

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 (legis.state.nm.us). 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 3/1/07

SPONSOR Strickler LAST UPDATED _____ HB 977

SHORT TITLE Certain Scholarship Donation Tax Credits SB _____

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	(32,500)		Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to SB284, SB1080

SOURCES OF INFORMATION

LFC Files
Taxation and Revenue Department

Responses Received From

Taxation and Revenue Department (TRD)
Public Education Department (PED)

SUMMARY

Synopsis of Bill

House Bill 977 creates two personal income tax credits. One credit, the “tuition scholarship tax credit,” would allow a maximum \$1,000 credit for contributions to school tuition organization which uses the donation to provide educational scholarships or tuition grants to one or more children. A qualified school is an accredited nongovernmental elementary or secondary school.

The second credit, the “extracurricular activity contribution tax,” would allow a maximum \$500 credit for contributions to an eligible public school for the support of an extracurricular activity. Eligible schools include public middle and junior high schools, elementary schools that have sixth-grade and high schools with ninth grade. Extracurricular activity means a competitive sport or other activity that supports academic, social, leadership or other skills.

The credits would be effective January 1, 2007, and would only be applied against the tax

liability in the year the contribution was made and only up to the amount of the maximum or the taxpayer's liability.

FISCAL IMPLICATIONS

Based on a Taxation and Revenue Department (TRD) estimate of SB284, the tuition credit would cost \$10.5 million per year and the extracurricular credit would cost \$22 million based on some taking the full credits and some taking only half on average. More taxpayers would file for the extracurricular credit since this credit is for public school contributions. According to TRD only four percent of New Mexico's public school students attend accredited private schools.

Based on a TRD analysis of SB324, 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 \$500 Extracurricular Activity Tax Credit impact assume approximately 36,000 returns would claim the full \$500 credits, while an additional 16,000 returns would claim \$250. 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.

SIGNIFICANT ISSUES

The vehicle for providing tax deductions could be abused by a school. A private school could set up a 501(c) 3 charitable organization for the purpose of collecting contributions and giving out scholarships or grants and give a \$1,000 worth of scholarships to the child or children of a parent who contributed \$1,000. In other words, a structure like this example would have the effect of passing \$500 of the tuition on to the state. People for the American Way (PFAW), a Washington DC advocacy organization, has reported that Arizona's tuition credit, which is similar to the one proposed by HB977, is operating in this manner. Although Arizona's credit stipulates that the parent contributing are precluded from designating their own children as beneficiaries, they are able to designate a specific beneficiary. PFAW reports that parents designate friends' children as the beneficiaries and those friends reciprocate.

The tuition credit would be for contributions to an organization that provides scholarships for attendance at private schools, including religious schools. Whether state support of religious and private schools would pass a constitutional challenge is a significant issue. The Arizona credit faced such a challenge in 1998 and withstood it. PFAW also reports that 25 of the 35 organizations in Arizona set up to receive contributions provide tuition to religious schools.

According to an Arizona Department of Revenue report on the tuition credit, the largest single scholarship from one of the organization's set up to receive contributions went to a school for emotionally disabled children. The report which includes data on all schools that received scholarships from organizations shows that there were 345 private schools who received scholarships from organizations. The list includes mostly religious schools of all faiths. The report can be found at http://www.azdor.gov/ResearchStats/private_schl_credit_report_2006.pdf.

The extracurricular activity tax, which goes only to public schools, could help schools who have had to cut back on music, art and athletic programs. Since the credit is a nonrefundable credit against tax liability, only those tax filers with sufficient tax liability will receive any benefit. Low income filers will not benefit significantly from the tax credit.

ADMINISTRATIVE IMPLICATIONS

TRD reports that implementation could be reasonably done with existing resources.

TECHNICAL ISSUES

TRD reports that there is no distinction in the bill for different filing classes of taxpayer. Single filers are treated the same as married filing jointly taxpayers.

OTHER ISSUES

Public Education Department:

This bill would allow individual taxpayers to contribute money to the public school of their choice to support extracurricular activities and/or to nonpublic schools to support student scholarships and tuition and receive a tax credit for these contributions.

- Poor nutrition and physical inactivity increase the chances of children becoming at risk of being overweight or obese, both of which are risk factors for chronic diseases, including asthma, diabetes, cardiovascular disease, sleep apnea, etc.:
www.healthinschools.org; Kids who aren't physically active are more likely to become overweight or obese: [A nation at Risk: Obesity in the United States](#),
www.rwjf.org.
- Since the 1970s the prevalence of overweight among children has doubled for children ages 2-5 and 12-19 and tripled for children 6-11. www.healthinschools.org
- Regular physical activity, even at moderate levels, is associated with lower mortality rates and reduces the chances of developing chronic diseases. ([Physical Activity and Health: A report of the Surgeon General](#), U.S. Dept. of Health and Human Services)
- Increasing physical activity will increase levels of physical fitness and higher levels of physical fitness are associated with improved academic performance.
www.cde.ca.gov/statetests/pe/pe.html ; www.actionbasedlearning.com
- Increased participation in sport activities may increase attendance rates, which may reduce both truancy and dropout rates and reduce the loss of state funds (www.actionforhealthykids.org: The Learning Connection: The Value of Improving Nutrition and Physical Activity in Our Schools).

Extracurricular activities:

- 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 competence⁵ 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.

<http://www.childtrendsdatabank.org/indicators/86AfterSchoolActivities.cfm>

Findings from several projects conducted at the Center for Research on the Education of Students Placed At Risk indicate that access to social resources such as caring parents who have high expectations for their children and are involved in their children's schooling /participation in extracurricular activities (e.g., after-school sports) and supportive relationships with teachers have positive benefits for students' academic performance (Nettles, S.M., Mucherah, W. and Jones, D.S. Understanding Resilience: The Role of Social Resources, Journal of Education for Students Placed at Risk, Vol. 5, No. 11 and 2, 2000.)

CONFLICT, DUPLICATION, COMPANIONSHIP OR RELATIONSHIP

SB 284 is a duplicate bill except the credits are \$500 for the tuition and \$250 for the extracurricular. SB1080 is a similar bill but has an annual aggregate credit cap of \$5 million and can only be used if the tuition is for a low income student.

ALTERNATIVES

One option would be to require an organization receiving contributions that qualify for the credit to have a certain level of scholarships or grants for low income or otherwise disadvantaged children.

NF/mt