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FISCAL IMPACT REPORT

ORIGINAL DATE 02/02/11

SPONSOR Boitano LAST UPDATED _____ HB _____

SHORT TITLE Tax Credit for Certain Scholarship Donations SB 113

ANALYST Golebiewski

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	(\$5,000.0)	(\$7,000.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Duplicates, Relates to, Conflicts with, Companion to

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$0.8	\$32.5	\$32.5	\$65.8	Recurring	Taxation and Revenue Department

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Public Education Department (PED)

SUMMARY

Senate Bill 113 provides a new “tuition scholarship tax credit” for a contribution made to a school tuition organization, provided that the taxpayer produces a receipt from the organization certifying that the contribution will be used for educational scholarships. This credit may be claimed in an amount equal to total contributions but is not to exceed \$500 in a taxable year and can be taken against New Mexico’s personal income tax. The bill also requires that the contribution not appear as an itemized deduction on the federal form.

The Taxation and Revenue Department is required by Senate Bill 113 to compile a report on the number and amount of credits issued annually for the Revenue Stabilization and Tax Policy

Committee. In addition, every four years, TRD will review the tax credit to determine if the program is achieving its intended goals.

FISCAL IMPLICATIONS

TRD:

Fiscal impacts of the proposal are uncertain but are likely to be significant. The Arizona Department of Revenue reports that as of 2008, \$55 million of individual income tax credits was claimed under their program which is similar to the one proposed in this bill. Estimates in the table assume approximately 7,500 returns would claim the full amount of the credit, while 6,000 returns would claim half the credit. Estimates of numbers of claimants were based on New Mexico personal income tax data. The amount is assumed to grow significantly over time.

As a check, Arizona's amount of tax credits was pared down by the percentage difference between Arizona's and New Mexico's populations, median household incomes, and numbers of private schools. This information came from QuickFacts by the Census and in the Private School Review. After adjusting the \$55 million, the estimate for New Mexico was approximately \$7.75 million. However, because Arizona's program provides a higher limit for certain types of taxpayers and the program has been in existence longer, between \$5 million and \$7 million for FY12 is a reasonable expectation.

SIGNIFICANT ISSUES

TRD:

The purpose of this new credit is to encourage individuals and businesses to contribute money to school tuition organizations that provide scholarships or grants for students to attend nongovernmental schools chosen by the students' parents.

PED:

The tax credits provided in this bill may provide greater options for students to attend nongovernmental schools in addition to the existing option to attend public schools in New Mexico.

One possible consequence of this bill would be to allow scholarship organizations to thrive and provide more scholarships to New Mexico students to attend nongovernmental schools. It would also have the immediate impact of reducing taxes for New Mexico citizens who donate to these scholarship organizations.

Further, SB 113 also provides an incentive for parents to enroll their child or children in a private school when they might not have been able to, or inclined to, before. Thus, this bill may allow greater school choices for students.

The provision in this bill requiring the Taxation and Revenue Department to determine every four years whether the tuition scholarship tax credit is achieving the purpose for which it was created will allow for accountability of the provisions of this bill, and for the

opportunity to amend or modify the tax credit if it is not beneficial.

Consideration may be given to specifying “low-income” students to be the recipients of the funded scholarships.

ADMINISTRATIVE IMPLICATIONS

TRD:

Moderate impact: A line item needs to be added to the PIT form and instructions and related publications need to be updated. A form and a review process needs to be created for approving and distributing the contribution certificates to school tuition organizations at a cost of \$800. The review of the school tuition organizations would require an additional ¼ FTE at an audit level costing around \$20,000. Another ¼ FTE at \$12,500 will be needed for tracking and preparing annual reports for the revenue stabilization and tax policy committee.

TECHNICAL ISSUES

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, and deemed constitutional.

Subsection H authorizes the Department to disclose return information that would otherwise be confidential pursuant to NMSA 1978, Section 7-1-8. It appears Subsections G and H of this bill are intended solely to permit the Department to report statistics, not identified to individual taxpayers, to the Revenue Stabilization and Tax Policy Committee. As such, Subsection H should be eliminated, and a section amending NMSA 1978, Section 7-1-8.3 could be added to SB-113 specifying that the Department may reveal to the Revenue Stabilization and Tax Policy Committee the number of taxpayers approved to receive tuition scholarship tax credits, the aggregate amount of tuition scholarship tax credits approved and the average and median amounts of tuition scholarship tax credits approved; provided that such information is not identified as applicable to an individual taxpayer.

JAG/bym