

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** SB 2

**52nd Legislature, 1st Session, 2015**

**Tracking Number:** .197832.1

**Short Title:** Tribal College Dual Credit Program Fund

**Sponsor(s):** Senators Michael S. Sanchez and Mimi Stewart

**Analyst:** Travis Dulany

**Date:** January 30, 2015

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**Bill Summary:**

SB 2 appropriates funds to the Tribal College Dual Credit Program Fund for expenditure in FY 16 to compensate tribal colleges for “foregone” revenue due to tuition and fee waivers for high school students participating in the tribal college dual credit program during the preceding school year.

**Fiscal Impact:**

\$500,000 is appropriated from the General Fund to the Tribal College Dual Credit Program Fund for expenditure in FY 16. Unexpended or unencumbered funds revert at the end of FY 16.

**Fiscal Issues:**

Although the Tribal College Dual Credit Program Fund was created in 2012 (Laws 2012, Chapter 44), there was no appropriation to the fund for FY 13. For FY 14 and FY 15, according to Legislative Finance Committee (LFC) staff, the Higher Education Department (HED) received \$200,000 to support the tribal college dual credit program.

For FY 16, the LFC and Executive budget recommendations both include \$200,000 from the General Fund to HED to continue support for the tribal college dual credit program.

Provisions in current statute require that any unexpended or unencumbered balances in the Tribal College Dual Credit Program Fund shall revert to the General Fund at the end of each fiscal year.

**Substantive Issues:**

New Mexico’s dual credit program allows high school students to take courses offered through a postsecondary educational institution and earn credit at the high school level and the college level simultaneously. Statute governing the program provides that:

- the school district, charter school, state-supported school, or Bureau of Indian Education (BIE) high school is to pay the cost of the required textbooks and other courses supplies for the postsecondary course for which the student is enrolled;
- the public postsecondary educational institution or tribal college that participates in a dual credit program must waive all general fees for dual credit courses; and

- HED shall revise procedures in the higher education funding formula to address enrollments in dual credit courses to encourage institutions to waive tuition for high school students taking those courses.

Legislation that included tribal colleges and federal BIE high schools in the state’s dual credit program was enacted in 2010 (Laws 2010, Chapter 36). While this legislation expanded the opportunities for participation in the dual credit program, it also created the need for new administrative procedures, particularly with regard to tuition reimbursement.

Statutorily and constitutionally established, state-supported higher education institutions receive reimbursement for their dual credit students through the higher education funding formula; however, because tribal colleges are not funded through the funding formula, a different method for reimbursing tribal colleges that waive tuition for dual credit students was necessary.

During the 2012 regular legislative session, legislation was enacted to create the Tribal College Dual Credit Program Fund (Laws 2012, Chapter 44), which was “to be used only to compensate tribal colleges for the tuition and fees waived” to allow high school students to attend tribal colleges pursuant to the dual credit program.

HED identifies four tribal colleges that are eligible to participate in the tribal college dual credit program:

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

Three tribal colleges – Diné College, IAIA, and Navajo Technical University – currently offer dual credit courses. SIPI has indicated that the institute is in the process of forming dual credit agreements with two area high schools. It may be important to note that SIPI does not charge tuition, but the institute accepts only students who meet certain tribal affiliation criteria.

According to HED, tribal colleges reported 3,549 dual credits for academic year 2013-2014.

IAIA notes that dual credit courses are key to increasing the number of Native American students who enroll in an institution of higher education.

**Background:**

***Tribal College Dual Credit Program Rule***

In November 2014, HED published its final adopted rule relating to the state’s tribal college dual credit program. Among other provisions, further discussed below, the rule sets forth a process to distribute funding to the four tribal colleges for dual credit:

- if sufficient appropriations are received by HED, tribal colleges are to be fully reimbursed for all dual credit tuition and fees;
- the date of reimbursements “is dependent upon receiving accurate and timely data from each tribal college in order to accurately calculate the amount due to each college”; and

- if such data are received in a timely manner, the reimbursements for the fall semester will be distributed “on or about” March 31 of each year, and for the spring semester reimbursements will be made “on or about” August 31 of each year.

In the rule, “Inadequate Appropriation” is defined as “a legislative financial allocation that does not fully compensate all of the tribal colleges for the dual credit tuition and fees.” In such cases:

- HED will offer the presidents of the tribal colleges, or their designees, the opportunity to select another method of reimbursement;
- “the department will honor a fair and equitable alternative method of distribution of the reimbursement only if the method is agreed upon by all tribal colleges pursuant to a Memorandum of Agreement”;
- “if the tribal colleges cannot agree unanimously upon a fair and equitable distribution of an inadequate appropriation for dual credit tuition and fees, the department will develop a formula that fairly distributes the appropriation”; and
- the department’s formula will be distributed to the colleges for review and comment before any distribution of the appropriation is made; however, the department’s determination of a distribution method is final.

The following courses are not eligible for dual credit at tribal colleges under the rule:

- courses taken for audit;
- remedial courses;
- developmental courses; and
- physical education activity courses.

Further, dual credit courses:

- may be taken as electives or core courses, except physical education activity courses;
- must meet Public Education Department standards and benchmarks;
- must meet the rigor for postsecondary institution credit and be congruent with the postsecondary institution’s academic standards;
- offered in a high school setting must conform to college academic standards;
- must have the same course requirements for all students, regardless of whether the student is a high school student or a regular college student; and
- that are part of the “general education common core” for postsecondary institutions are eligible for transfer among New Mexico postsecondary educational institutions pursuant to state statute.

In identifying and delivering dual credit courses, local educational agencies (LEAs), along with postsecondary educational institutions, must determine a list of academic and career-technical courses eligible for dual credit. HED will inform and assist tribal colleges in identifying the dual credit courses. The courses may take place within the LEAs, at postsecondary educational institutions, and off-campus centers as determined by the LEA in collaboration with the postsecondary institution. The courses may be delivered during or outside of regular LEA hours. Distance learning courses – online or correspondence courses, for example – may be offered, however, “all dual credit course rules apply.”

Finally, with regard to semesters in which dual credit may be taken, caps for dual credit, and the nature of high school credit earned:

- eligible students may enroll in dual credit year-round;
- there is no limit on the number of credits a student may earn through dual credit in an academic term, though the student must meet eligibility requirements; and
- successful completion of three credit hours of postsecondary instruction will result in the awarding of one high school unit, unless otherwise approved by the Secretary of Higher Education or the Secretary of Public Education.

**Committee Referrals:**

SEC/SFC

**Related Bills:**

SB 229 *Remove Requirement for Certain School Classes*