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FISCAL IMPACT REPORT

ORIGINAL DATE 1/22/08
 SPONSOR Begaye LAST UPDATED 1/28/08 HB 26/aHEC
 SHORT TITLE American Indian Post-Secondary Ed Act SB _____
 ANALYST Haug

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	\$800.0*	Recurring	General Fund
	\$200.0*	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

* see narrative

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	\$900.0		Recurring	American Indian Post- Secondary Education Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

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

SUMMARY

Synopsis of HEC Amendment

The House Education Committee amendment adds to the duties assigned to the new American Indian Post-Secondary Education Division in the Higher Education Department the requirement to provide assistance to New Mexico tribal colleges to:

- plan and conduct semiannual government-to-government meetings;
- appoint a liaison to the Indian education advisory council;
- develop or identify an appropriate post-secondary investment system; and
- provide recommendations on capital outlay and other funding mechanisms.

The House Education Committee amendment increases the appropriation to the Higher Education Department from \$100.0 to \$200.0.

Synopsis of Bill of Original Bill

The bill creates a new section of statute entitled “American Indian Postsecondary Education Act” and specifies the following purposes:

- Assist in development of culturally relevant learning environments and post-secondary education opportunities for American Indian students;
- Foster maintenance of native languages cultures;
- Provide for the study, development and implementation of post-secondary educational systems that positively affect the educational success of American Indian students;
- Provides for a formal relationship between the HED and tribal colleges and develop relationships with the Education Division of the Bureau of Indian Affairs and other
- entities;
- Provide a mechanism for specified stakeholders to work together.

The secretary of HED is authorized, in consultation with tribes, to promulgate rules and regulations and is authorized to enter into joint powers agreements and memoranda of understanding to administer the act and for data collection and data sharing. The bill creates the American Indian post-secondary education division within HED. In Section 5, the bill identifies the division duties:

Provide assistance to:

- post-secondary institutions to meet higher education needs of American Indian students; post-secondary institutions in planning, development, implementation and evaluation of recruitment and retention strategies;
- Seek funding for support services in the areas of recruitment, retention, academic support and transition and academic financial support;
- Develop a system for data collection and sharing on enrollment, retention and graduation rates at colleges and universities (note this is not restricted to public institutions);
- Collaborate with PED on pre-K through 20 initiative, higher education grants and teacher education initiatives;
- Conduct, at least semiannually, a public meeting for stakeholders to discuss issues; and
- Encourage, through coordination with the PED, appointment of members of the Indian Education Advisory Council who also represent institutions of higher education.

The bill requires each public post-secondary institution to submit a biannual American Indian status report. The bill prescribes the format for each report, and required reporting elements

would include: student recruitment, retention, attrition, remediation programs, graduate rates, annual goals and objectives, financial aid reports and other issues as requested. The bill notes HED would “work with and encourage” tribal colleges and private educational institutions and others to submit status reports.

The bill creates the American Indian post-secondary education fund, a new, non-reverting fund in the state treasury to be administered by HED. Money in the fund is appropriated to HED for award grants. These grants would be awarded for special projects related to recruitment, retention and graduation of American Indian students, including student conferences, cultural awareness training for faculty and staff at any higher education institution, academic support and transition programs and other projects. The Secretary of HED is authorized to develop criteria to apply for these grants along with other discretionary authority to administer the grant program.

FISCAL IMPLICATIONS

The appropriation of \$1,000.0 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance from the \$100.0 appropriation to the HED remaining at the end of fiscal year 2009 shall revert to the general fund. Any unexpended or unencumbered balance from the \$900.0 appropriation to the American Indian Post-Secondary Education Fund remaining at the end of any fiscal year shall not revert to the general fund.

The appropriation of \$900.0 is to a non-reverting fund created in the bill named the American Indian post-secondary education fund for the purpose of grant awards. The appropriation of \$100.0 to HED is for operating expenses associated with administering the new statute, as well as providing for the cost of the first biannual meeting and development of a data collection and data sharing system for postsecondary educational institutions.

This legislation will lead to an additional division director position as well as staff for the division, requiring associated funding for personal services and employee benefits. 9-25-4 NMSA 1978 specifies 8 divisions for the department. This bill would create a ninth division. The cost of this division would likely exceed \$100.0 thousand for personal services and employee benefits for a division director alone.

The HED states that this request was not submitted to the New Mexico Higher Education Department for review and is not included in the Department’s funding recommendation for FY09.

The PED states that the PED can absorb the administrative costs involved in working with HED on the Act through existing staff.

Continuing appropriations language

This bill creates a new 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

The IAD notes that “New Mexicans of American Indian ancestry participate less often and less successfully in higher education than do other groups.”¹ 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.”² 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.”³ In a 2007 report conducted by the Higher Education Department, Secretary Dasenbrock, indicated that Native American Indian enrollment in higher education institutions in New Mexico is 11,613.⁴ However, only forty percent (40%) of those Native Americans are graduating from those institutions.⁵ HB 26 seeks to “improve post-secondary educational opportunities for American Indian student.”

According to the IAD, HB 26 would allow for the entering into of Joint Power Agreements (“JPA”) and Memoranda of Understandings (“MOU”) between the Department and tribal colleges and Tribes. There are four Tribal colleges in New Mexico: 1) the Institute of American Indian Arts, Santa Fe, New Mexico; 2) the Southwest Indian Polytechnic Institute, Albuquerque, New Mexico; 3) Navajo Technical College, (formerly Crownpoint Institute of Technology), Crownpoint, New Mexico; and 4) Diné College, Shiprock, New Mexico. “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.”⁶

The HED states that:

- HB 26 is consistent with the Department’s strategic priorities and goals, though not listed on departmental priorities.
- The State of New Mexico has no jurisdiction over tribal higher education. On February 15, 2007 NMHED signed a historic Memorandum of Agreement (MOA) with the tribal colleges in the state to establish new working relationships to shape the development of effective communication, data sharing, and policies for increased accessibility, enrollment, retention, and graduation rates of American Indian students across New Mexico’s postsecondary educational institutions.
- HB26 would support Article 23A section 22-23A-5 of the revised Indian Education Act by providing a mechanism for collaboration between NMPED and NMHED’s American Indian Postsecondary Education Division.
- HB26 is consistent with the Dual Credit High School and Postsecondary Credit passed by the Legislature and signed by the Governor in 2007 (HB943).

¹ 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%202062106.pdf>.

² *Ibid.*

³ *Ibid.*

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

⁵ *Ibid.*

⁶ 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%202062106.pdf>.

- HB26 has been endorsed by the NMPED, the New Mexico Tribal Higher Education Consortium, the Indian Education Advisory Board, and the American Indian Program at New Mexico State University.

ADMINISTRATIVE IMPLICATIONS

The HED notes that the American Indian Postsecondary Education Act proposes to create a new Division within NMHED with a single Director to coordinate all of the activities stipulated for the Division. No additional personnel are included in the bill to support the oversight, data collection, assessment, and fund administration duties that will be created by the new Division and required by the bill. Creation of the Division would also increase the administrative responsibilities of NMHED in the areas of contracts and grants management and financial aid.

GH/bb