

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 90

49th Legislature, 2nd Session, 2010

Tracking Number: .179331.1GR

Short Title: Native American Schools Dual Credit Program

Sponsor(s): Representative Ray Begaye and Others

Analyst: Ally Hudson

Date: January 29, 2010

Bill Summary:

HB 90 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; and defines a tribal college as “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.”

HB 90 is the subject of House Executive Message 7.

Fiscal Impact:

HB 90 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.

Fiscal Issues:

Textbooks and Course Supplies

Regarding the textbooks and course supplies, SB 114, endorsed by the Legislative Education Study Committee (LESC) (see “Background”, below), creates the Dual Credit Textbook Fund, administered by the Instructional Material Bureau at the Public Education Department (PED). This bill provides a mechanism for PED to allocate and distribute funds to the participating secondary schools to help offset the cost of dual credit textbooks and course supplies. In at least two ways, HB 90 would affect SB 114:

- Both the PED and Indian Affairs Department (IAD) analyses note that because BIE schools are not currently included in the Dual Credit Program, SB 114 does not include those schools in the allocation of textbook funds.
- If both HB 90 and an amended SB 114 were to pass, adding more secondary schools to the Dual Credit Program will either decrease the per-student allocation amount or require increased resources for the fund.

General Fees

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.”

Tuition Issues

In addition, the fiscal impact will depend upon student enrollment in the program. Projecting approximately 600 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 \$113,000 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.

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 90 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 \$61,000 for reimbursing tribal colleges for their tuition waivers.
- 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.”

Finally, PED and HED are statutorily required to make annual reports to the legislature and the Governor on the effects of the Dual Credit Program on students and participating institutions. The PED analysis further indicates that including BIE schools and tribal colleges in this data collection would cost approximately \$200,000.

Substantive Issues:

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 90.

Noting that HB 90 is “a priority of HED’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.”

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 “due to the support of family, extended family, and a college student population that reflects their culture and identity.”

These needs and benefits notwithstanding, HB 90 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:

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 institutions involved in an annual report to the legislature and the governor.

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. In school year 2008-2009 the program was 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. Legislation to create the fund was proposed in the 2009 legislative session but did not pass. However, an appropriation of \$1.5 million for dual credit materials was included in the *General Appropriation Act of 2009*. During the special session in October 2009, this amount was reduced to \$1.4 million.

Related Bills:

HB 102 *Lottery Scholarships for Tribal Colleges*
SB 114 *Dual Credit Textbook Fund*