

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number: HB 92**

**50th Legislature, 1st Session, 2011**

**Tracking Number: .183389.1**

**Short Title: Lottery Scholarships for Tribal Colleges**

**Sponsor(s): Representative Ray Begaye & Others**

**Analyst: Ally Hudson**

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**Bill Summary:**

Among its provisions, HB 92 amends the *New Mexico Lottery Act* to:

- include resident undergraduates at tribal colleges in the lottery tuition scholarship program; and
- include tribal colleges in the distribution of tuition assistance.

HB 92 also creates a new section of law controlling the award of the scholarships. Among its provision, this new section:

- defines *tribal college* to mean a tribally, federally, or congressionally chartered postsecondary educational institution located in New Mexico that is accredited by the North Central Association of Colleges and Schools;
- allows tribal colleges to award tuition scholarships for qualified resident students to the extent that funds are made available by the Legislature from the Lottery Tuition Fund;
- authorizes award of a scholarship for up to four consecutive years, beginning the second semester of the recipient's first year of enrollment, only to full-time resident students who, upon completion of a high school curriculum at a public or accredited private high school or receiving a general educational development (GED) certificate:
  - immediately are accepted at and attend a tribal college;
  - maintain residency in New Mexico; and
  - maintain a 2.5 or higher grade point average on a 4.0 scale during the first semester of enrollment; and
- authorizes awards also to full-time resident students who:
  - within 120 days of completing a high school curriculum at a public or accredited private high school or receiving a GED, begin service in the US armed forces; and
  - within 120 days of honorable service or medical discharge are accepted at and attend a tribal college; and
- requires the Higher Education Department (HED) to:
  - prepare guidelines outlining student continuing eligibility criteria, as well as guidelines for administration of the tuition scholarship program at tribal colleges;

- distribute these guidelines to governing boards of each tribal college to enable uniform scholarship availability; and
- enter into agreements with tribal colleges that allow for financial and programmatic audits of the scholarship program.

### **Fiscal Impact:**

HB 92 does not contain an appropriation.

### **Fiscal Issues:**

According to the bill analysis from HED, during the 2008-2009 academic year:

- 16,306 students self-identified as American Indian at New Mexico’s public postsecondary institutions, of which approximately 2,400 students attended a tribal institution in the state; and
- approximately 27 percent of current undergraduate students who attend four-year postsecondary institutions receive the Legislative Lottery Scholarship.

The analysis further states that, “if we were to assume a similar award rate at the tribal institutions, then it is possible that the impact to the Legislative Lottery Scholarship fund could reach up to \$260,399 annually. However without additional data it is difficult to estimate the true cost precisely.”

An analysis from the New Mexico Lottery Authority indicates that passage of HB 92 may “[accelerate] the shortfall on the lottery fund balance. Projections provided by the DFA indicate that the fund may be insolvent as early as FY 14.”

The analysis by the State Investment Council makes a similar point: “added demands may result in the fund’s corpus being diminished at a faster rate.”

### **Substantive Issues:**

According to the Public Education Department, there are four colleges that meet the definition of a tribal college under HB 92:

- Southwest Indian Polytechnic Institute (SIPI);
- Navajo Technical College;
- The Institute of American Indian Arts (IAIA); and
- Diné College.

However, the PED analysis further notes that SIPI does not charge tuition and accepts only students who meet its tribal affiliation criteria, leaving the remaining three tribal colleges eligible to receive reimbursements from the Lottery Tuition Fund.

Among other points, the PED analysis states that:

- New Mexico’s American Indian students, who make up 11 percent of the student population, have the largest achievement gap of any subgroup as measured by the New Mexico Standards Based Assessment;

- American Indian students graduate from high school at a lower rate than any subgroup as measured by the PED four-year cohort graduation rate (58 percent for American Indian vs. 66 percent for all students);
- research demonstrates American Indian students are more successful in college when their first postsecondary experience is in a tribal college largely because of the support of family, extended family, and a college student population that reflects their culture and identity;
- New Mexico’s tribal colleges have articulation agreements with all of the public postsecondary schools in the state, making all coursework transferable; and
- the tribal colleges receive state work-study, state incentive grants, and college affordability funding.

According to the bill analysis from HED, in order to track the effectiveness of lottery scholarships for students at tribal colleges, the tribal institutions will be required to report student enrollment information to the department each semester. Currently, the tribal institutions do not report student enrollment information to HED.

Concerning a provision of the Constitution of the State of New Mexico known as the “anti-donation clause,” in an October 1996 letter, the New Mexico Attorney General expressed the opinion that tribally controlled high schools were not private schools within the meaning of the anti-donation clause, and thus could receive appropriations from the General Fund for capital projects.

**Background:**

Similar legislation was introduced in 2009 and 2010 but did not pass.

**Related Bills:**

HB 62 *Extend Lottery Scholarship Application Time*

SB 226 *Legislative Lottery Tuition Act*