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F I S C A L I M P A C T R E P O R T

SPONSOR: Park DATE TYPED: 1/29/04 HB 43

SHORT TITLE: Investment Credit Determination SB

ANALYST: Smith

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	**FY04**			
	(2,500.0)	(5,250.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB179, HB275

SOURCES OF INFORMATION

Responses Received From

Taxation and Revenue Department

SUMMARY

Synopsis of Bill

House Bill 43 increases the investment tax credit to 8% of the value of qualified equipment. The Investment Credit Act (Section 7-9A NMSA 1978) currently allows tax credits equal to the state compensating tax rate (5%) applied against the value of qualified equipment purchased and incorporated into certain manufacturing operations in the state. The credits may be applied against gross receipts, compensating, or withholding tax liability.

FISCAL IMPLICATIONS

TRD believes that this proposal has the potential to increase credit claims by as much as 60%. Currently, approximately 35 taxpayers actively claim credits totaling $10 to $12 million annually. If credit claims would continue to average $11 million in the absence of this legislation, the recurring fiscal impact could amount to a loss of $7.5 million annually. However, credit claims are limited to 85% of a taxpayer’s combined gross receipts, compensating and withholding tax liability; the annual fiscal impact is limited by actual tax liabilities incurred each year. Some of the additional credit would be carried forward and applied against future year's tax obligations. This estimate assumes 30% of the additional credits will be carried forward, thus the full-year recurring impact is estimated to be $5.25 million. Additionally, since taxpayers must first apply for, and be approved by the Department in order to claim credit at the new rate, the fiscal year 2004 impact is not likely to exceed $2.5 million.

OTHER SUBSTANTIVE ISSUES

TRD makes the following tax policy observation:

"The original intent of the Investment Credit was to compensate manufacturing businesses for the 5% compensating tax (or the state portion of the gross receipts tax) on manufacturing equipment purchases, making the state's tax code more consistent with competing states in the taxation of manufacturing equipment. By raising the credit percentage to 8%, the proposal creates an additional subsidy that exceeds the maximum effective gross receipts tax rate. These benefits are available only to manufacturers. State and local governments currently provide several other tax incentives for manufacturers including a gross receipts tax deduction for tangible personal property sold for use in an industrial revenue bond project. Additional incentives for manufacturers would further favor this industry segment relative to others".

SS/prr