible for the funding distribution.

The legislature may want to consider specification of a methodology for student data reporting to distinguish between full-time versus part-time student enrollments.

On page 2, line 24, the appropriate reference may be “fiscal year”. The legislature may want to consider technical amendments to more closely synch tribal gaming revenue payments in the first year with the initial distribution by the CHE.

On page 2, line 3, #2 does not specify New Mexico tribe.

### **OTHER SUBSTANTIVE ISSUES**

Currently, all qualified students enrolled in a two- or four-year public post-secondary institution may receive a state Lottery Success Scholarship. Other public and private non-profit institutions such as the College of Santa Fe, St. John’s College, and College of the Southwest and tribal colleges are not eligible to receive lottery funds.

High school students graduating from a school in New Mexico operated by the Bureau of Indian Affairs and out-of-state members of the Navajo tribe who reside on the Navajo reservation, as certified by the Navajo Department of Higher Education, are eligible for lottery tuition scholarships if they attend a public post-secondary institution.

Tribal institutions would be required to provide student data, which is not currently reported to CHE.

In prior years, CHE reported that in academic year 2001-2002, Native American students in New Mexico received approximately \$4.8 million in tribal aid not available to non-Native American students. Native American students are also eligible to receive State Student Incentive Grants (SSIG), State and Federal work-study grants, Pell and other federal grants.

CHE notes New Mexico Constitution, Article XII, Section 3 makes reference to “schools, colleges, universities and other educational institutions” that must forever remain under exclusive state control. The tribal colleges, by this definition, are not public institutions. However, CHE notes, based on population, “Native American students receive fewer Student Incentive grants, Legislative Endowment Grants, Vietnam Veterans Scholarships, Lottery Success Scholarships, NM Scholars Grants and State Work Study Programs.”

The Indian Education Act requires PED to develop a plan to establish a post-secondary investment system for Native American students such that contributions can be collected from parents, tribes and the state.

### **POSSIBLE QUESTIONS**

1. Would members of any tribe be eligible or is it the sponsor’s intent to limit eligibility to New Mexico tribes?
2. Is clarifying language needed to include members of New Mexico pueblos?
3. Is it the sponsor’s intent to include Crownpoint Institute of Technology? If Crownpoint Institute of Technology is successful in its application for accreditation, when would the evaluation process conclude and the designation occur?

**AW/njw:yr**