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FISCAL IMPACT REPORT

ORIGINAL DATE 1/24/08
 SPONSOR Cote LAST UPDATED 2/09/08 HB 269/aHEC
 SHORT TITLE Classroom Supply Tax Credit SB _____
 ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	(\$5,700.0)	(\$5,700.0)	Recurring – three years	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HEC Amendment

The House Education Committee amended House Bill 269 to repeal the credit on January 1, 2012, rather than January 1, 2009. This extends the credit three years.

Synopsis of Original Bill

House Bill 269 creates a personal income tax credit for expenditures on classroom supplies. The credit is available to kindergarten through 12th grade teachers licensed by PED and who are employed at a public or accredited private school. The credit ranges from \$50 to \$250 as shown in the table below:

Classroom Supply Credit Schedule

Modified Gross Income	Maximum Credit
\$ 71,000	\$ 250
72,000	220
73,000	150
74,000	100
75,000	50

The credit is effective for tax year 2008 and is repealed on January 1, 2009. Any portion that exceeds taxpayer liability can be carried forward for up to four consecutive years.

FISCAL IMPLICATIONS

According to the NM Public Education Department 2004 annual report, there were estimated to be 21,000 teachers in NM public schools. Combined with private school teachers, there are expected to be 23,500 teachers in 2008. Assuming that 20 percent of teachers are married and will qualify only for the \$100 average credit due to the combined income of the household and the remaining 80 percent are single and qualify for the maximum credit, the fiscal impact is \$5.7 million in tax year 2008. For most teachers, the credit would be less than their tax liability and only a small group of teachers would need to carry the credit forward. The repeal provision effectively makes the credit nonrecurring because it will only be available in tax years 2008 to 2011.

According to Quality Education Data (QED), a marketing agency, 45 percent of teachers in their market trends survey report spending over \$500 on their classrooms. The average reported expenditure in the survey was \$475 per year.

SIGNIFICANT ISSUES

There is considerable evidence of teachers using their own funds to purchase materials that they consider necessary for teaching, such as art supplies and project materials. Many states have taken steps to provide tax breaks or, in some cases, cash payments or gift cards to teachers recognizing these expenditures. The federal government allowed a teacher to deduct up to \$250 from their income but that deduction expired with the 2006 tax year and so teachers can no longer deduct these expenses.

The bill allows private school teachers to take the tax credit which may violate the Establishment clause of the US Constitution.

TECHNICAL ISSUES

PED notes that the bill does not provide a mechanism for verifying these expenditures, nor does it require a taxpayer to itemize the expenditures claimed. Also, the bill arguably would not apply to licensed teachers working in most charter schools. This is because the bill allows the credit for expenditure by licensed teachers in a school “that provides instruction for grades kindergarten through twelve...” Most charter schools do not cover all 12 grades.

TRD reports the following concerns:

- Page 2, line 2, The bill specifies the amount that the credit cannot exceed, however, it may be better to state “the credit claimed shall be up to...” which implies that the taxpayer could only take a credit for what was actually spent.
- It is unclear why such expenditures should not be directly reimbursed by the schools, rather than through an income tax credit. The proposed credit overlaps a similar federal tax benefit for a “Deduction for Certain Expenses of Elementary and Secondary School Teachers” under §62(a)(2)(D) of the Internal Revenue Code which allows a deduction not in excess of \$250. The \$250 maximum is not limited by the taxpayer’s income. This federal deduction is scheduled to expire after 2008.

ADMINISTRATIVE ISSUES

TRD reports that new forms will have to be prepared as well as rules promulgated determining what are eligible “classroom supplies.”

ALTERNATIVES

If the intent was to include charter school teachers, an amendment addressing PED’s concern raised in “Technical Issues” above should be considered.

NF/bb:nt