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FISCAL IMPACT REPORT

SPONSOR Wirth **LAST UPDATED** _____
ORIGINAL DATE 1/31/24
BILL
SHORT TITLE Flat Corporate Income Tax Rate **NUMBER** Senate Bill 119
ANALYST Gray

REVENUE* (dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
CIT			\$16,100.0	\$16,400.0	\$17,000.0	Recurring	General Fund

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD – IT & Admin		\$24.4		\$24.4	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 216

Sources of Information

LFC Files

Agency Analysis Received From

Taxation and Revenue Department (TRD)

Economic Development Department (EDD)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Senate Bill 119

Senate Bill 119 (SB119) creates a single corporate income tax rate of 5.9 percent replacing the two-tiered marginal rate structure of 4.8 percent for taxable income under \$500 thousand and 5.9 percent for taxable income of \$500 thousand or more.

The effective date of this bill is January 1, 2025. The provisions in this bill apply to taxable years beginning on or after January 1, 2025.

FISCAL IMPLICATIONS

Currently, there are two corporate income tax (CIT) rates: 4.8 percent for corporations making less than \$500 thousand; and 5.9 percent on income above \$500 thousand. According to the 2023 Tax Expenditure Report, there were approximately 72.7 thousand corporate income taxpayers in tax year 2020. Of those, 68 thousand had \$0 or less in taxable income and did not pay any corporate income tax and 4,200 taxpayers made less than \$500 thousand in income and paid the 4.8 percent rate currently in statute, accounting for only 6.4 percent of total corporate income taxes paid. The remaining 474 taxpayers made over \$500 thousand in income and paid 5.9 percent on income above \$500 thousand.

Under SB119, all corporate income taxpayers will experience a tax increase. Those with incomes over \$500 thousand will pay \$5,500 more per year, and those making less than \$500 thousand will pay an average of about \$500 more per year.

The Taxation and Revenue Department (TRD) used CIT tax return data from fiscal years 2021 through 2023 and provided a positive range estimate to highlight the uncertainty of the magnitude of the impact.

TRD REVENUE IMPACT ESTIMATE* (dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
CIT			\$11,710.0 to \$18,100.0	\$11,900.0 to \$18,400.0	\$12,300.0 to \$19,100.0	Recurring	General Fund

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

The LFC provided a point estimate that was within the TRD range. That estimate is reflected in the revenue table on page 1.

TRD writes:

The revenue increase was modeled applying the single tax rate of 5.9 percent to the portion of taxable income less than \$500 thousand. CIT is an extremely challenging revenue to forecast in times of relative stability. Given the variable economic conditions that may impact CIT taxpayers, the estimate has been presented as a positive range to emphasize the uncertainty of the magnitude of the impact. Using the December 2023 Consensus Revenue Estimating Group (CREG) forecast, the average range impact is grown by the current growth rate for gross CIT.

SIGNIFICANT ISSUES

SB119 would place smaller income companies on par with larger corporations regarding their tax liability. TRD analysis notes that:

But while for personal income time (PIT) there is progressivity tied to the “ability to pay” and fairness with vertical equity, that association of ability to pay is not readily applied to

corporate income tax policy. The Tax Foundation quotes Jeffrey Kwall, a professor of law at Loyola University Chicago School of Law that ‘Graduated corporate income rates are inequitable – that is, the size of a corporation bears no necessary relation to the income levels of the owners.’¹ Additional arguments that the Tax Foundation puts forth for a single-rate, is that it minimizes the effort by corporations to avoid the tax liability at the higher marginal tax rates. New Mexico would join 29 other states who have a corporate income tax in enacting a single-rate corporate income tax.

TRD analysis also notes the change contemplated under SB119 would be the sixth change to the CIT brackets in 10 years. The agency writes that this uncertainty may create a less favorable business environment; however, the “majority of states with CIT are moving to a single tax rate.”

Historical and Current New Mexico CIT Rates						
Taxable Income	1987 to 2013	2014	2015	2016	2017	2018 to present
Up to \$500 thousand	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%
\$500 thousand to \$1 million	6.4%	6.4%	6.4%	6.4%	6.2%	5.9%
Over \$1 million	7.6%	7.3%	6.9%	6.6%		

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to HB216, which creates a flat CIT rate of 5.9 percent and makes a change to the apportionment of business income.

BG/al/ne/ss

¹ <https://taxfoundation.org/publications/state-corporate-income-tax-rates-and-brackets/>