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FISCAL IMPACT REPORT

ORIGINAL DATE 01/25/12

SPONSOR Sapien LAST UPDATED _____ HB _____

SHORT TITLE Manufacturing Investment Weighted Sales Factor SB 42

ANALYST Smith

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
	(1,500.0)- (6,200.0)	(2,500.0)- (12,500.0)	(2,900.0)- (13,100.0)	(3,300.0)- (13,300.0)	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

This bill would allow a corporate income taxpayer whose principal business activity is manufacturing to elect to use “single-weighted sales” (SWS) apportionment to determine their New Mexico taxable income provided they have invested more than specified amounts in New Mexico plant and equipment during specified time periods. A taxpayer investing over \$1 billion within a single year could use SWS apportionment for an 8-year period. A taxpayer investing at least \$500 million could use SWS for a 4-year period, and a taxpayer investing at least \$250 million could use SWS for a two-year period. A taxpayer making the SWS election could not claim the investment tax credit for the same capital equipment.

Effective Date: January 1, 2013. Applicable to tax years beginning on or after January 1, 2013

FISCAL IMPLICATIONS

Corporate Income Tax fiscal impacts are highly uncertain. The measure would be likely to reduce corporate income tax revenue because it allows taxpayers an election that could potentially reduce the amount of their income that is taxable in New Mexico. However, to qualify for the election, taxpayers would have to invest significant amounts in New Mexico, and they would also have to forego the investment credit they might otherwise be eligible to claim on those investments.

The estimate was based on 2008 corporate income tax paid and apportionment factors used by manufacturing firms in New Mexico. Also, firms taking advantage of the current double weighted sales factor apportionment formula were identified. Investment credit data was reviewed to identify past investment activity. Investment credit claims have varied between \$1.8 million and \$15 million per year. Qualified equipment purchases would be approximately 20 times the investment credit amounts.

Whether a manufacturer would prefer the SWS election or the investment credit will depend on specific characteristics of their business which are difficult to predict from available data. For example, the investment credit is limited by the number of employees being added to a firm's payroll. An additional uncertainty is the possibility the proposal will stimulate new investment in the state's economy, creating an offsetting positive impact on state revenues. This effect is not included in the table due to the difficulty of estimating it with any precision.

SIGNIFICANT ISSUES

The proposal reduces corporate income tax liabilities for manufacturers making significant new investments in the state. Single-weighted sales apportionment – as compared with traditional three-factor apportionment based on payroll, property and sales – reduces New Mexico tax liability for businesses with large shares of total sales outside the state. This is often the case for manufacturers. Several other western states with corporate income taxes allow the SWS election for certain taxpayers. Thus, allowing the election would make New Mexico more competitive with other states. Manufacturers currently have the option of using “double-weighted sales” to reduce the portion of their income taxable in New Mexico. However, because of several conditions that must be met to qualify for the double-weighted sales election, it has not been used often.

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