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FISCAL IMPACT REPORT

ORIGINAL DATE 2/13/2007
 LAST UPDATED 3/2/2007 **HB** _____

SPONSOR Boitano

SHORT TITLE Certain Scholarship Donation Tax Credits **SB** 284/a SCORC

ANALYST Schuss

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
Provision	FY08	FY09		
Tuition Scholarship Tax Credit	(\$1,800.0)	(\$1,800.0)	Recurring	General
Extracurricular Tax Credits	(\$11,000.0)	(\$11,000.0)	Recurring	General

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Public Education Department (PED)

SUMMARY

Synopsis of SCORC Amendment

The amendment proposed by the Senate Corporations and Transportation Committee decreases the expenditures of a “school tuition organization” from one hundred percent to at least ninety percent of the tax-credit-qualifying revenues for educational scholarships or tuition grants for children enrolled in a qualified school. It qualifies the definition of a “school tuition organization” to include the provision that one hundred percent of its educational scholarships or tuition grants go to children who qualify for the federal free or reduced price school meal program at the time of initial application for the scholarship or tuition grant.

The amendment would add an “auxiliary entity” to the section of the Income Tax Act regarding contributions for the support of extracurricular activities and would provide a standardized receipt for such a contribution.

TRD has included the following in their analysis of the amendment:

Estimates for the Private Tuition Tax Credit program assumed approximately 2,600

returns would claim the full amount of the credit, while 2,000 returns would claim half the credit. Estimates of the numbers of claimants were reduced in response to the stipulation in the SCORC amendment that entities must provide one hundred percent of their educational scholarships as tuition grants to children who qualify for the federal free or reduced price meal program at the time of the initial application for the scholarship grant. Estimates of the \$250 Extracurricular activity Tax Credit impact assume approximately 36,000 returns would claim the full \$250 credits, while an additional 16,000 returns would claim \$125. One half of the first tax year's effects accrue to the state in the first fiscal year. Estimates of numbers of claimants were based partially on New Mexico personal income tax data. Approximately 200,000 New Mexico returns reported sufficient income to claim at least a portion of either credit. On the basis of Arizona experience¹ with similar programs, however it was concluded that about one-quarter of the New Mexico returns would claim the Extracurricular Activity Tax Credits, and between approximately four and ten percent of the approximately 50,000 taxpayers claiming the extracurricular activity credits would claim the private tuition scholarship tax credits. Roughly four percent of New Mexico's 360,000 primary and secondary school students attend accredited non-governmental schools.

Synopsis of Original Bill

Senate Bill 284 would provide two types of income tax credits for contributions to elementary and secondary schools in New Mexico. Credits totaling up to \$500 would be allowed in any tax year for contributions to private schools for scholarships. These are referred to as "tuition scholarship tax credits" in the proposal. The measure would also authorize taxpayers to claim up to \$250 annually for donations to public schools in support of extracurricular activities – referenced as "extracurricular activity tax credits" in the proposal. The credits would not be refundable. They would not be allowed if the associated donations are deducted against federal income tax obligations.

FISCAL IMPLICATIONS

TRD lists the following impacts:

Estimates for the Private Tuition Tax Credit program assumed approximately 7,500 returns would claim the full amount of the credit, while 6,000 returns would claim half the credit. Estimates of the \$250 Extracurricular Activity Tax Credit impact assume approximately 36,000 returns would claim the full \$250 credits, while an additional 16,000 returns would claim \$125. One half of the first tax year's effects accrue to the state in the first fiscal year. Estimates of numbers of claimants were based partially on New Mexico personal income tax data. Approximately 200,000 New Mexico returns reported sufficient income to claim at least a portion of either credit. On the basis of Arizona experience with similar programs however, it was concluded that about one-quarter of the New Mexico returns would claim the Extracurricular Activity Tax Credits, and between approximately four and ten percent of the approximately 50,000 taxpayers claiming the extracurricular activity credits would claim the private tuition scholarship tax credits. Roughly four percent of New Mexico's 360,000 primary and secondary school students attend accredited non-governmental schools.

¹ Please see the tax expenditure report published by the Arizona Department of Revenue:
<http://www.azdor.gov/ResearchStats/Taxexpendituresmenu.htm>

SIGNIFICANT ISSUES

\$500 Tuition Scholarship Tax Credit Proposal:

Organizations receiving the contributions must be exempt from federal taxation due to Section 501(c)(3) of the Internal Revenue Code, provide financial scholarships to students, and spend 100 percent of their tax-credit-qualifying revenues for scholarships at qualified schools. A qualified school is defined as “an accredited nongovernmental elementary or secondary school in New Mexico”.

\$250 Extracurricular Activity Tax Credit Proposal:

Donations must be made to a “qualified school” defined as “a public middle school or junior high school, a public elementary school that enrolls students in grade six or a public school that enrolls students in grade nine.” Extracurricular activities the credits may fund include competitive sports and activities that support social, leadership or other skills and provides opportunities for youth, including academic decathlon, cheerleading, drill team, chess, journalism, mock trial, music, art, drama, science fair, speech, student council, homework or other activity approved by the Public Education Department.

According to the analysis provided by PED:

- The time children spend after school influences their development.
- Through after-school activities, children can develop social skills, improve their academic performance and establish strong relationships with caring adults.
- Participation in club activities during middle childhood is linked to higher academic performance and self-esteem.
- Participation in sports is linked to higher social competence and contributes to better health and lower likelihood of obesity.
- After-school programs may be especially beneficial for low-income children and children with limited English proficiency.
- Some research shows that children of low-income families who attend after-school programs are less likely to exhibit antisocial and problem behaviors.
- Children who regularly attend high-quality after-school programs are more likely to be engaged in school and attentive in class. They are also less likely to skip school and start drinking alcohol.

Older children who consistently participate in after-school activities are more likely to attend college, vote and volunteer later in life.

PERFORMANCE IMPLICATIONS

PED notes that students may show increased participation in sport activities, increased levels of physical activity, reduced chronic health risks, increased attendance rates and improved academic performance. Schools may see reduced truancy and dropout rates and a reduced loss of state funds.

TECHNICAL ISSUES

According to TRD, provisions of the proposed measure allowing credits to private schools may be subject to legal challenge on the basis of separation of church and state. A similar law was recently challenged on this basis in Arizona, however, and deemed constitutional.

TRD adds that the proposed legislation makes no adjustment for differences in income between single, head of household and joint returns. Since taxpayers filing joint returns often have approximately two times the income of single taxpayers, some would argue they should be able to claim twice the amount of credits or deductions.

OTHER SUBSTANTIVE ISSUES

TRD notes that because the credits provided by the proposal would not be refundable, taxpayers with insufficient tax liability to claim the credits would not be encouraged to make the contributions. Making the credits refundable would increase the cost to the general fund, however.

TRD has included additional details to their fiscal estimates:

Public Extracurricular Activity Tax Credit: Data published by the New Mexico Public Education Department indicate approximately 325,000 students attending 710 public schools in New Mexico could benefit from the proposed credits. Similar credits are available to Arizona taxpayers. Arizona provides its personal income taxpayers with credits for donations to Arizona schools for extracurricular activities of up to \$200 for single taxpayers and \$250 for taxpayers filing joint and head of household returns. In 2004, approximately 214,000 Arizona taxpayers claimed the credits totaling \$31 million. Since Arizona's population is roughly three times that of New Mexico, simple extrapolation would suggest that approximately 54,000 New Mexico taxpayers would claim approximately \$8 million in credits.

Private Tuition Scholarship Tax Credit: Data published by the New Mexico Public Education Department indicate approximately 15,500 students attend 80 accredited non-public schools in New Mexico could benefit from the credits. Students in this group comprise approximately 4% of the approximate 360,000 private and public elementary and secondary students in New Mexico. Similar credits are available to Arizona taxpayers. Arizona allows credits for private school tuition totaling up to \$500 for single and \$600 to for taxpayers filing joint and head of household returns. In 2004, approximately 63,000 Arizona taxpayers claimed the credits totaling \$32 million. Simple extrapolation against Arizona data suggests approximately 20,000 New Mexico taxpayers would claim the private tuition credits totaling \$10 million – a figure that is two times from the estimate shown above. A low figure for the private tuition credits seems appropriate, however, in light of the very small fraction of private school students in New Mexico's school age population, as well as demographic a number of demographic differences between New Mexico and Arizona.

BS/mt