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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/10/06  
 LAST UPDATED 2/16/06      **HB** \_\_\_\_\_

SPONSOR Ryan

SHORT TITLE Tribal College Scholarship Act      **SB** 274/aSf1#1/aHEC

ANALYST Williams

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	Indeterminate; see text	Recurring	College Affordability Scholarship Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to various student financial aid bills, including lottery tuition scholarship fund and College Affordability Act

Relates to House Bill 105

Relates to Appropriation in HB 2, Section 5, the General Appropriation Act of 2006, for \$49 million for the college affordability endowment fund

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Higher Education Department (HED)

Public Education Department (PED)

Department of Indian Affairs (DIA)

### SUMMARY

#### Synopsis of HEC Amendment

The House Education Committee amendment clarifies in statute the program's applicability at tribal colleges.

#### Synopsis of SFI#1 Amendment

The Senate Floor Amendment #1 authorizes student eligibility for the college affordability program to continue through completion of a four-year tribal college program.

Synopsis of Original Bill

Endorsed by the Indian Affairs Committee.

Senate Bill 274 authorizes students attending tribal colleges located in New Mexico to participate in the College Affordability state student financial aid program. These colleges are specified as: Southwestern Indian Polytechnic Institute; the Crownpoint Institute of Technology, the Institute of American Indian Arts and the New Mexico campus of Dineh College. The bill also updates statutory references to reflect the creation of the Higher Education Department.

**FISCAL IMPLICATIONS**

The bill broadens the base of eligible students who could increase demands on the fund for awards (although distributions would be capped by availability of funding). Tribal institutions are not currently required to provide student data to HED. Based on HED information on the number of students attending tribal colleges with Pell grant eligibility, the additional impact on the fund would be \$120.0 thousand if all students at tribal colleges received awards in the first year.

**SIGNIFICANT ISSUES**

The College Affordability program is a new, state need-based student financial aid program with renewable awards, depending on eligibility, of up to \$1,000. Note grants from the College Affordability Act could be used to address expenses, such as room, board, books and supplies as well as tuition.

Executive branch fiscal impact reports note: “The four tribal colleges in New Mexico offer Associate's and Bachelor's degrees in a variety of academic disciplines and offer certificate and associates degrees. The majority of the students who attend tribal colleges are non-traditional, female, American Indian, and first generation college students....American Indian students continue to have the lowest representation in higher education and make up less than 1% of college enrollment... Tribal colleges are located on or near tribal reservations, American Indian students who enroll in tribal colleges are most likely to graduate due to the support of family, extended family, and a college student population that reflects their culture and identity. Statistics indicate that more than 50% of those students who transfer from tribal colleges into four-year public postsecondary institutions graduate....“

**PERFORMANCE IMPLICATIONS**

PED notes the bill has the potential to support implementation of the Indian Education Act and supports the executive Pre K-20 initiative as well as the statewide agenda to enroll more New Mexico students to increase the number of graduates and partner with other agencies to build a highly trained work force and high wage economy.

**ADMINISTRATIVE IMPLICATIONS**

Data reporting by tribal colleges to HED would be needed.

## TECHNICAL ISSUES

DIA notes:

“Page 4, Line 1. Under the section, “Duration of Scholarship,” it appears that a student would not be eligible for additional semester scholarship awards if they graduate from a tribal college. Most tribal college programs offer two-year degrees (four semesters) and many students who receive such degrees make the decision to seek a four-year degree at public institutions. Language in this bill should be amended to not limit such students to just four semester awards. It seems the purpose of these proposed amendments is to assist Native American students in successfully achieving post-secondary degrees, including graduate degrees; therefore the amendments should not discourage such purposes.”

Page 4, Line 18. The term “satisfactory academic progress” is neither defined in the existing Act nor in the proposed amendments.”

## OTHER SUBSTANTIVE ISSUES

The bill may be in conflict with Article 12, Section 3 of the New Mexico Constitution which specifies “The schools, colleges, universities and other educational institutions provided for by this constitution shall forever remain under the exclusive control of the state, and no part of the proceeds arising from the sale or disposal of any lands granted to the state by congress, or any other funds appropriated, levied or collected for educational purposes, shall be used for the support of any sectarian, denominational or private school, college or university.” Further, there may be considerations of the anti-donation clause in Article 9, Section 14 and Article 4, Section 31 regarding absolute control of the New Mexico Constitution.

In related analyses, HED and PED note: “The tribal colleges in New Mexico are chartered by the Navajo Nation, Bureau of Indian Affairs, and Congress in a unique funding situation. They do not receive funding from state governments 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 college creates a challenge in how the NMHED will prepare guidelines and administer the lottery tuition scholarship to tribal colleges who are chartered either by the tribe, Bureau of Indian Affairs or Congress. These issues of nation to nation jurisdictions will need to be addressed.”

## POSSIBLE QUESTIONS

1. Is the bill in conflict with the New Mexico Constitution?
2. What data reporting requirements would be needed for enactment of this bill?
3. Given the wide range of student eligibility and expense eligibility under the College Affordability program, is there a plan to prioritize needs?
4. How many students would receive scholarships/grants in the first year of the program if the \$50 million appropriation to the endowment fund recommendation of the LFC and the Executive is enacted?

5. How will additional funds for the endowment fund be obtained? What is the target amount of funding for the endowment fund?
6. How will performance outcomes of the new program be measured?
7. Who would evaluate student eligibility to determine awards ---- HED or the institutions?
8. How would HED and institutions administer the provisions of the bill?
9. Would students who are **not** degree seeking be eligible for awards under the College Affordability program? If yes, would this conflict with criteria to apply for Pell awards and thus impact the eligibility base?

AW/yr:nt:mt