

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (www.nmlegis.gov). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/01/12
 SPONSOR Pinto LAST UPDATED 02/13/12 HB _____
 SHORT TITLE Tribal College Dual Credit Programs SB 256/aSFC
 ANALYST Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				HED operating

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Indian Affairs Department (IAD)

Public Education Department (PED)

Higher Education Department (HED)

SUMMARY

Synopsis of SFC Amendment

The amendment adopted by the Senate Finance Committee strikes the appropriation and all language associated with it.

Synopsis of Original Bill

Senate Bill 256 (SB256) would appropriate \$500.0 from the general fund to the tribal college dual credit program fund for expenditure in FY 2013 to compensate tribal colleges for tuition and fees waived for high school students participating in the dual credit program during the preceding year.

The bill would create a “Tribal College Dual Credit Program fund” in the state treasury. The fund would be administered by the Higher Education Department (HED). Money in the fund would be appropriated to the HED to be used only to compensate tribal colleges for the tuition and fees waived to allow high school students to attend classes on the college campus or electronically pursuant to the dual credit program set forth in Section 21-1-1.2 NMSA 1978.

The bill provides that the fund shall consist of: (1) money appropriated by the legislature for the tribal college dual credit program fund; (2) grants, gifts, donations and bequests for the dual credit program as it applies to tribal colleges; and (3) earning on the money in the fund. Disbursements from the fund shall be made by warrant of the Secretary of Finance and Administration. Unexpended and unencumbered balances in the fund shall revert to the general fund at the end of each fiscal year.

FISCAL IMPLICATIONS

The appropriation of \$500 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2013 shall revert to the general fund. This may have unintended consequences; see “TECHNICAL ISSUES” below for a discussion of a conflict between the fund structure and the reversion 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.

The Tribal College Dual Credit Program fund would be administered by the HED. The HED did not report any estimate of impact on their operating budget for this activity.

SIGNIFICANT ISSUES

Section 21-1-1.2 NMSA 1978 (*DUAL CREDIT FOR HIGH SCHOOL AND POST-SECONDARY CLASSES*) currently requires the HED to accommodate the costs of dual credit programs in their funding formula. It is their responsibility to operate the program that reimburses eligible public post-secondary institutions for the tuition and fees waived. This appropriation would be an additional source of funding for the program, aimed specifically at the tribal colleges which are not currently part of the funding formula.

The IAD calls attention to Section 21-1-1.2(E) NMSA 1978, which provides that public post-secondary educational institutions or tribal colleges that participate in a dual credit program shall waive all general fees for dual credit courses. SB256 would create a fund that reimburses the tribal colleges for the tuition and fees waived for high school students that participate in the dual credit program. The effectiveness of the fund for compensating tribal colleges offering dual credit programs would depend on appropriations from the legislatures each year.

The HED explains the effect of the bill on their department as follows.

HB90, Native American Schools Dual Credit Program (49th Legislature, 2nd Session, 2010), amended the dual credit statute to include Bureau of Indian Education (BIE) high schools and tribal colleges in the state-supported Dual Credit Program. Under 21-1-1.2

NMSA 1978, “dual credit program” is defined as a program that allows high school students to enroll in college-level courses offered by a public post-secondary educational institution *or tribal college* that may be academic or career-technical but not remedial or developmental, and simultaneously earn credit toward high school graduation and a post-secondary degree or certificate. Further, “tribal college” means a tribally, federally or congressionally chartered post-secondary educational institution located in New Mexico that is accredited by the North Central Association of Colleges and Schools.

Under the existing dual credit program, a high school student’s tuition at the post-secondary institution is waived. In turn, the state pays the post-secondary institution for student tuition following a two-year lag. The student may be responsible for paying certain course-specific fees (e.g., lab or technology fees). The school districts purchase textbooks for the courses and are reimbursed through legislative allocation for the costs of these items.

If the fund is created and the tribal colleges are allowed to accept high school students in dual credit course, the tribal colleges will be required to engage in master agreements with associated high schools on the specific post-secondary courses to be made available under the program. This collaboration is vital to meet the dual credit program goal of ensuring high school alignment to college expectations so that more high school students graduate college and career ready. There is, as well, a need for the submission of accurate and reliable data on an annual basis from the tribal colleges to the HED. On February 15, 2007, a Memorandum of Agreement (MOA) was signed by the cabinet secretary of the HED and representatives of the four tribal colleges. The MOA acknowledges the need for enhanced accountability regarding student demographic information, scholarship, and eligibility data, and the use of data verification methods and reporting by New Mexico postsecondary institutions. It is imperative that annual submissions of reliable data are submitted to the HED by the tribal colleges in order for the proposed Dual Credit Programs to be successfully implemented.

The PED adds the following discussion.

The Senate Bill 256 would provide options for students’ to access financial support and attend college courses while in high school. In related SB 157 of 2011 Regular session the Public Education Department’s analysis cited research showing that “students who complete dual credit courses complete high school and college at high rates; therefore, if more New Mexico students are encouraged to complete dual credit course, this could positively impact high school graduation rates and college completion rates.” The enactments of SB 256 would expand the options to include tribal colleges that also provide native language courses and studies that would complement the 2012 PED Strategic Plan of ensuring culture based education models.

A statewide dual credit program authorized in statute and supported by the state was enacted in 2007. The background information is significant in that the program has expanded to include state supported schools. The Tribal Colleges and Bureau of Indian Education schools receive funds and share the Standards Based Assessment (SBA) with the Public Education Department and in 2010 legislation was amended to include the BIE high schools and tribal colleges.

The PED has worked toward establishing Memorandum of Agreements with tribal colleges and has defined courses with the formal collaboration continuous. It is not clear how PED can assist Higher Education Department in verifying the tuition reimbursement with the BIE but this is a significant issue.

PERFORMANCE IMPLICATIONS

The HED notes SB256 does not provide performance measures; however, if funded, they recommend tribal colleges should develop performance measures in collaboration with HED.

The PED states this bill supports PED goals including Strategic Lever #1: Smarter Return on New Mexico Investment, Lever #3: Ready for Success Initiative. The bill also supports PED's implementation of the Indian Education Act [22-23A-1 to 22-23A-8 NMSA] that ensures equitable and culturally relevant learning and educational opportunities.

TECHNICAL ISSUES

The Tribal College Dual Credit Program fund as created in Section 1 of the bill defines deposits to the fund as:

- (1) money appropriated by the legislature for the purposes of the tribal college dual credit program fund as it applies to tribal colleges;
- (2) grants, gifts, donations and bequests for the dual credit program as it applies to tribal colleges; and
- (3) earnings on the money in the fund.

Paragraph D in Section 1 of the bill requires “Unexpended and unencumbered balances in the fund shall revert to the general fund at the end of each fiscal year.” This language could cause receipts from item (2) above to be swept into the general fund as reversions, counter to the intent of the donors and denying benefits to dual-credit students.

ALTERNATIVES

The Tribal College Dual Credit Program fund, in order to operate as contemplated in the bill, would need to be a non-reverting fund. The appropriation contained in the bill could then be made directly to the HED to avoid the conflict.

Another alternative would be to specify that the both the fund and the appropriation are non-reverting.

CH/amm:lj:svb