

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill No:** HB 49

**49th Legislature, 1st Session, 2009**

**Short Title:** Tribal Colleges in Dual Credit Program

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

**Analyst:** David Harrell

**Date:** January 28, 2009

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**Bill Summary:**

HB 49 amends the dual credit statute to include Bureau of Indian Education (BIE) high schools and tribal colleges in the state-supported Dual Credit Program. For this purpose, the bill defines a BIE high school as “a school located in New Mexico that is under the control of the bureau of Indian education of the United States department of the interior.”

**Fiscal Impact:**

HB 49 makes no appropriation.

However, the bill is likely to have a fiscal impact in at least three ways:

- the BIE high schools would be required to provide their students’ textbooks and course supplies;
- the tribal colleges would be required to waive general fees for students in the Dual Credit Program; and
- the tribal colleges would be expected to waive tuition for students in the Dual Credit Program.

In addition, the actual fiscal impact will depend upon student enrollment in the program. Projecting approximately 570 BIE students participating in the program and not counting the costs of textbooks and course supplies, the analysis by the Higher Education Department (HED) estimates a fiscal impact in excess of \$100,000 each year for the tuition of BIE high school students who enroll in public postsecondary institutions already participating in the Dual Credit Program and for the tuition of BIE and other high school students who enroll in tribal colleges.

Using participation estimates from HED’s analysis and the estimated cost of textbooks as determined by a work group formed by the Legislative Education Study Committee (LESC) during the 2008 interim, the FIR by the Legislative Finance Committee suggests that the fiscal impact of textbooks and course supplies could be nearly \$190,000 each year.

**Fiscal Issues:**

Regarding the textbooks and course supplies, HB 139, endorsed by the LESC (see Background,” below), creates the Dual Credit Textbook Fund, administered by the Instructional Material Bureau at PED. This bill also appropriates \$1.5 million for FY 10 for PED to allocate and distribute to the participating secondary schools to help offset the cost of dual credit textbooks and course supplies.

- If both HB 49 and HB 139 were to pass, adding more secondary schools to the Dual Credit Program will either decrease the per-student allocation amount or require an increased appropriation to the fund.
- Even so, according to the Public Education Department (PED), the Instructional Material Bureau currently distributes instructional materials to BIE schools, like private schools, if they have complied with the application process and submission of documents; and, according to the PED analysis of HB 49, those schools may apply their instructional material funds to the purchase of textbooks for dual credit courses.

Regarding the general fees, the dual credit statute requires participating postsecondary educational institutions to waive “all general fees for dual credit courses.” Another section of law defines the term “general fee” as “a fixed sum charged to students for items not covered by tuition and required of such a proportion of all students that the student who does not pay the charge is an exception.”

Regarding the tuition waiver, the dual credit statute requires HED to “revise procedures in the higher education funding formula to address enrollments in dual credit courses and to encourage institutions to waive tuition for high school students taking those courses.”

- To address this requirement, HED has excluded from the calculation of tuition revenue credits those dual credit hours for which institutions waive tuition. However, as the analysis of HB 49 by the Indian Affairs Department (IAD) points out, tribal colleges are not funded through the higher education funding formula; therefore, “it is unclear how they would be compensated.”
- Nonetheless, HED’s analysis suggests that the department “may have to analyze whether the higher education funding formula requires revision for Tribal colleges participating in the Statewide Dual Credit Program.” This analysis also calculates a fiscal impact of approximately \$57,000 for reimbursing tribal colleges for their tuition waivers, even though, as the FIR notes, “[r]eimbursement of tuition for tribal colleges appears to be a significant departure from the current fiscal treatment of public, post-secondary institutions participating in the program.”
- Moreover, according to the IAD analysis, “it would be at the discretion of the tribal college, if owned by a sovereign Indian nation, tribe, or pueblo, to allow students to take dual credit courses at their institution and to waive fees for these courses.”

### **Issues:**

Noting that HB 49 is “a priority of the NMHED’s legislative agenda,” HED’s analysis explains that the bill affords BIE high school students “the same opportunities that students in New Mexico public school districts, charter schools, and state-supported schools currently participate in as part of the Statewide Dual Credit Program.” On that point, the PED analysis notes that some BIE schools provide instruction only through grade 8, after which the students transfer to regular public schools and then become eligible for the Dual Credit Program.

Furthermore, the IAD analysis cites studies showing that New Mexicans of American Indian descent “participate less often and less successfully in higher education than do other groups” and that, when they do enroll in postsecondary institutions, many of them are placed in remedial

courses that offer no college credit. The IAD analysis also notes a higher success rate for American Indian students who enroll in tribal colleges because of “support of family, extended family, and a college student population that reflects their culture and identity.”

These needs and benefits notwithstanding, HB 49 raises another issue, in addition to the fiscal issues noted above: whether and how, especially in light of the sovereignty point raised by the IAD analysis, BIE high schools and tribal colleges would comply with other provisions of law – the terms of the uniform master agreement, the data collection and reporting requirements, and the evaluation of the program, for example – and with provisions of the identical rules for administering the Dual Credit Program promulgated by HED and PED, in particular the rule requiring postsecondary institutions to waive tuition for dual credit students.

### **Background:**

According to HED’s analysis, four tribal colleges and seven BIE high schools would be able to participate in the dual credit program under HB 49.

Dual credit is an agreement between a secondary school or school district and an institution of higher education that allows a secondary-level student to enroll in academic or vocational courses offered by the institution and to earn credit at both the secondary and postsecondary levels. Studies indicate that, among its benefits, dual credit allows students not only to earn credit at both levels simultaneously but also to obtain an early glimpse of college life. Dual credit programs may also encourage more students to consider higher education, especially students from underrepresented groups. Other benefits often cited include better completion rates for both high school and college; a reduction in the need for remediation; a shorter route to a high school diploma or college degree; a reduction in the cost of higher education; a reinforcement of the concept of life-long learning through an educational continuum; an alternative for students tempted to leave high school and enter the work force; and, when offered through distance education, equitable access to higher education opportunities for students, whether rural or urban.

While there had been dual credit arrangements throughout the state for years, legislation endorsed by the LESC and enacted in 2007 provided, for the first time, a statewide dual credit program authorized in statute and supported by the state. Standardizing formerly inconsistent arrangements throughout the state, this legislation defines the program, establishes student eligibility criteria, provides a uniform funding mechanism, requires uniform administrative procedures, requires HED and PED to promulgate rules to address certain details of the program, and requires HED and PED to evaluate the effects of the program upon the students and the institutions involved. In 2008, LESC-endorsed amendments expanded the program to include state-supported schools, in addition to school districts and charter schools, and to allow dual credit courses to be taken during the summer term. Now in school year 2008-2009 the program is being fully implemented.

During the 2008 interim, the Chair of the LESC asked the Director to convene a work group to determine the amount of money needed to help secondary schools provide dual credit textbooks and course supplies and a methodology for distributing the funds. This work group reached consensus on an average cost of \$82 per course and approximately 6,000 students taking an average of three courses each during school year 2009-2010 for a total cost of nearly \$1.5 million. The work group also agreed on the creation of the Dual Credit Textbook Fund, to isolate money for that purpose from the funds already appropriated for instructional materials, which are distributed to a number of entities that do not participate in the Dual Credit Program.

**Related Bills:**

HB 50 *American Indian Post-Secondary Education Act*

HB 139 *Create Dual Credit Textbook Fund*