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

SPONSOR: Cervantes DATE TYPED: 2/6/03 HB 275

SHORT TITLE: Change Definition of "Manufacturing" SB

ANALYST: Smith

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	**FY04**			
	(300.0)	(750.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB 43 and HB 179.

SOURCES OF INFORMATION

Responses Received From

TRD

SUMMARY

Synopsis of Bill

House Bill 275 amends the Investment Credit Act (Section 7-9A NMSA 1978) to remove the exception in that statute that makes farming an ineligible activity. Thus, farming would become eligible for the investment credit if the taxpayer meets the other requirements of the Act.

FISCAL IMPLICATIONS

TRD notes the fiscal impact was derived from investment credit records maintained by the department, and the 1997 Census of Agriculture in New Mexico published by the United States Department of Agriculture—Table 12: Selected Machinery and Equipment on Place; and Table 13: Value of Machinery and Equipment on Place.

Since taxpayers must first apply for, and be approved by the department, the fiscal year 2004 impact is less than the annual impact after eligible taxpayers have had the opportunity to make the necessary applications and to be approved.

HB-43 increases the percentage applied to the value of qualified equipment for determining credit amounts, and HB-179 reduces the investment credit employment requirements.

TECHNICAL ISSUES

The bill should clarify any limitations on the products farmers "manufacture" that would qualify for the credit. For example, should cattle feedlots and ranches be considered "manufacturing" for the purposes of qualifying for the credit?

OTHER SUBSTANTIVE ISSUES

TRD makes the following tax policy observations:

- Small farmers may not receive much benefit from this proposal. Their gross receipts, compensating and withholding tax liabilities tend to be small, and it would probably be difficult for them to meet the employment requirements of Section 7-9A-7.1.

- Large farms could be entitled to significant benefits. In addition to the value of the credit which can be applied against the taxpayer's combined gross receipts, compensating and withholding tax liabilities, Section 7-9A-8 allows a refund of unclaimed investment credit if: (1) the taxpayer's available credit is less than $500 thousand, and (2) the combined tax liability for the previous calendar year was less than 35% of the taxpayer's available credit, but more than $10,000.

- The Gross Receipts and Compensating Tax Act statutes currently allow numerous exemptions and deductions related to farming, including: 1) an exemption from selling agricultural products, 2) an exemption for feeding livestock, 3) a deduction for feed and fertilizers, 4) a deduction for growing, cultivating and processing agricultural products, and 5) a 50% deduction for farm tractors and agricultural implements.

- Currently, approximately 35 taxpayers actively claim investment credits totaling $10 to 12 million annually. Approximately 65% of the credits are applied to withholding tax, 32% to compensating tax, and 3% to gross receipts tax liabilities. Taxpayers have more than $30 million in credit balances still outstanding, which can be carried forward and applied against future year's tax liability.

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