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## FISCAL IMPACT REPORT

SPONSOR: Papen DATE TYPED: 3/15/03 HB \_\_\_\_\_

SHORT TITLE: Endowment Contribution Tax Credits SB 740/aSCORC

ANALYST: Neel

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	(5,000)	(5,000)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC files

#### Responses Received From

Taxation and Revenue Department (TRD)  
Commission on Higher Education (CHE)

### SUMMARY

#### Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee removed provisions that prevented a taxpayer from claiming the credit “if the taxpayer has included the full amount of the contribution on which the amount of the credit was computed as a deduction for federal income tax purposes.” Therefore, a taxpayer would be allowed to claim the full amount of the credits against federal and state income tax liability.

#### Synopsis of Original Bill

Senate Bill 740 enacts a new section of the Income Tax Act to allow personal or corporate tax

credits totaling 50 percent of “the present value of the aggregate amount of the charitable gift portion of a planned gift made by the taxpayer during the taxable year to any qualified endowment up to a maximum amount of ten thousand dollars (\$10,000)...”. They may not be claimed, however, “if the taxpayer has included the full amount of the contribution on which the amount of the credit was computed as a deduction for federal income tax purposes.”

### Significant Issues

TRD notes the following:

Estates, small business corporations, partnerships and limited liability companies would be allowed to claim the credits under some circumstances. Credits could not be carried forward or backward. The measure defines a “planned gift” as an “irrevocable contribution to a permanent endowment held by or for a tax exempt organization...”. However, the tax exempt entity must employ vehicles authorized under the Internal Revenue Code. These include, under some circumstances, charitable remainder unitrusts or charitable remainder annuity trust, as defined under 26 U.S.C 664, pooled income trusts as defined by 26 U.S.C. 642(c)(5), pooled income fund trusts, charitable lead unitrusts, and annuity trusts, charitable gift annuities under 26 U.S.C 1011(b), charitable life estate agreements and paid-up life-insurance policies meeting requirements of 26 U.S.C. 170. The measure defines “qualified endowment” as a permanent, irrevocable fund held by a New Mexico incorporated or established organization that is tax-exempt under 26 U.S.C. 501(c)(3) or a bank or trust company holding the fund on behalf of this type of organization.

### **FISCAL IMPLICATIONS**

TRD does not collection information on the amounts donated to the qualified organizations on an annual basis. Total charitable contributions deducted on tax returns of New Mexico resident are approximately \$500 million annually. By providing a credit rather than a deduction, the proposal would increase the fiscal impact on the state of the qualified contributions.

### **TECHNICAL ISSUES**

The contributions being awarded a tax *credit* in this bill are currently eligible for tax *deduction* from both federal and state income taxes. Providing a credit on top of a deduction could provide a taxpayer with a level of subsidy approaching 100 percent. This would result in an apparently extreme level of subsidy for almost any purpose. When tax advantages approach 100 percent of the expense of an activity, engaging in the activity effectively becomes “free” after taxes.