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FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/13

SPONSOR Padilla/Rehm **LAST UPDATED** _____ **HB** _____

SHORT TITLE Manufacturing Tax Single Sales Factor **SB** 319

ANALYST Smith

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
\$0.0	(\$118,500.0)	(\$327,000.0)	(\$339,000.0)	(\$345,000.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate bill 319 amends Section 7-4-10 NMSA 1978, to allow for the use of a single sales factor for taxpayers whose principal business activity is manufacturing. The taxpayer must notify the department in writing that they wish to use this method, and they must also notify the department in writing if they wish to terminate this election. The taxpayer cannot terminate this method of apportionment until they have used it for at least three consecutive taxable years.

Effective Date: January 1, 2014

FISCAL IMPLICATIONS

The statutory definition of manufacturing is overly broad and is currently causing unintended recipients to receive tax credits (with the corresponding loss of revenues). In light of past experience, analysts have tripled TRD's estimate.

TRD used tax year 2010 New Mexico corporate income tax data was used in this analysis. According to the data, 1,276 corporations can benefit from the single sales factor apportionment as their sales factor is lower than their average factor. Of these corporations, the top 10

accounted for about 80 percent of the revenue. Corporations that were not filing using North American Industry Classification System (NAICS) codes 31-33 (generally used for manufacturing industries) were also included in this analysis due to the definition of manufacturing in this bill being more inclusive than provided in the NAICS code definitions. The impact was estimated assuming that all these 1,276 corporations will qualify and select this option. The impact was then reduced by 25 percent to account for the following:

- not all corporations being eligible due to the requirement of being a manufacturer as defined in this bill; and
- not all eligible corporations making this election due to the 36 consecutive months' election requirement.

SIGNIFICANT ISSUES

TRD notes that significant tax policy debate has occurred recently that failure to adopt a single sales factor apportionment methodology may disadvantage the competitive position of firms operating within a state vis-à-vis the business climate offered in another state that allows this method of Corporate Income Tax apportionment.

However, this also allows for the argument that some corporate taxpayers are offered discriminatory treatment in the favor of others (i.e., single sales factor makes corporate income taxes less fair as single payroll factor and single property factor options are not offered to those taxpayers/industries that might benefit from such treatment).

POSSIBLE QUESTIONS

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate

SS/blm