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FISCAL IMPACT REPORT

ORIGINAL DATE 02/19/09
 LAST UPDATED 02/24/09 **HB** _____

SPONSOR Campos, P.

SHORT TITLE Private School Tuition Tax Deduction **SB** 603

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
		(\$300.0)	Recurring	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 Bill

Senate Bill 603 allows a new deduction from net income of up to \$500 per child for tuition paid to private nonprofit elementary or secondary schools.

The deduction would be available on and after tax years 2010.

FISCAL IMPLICATIONS

According to PED, there are 32,600 students enrolled in private schools in NM. Since this is a deduction from "net income," it is assumed that 80 percent of the children will be dependents of NM taxpayers who file returns, yielding a fiscal impact of \$300 thousand. Because it is not effective until tax year 2010, the first fiscal impact is in FY11 and then grows by 4 percent in subsequent years.

SIGNIFICANT ISSUES

PED raises the issue that there is no distinguishing between religious and non-religious schools:

The bill allows taxpayers to take an income tax deduction for the tuition payments for any private nonprofit elementary or secondary school. As non-public schools necessarily include religious schools, this section implicates the Establishment Clause of the United States Constitution and would be deemed to be unconstitutional state support of religion.

ADMINISTRATIVE IMPLICATIONS

TRD will have to revise forms and processes to accommodate.

CONFLICT

SB603 conflicts with HB262 which deletes the definition of “net income.”

TECHNICAL ISSUES

The language is unclear about whether it applies to multiple dependents and there was no discussion about how the deduction would be validated and whether the taxpayer would need to provide some type of supporting documentation.

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