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FISCAL IMPACT REPORT

ORIGINAL DATE 2/11/06

SPONSOR Tsosie LAST UPDATED _____ HB _____

SHORT TITLE Indian Post Secondary Education Act SB 731

ANALYST Earp

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	\$900.0	Non-Recurring	General Fund
	\$100.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

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

SUMMARY

Synopsis of Bill

Senate Bill 731, the proposed Indian Post-Secondary Education Act, includes the following major provisions:

- Authorizes the department to adopt rules and regulations and enter into joint powers agreements and memoranda of understanding to implement the provisions of the Act.
- Establishes an Indian Post-Secondary Education Division within the Higher Education Department
- Defines the duties of the Indian Post-Secondary Education Division
- Requires each institution to submit a biannual American Indian post-secondary education status report
- Creates the “Indian Post-Secondary Education Fund” and provides that grants may be awarded from the fund for special projects related to recruitment, retention and graduation of American Indian students and other projects approved by the division.

- Appropriates \$900,000 (non-reverting) to the fund to make grants for projects and \$100,000 (reverting) to HED for operational expenses of the division.

FISCAL IMPLICATIONS

The appropriation of \$100,000 contained in this bill is a recurring expense to the general fund which would augment funding provided to HED for operational purposes in the General Appropriation Act. Any unexpended or unencumbered balance will revert to the general fund at the end of fiscal year 2007.

The \$900,000 appropriated to the proposed Indian Post-Secondary Education Fund for special project grants is identified in the table above as a non-recurring allocation and will not revert to the general fund. However, if the grant program is successful, it is possible that future requests of a recurring nature may be made for this purpose.

SIGNIFICANT ISSUES

This proposal was not included among the HED's fiscal year 2007 funding recommendations to the Legislature. However, the Secretary of Higher Education has administratively-created a Division of Indian Education within HED during the current fiscal year. This division is addressing many of the objectives of this legislation.

ADMINISTRATIVE IMPLICATIONS

HED would be responsible for administering the provisions of the Act. The \$100,000 appropriation for operating purposes would be available to address these responsibilities during the initial fiscal year.

OTHER SUBSTANTIVE ISSUES

The purposes of the Act, as identified in Section 2 of the bill, are to:

- Assist in the development of culturally relevant learning environments and post-secondary educational opportunities for American Indian students;
- Ensure maintenance of native languages and cultures;
- Provide for the study, development and implementation of post-secondary educational systems that positively affect the educational success of American Indian students;
- Provide the means for a formal relationship between the Higher Education Department (HED) and tribal colleges and develop relationships with the education division of the Bureau of Indian Affairs and other entities that serve American Indian students;
- Provide a mechanism for tribal colleges and other tribal educational agencies; HED; post-secondary institutions; students and parents; community-based organizations; the Public Education Department (PED); and tribal, state and local policymakers to work together to improve post-secondary educational opportunities for American Indian students.

HED reports that the New Mexico Higher Education Department was created in the 2005 legislative session and has spent the past six months making the transition from state agency to cabinet-level department. HED, as a state entity, has no jurisdiction over tribes and tribal colleges. In

order to establish and maintain representation of American Indian interests in the system of higher education, the Cabinet Secretary of HED has established the Division of Indian Education in order to facilitate liaison activities and provide outreach services.

HED has taken steps to renew a Memorandum of Understanding with the New Mexico Tribal Higher Education Consortium (NMTHEC). The consortium consists of members of Tribal Education Administrators from the 19 NM Pueblos, the Jicarilla and Mescalero Apache tribes. In addition, conversations about the development of Memorandum of Understanding with the four NM Tribal Colleges and the Navajo Nation are planned. The development of Memorandum of Agreements/Understanding will hopefully lead to an agreement for NMHED and tribal colleges to share data, collaborate on projects that will promote American Indian student success, and report on accountability performance measures and goals on collaborative projects. In September 2005, two American Indian representatives were appointed to serve on the HED Advisory Board. One representative is from a tribal college and the other is a New Mexico tribal member at large.

The New Mexico Indian Affairs Department reports that the creation of the Indian Post-Secondary Education Division within the HED would seem to align with the 2003 Indian Education Act, NMSA 22-23A-1, et seq. The Indian Education Act created an Indian Education Division within the Public Education Department; that Division focuses on issues in Indian education as regard grades Pre-K-20. That Act also created an Indian Education Fund and an Indian Education Advisory Committee. SB 731 would create a counterpart of the Indian Education Division - the Indian Post-Secondary Education Division - and Fund but which relate to the unique circumstances as regard Indian higher education. Further, SB 731 seems to comport with Governor Richardson's Executive Order 2004-012, (March 19, 2006), Establishing the Governor's Task Force on Higher Education. In that Executive Order, the Governor requested recommendations as to how to increase equitable access to higher education for New Mexico students. The Indian Post-Secondary Education Division would be focused on increasing enrollment and retaining Native students in New Mexico's higher educational institutions.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

HED, public post-secondary institutions and the Tribal colleges and governmental entities would continue to address issues relating to the post-secondary education of American Indian students through existing non-statutory mechanisms. Fewer resources would be available for this purpose.

POSSIBLE QUESTIONS

What is the status of recent HED efforts to develop a Division of Indian Education?

What is the status of efforts to develop a Memorandum of Agreement to formalize cooperation and data sharing between the HED and the Tribal colleges?

DKE/mt