BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

January 26, 2024

Bill: HB-117 **Sponsor:** Representative Kristina Ortez

Short Title: National Lab Contractor Gross Receipts

Description: This bill narrows the existing gross receipts tax (GRT) deductions under Sections 7-9-46 and 7-9-46.1 NMSA 1978 to no longer allow the deductions when the receipts are of a prime contractor derived from operating a facility in New Mexico designated as a national laboratory or a New Mexico research facility owned by the state. The deduction in Section 7-9-46 is for sales to manufacturers of tangible property, consumables and the lease of equipment, and the deduction under Section 7-9-46.1 NMSA 1978 is for the sale of professional services to manufacturers..

Effective Date: July 1, 2024

Taxation and Revenue Department Analyst: Pedro Clavijo

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	20,300	20,300	20,300	20,300	R	General Fund
--	19,000	19,000	19,000	19,000	R	Los Alamos

* In thousands of dollars. Parentheses ( ) indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: Publicly available information related to the National Laboratories and New Mexico Research facilities, indicate that the production of "pits" at Los Alamos National Lab (LANL) would fall into the exception proposed under 7-9-46 and 7-9-46.1 NMSA 1978. "Pits" contain plutonium and are an important component in the production of U.S. nuclear weapons. The National Nuclear Security Administration (NNSA) under the Department of Energy (DOE) reports that LANL will manufacture a minimum of 30 pits per year no later than August 2030, to reach the total national goal of 80 pits between LANL and the Savannah River Plutonium Processing Facility (SR).[1] The first qualified pit production is reported to occur in the last six months of calendar year 2024.

Based on NNSA's fiscal year 2023 budget justification as reported in a U.S. Government Accountability Office Report GAO-23-1046612, the Los Alamos Plutonium Pit Production Project through fiscal year 2028 is reported to cost between $2.7 billion to $3.9 billion. In addition, the U.S. Government Accountability Office's report GAO-23-104661 is titled "Nuclear Weapons: NNSA Does Not Have a Comprehensive Schedule or Cost Estimate for Pit Production Capability", where it notes the "NNSA is not following best practices and runs the risk of costs and delays." Therefore, the estimated impact of $2.7 billion to $3.9 billion may not encompass the full life cycle costs to produce 30 pits by 2030. Assuming that the costs may be underestimated, Tax & Rev utilized the $3.9 billion on the top end of the range and assumed under current law, those funds would be deducted from GRT. Under current law this would mean a revenue loss for the State and Los Alamos municipality and county. The Taxation and Revenue Department (Tax & Rev) prorated those budgeted funds evenly during the program's duration to estimate the bill's fiscal impact to exclude these costs from the deduction under 7-9-46 and 7-9-46.1

[1] https://www.energy.gov/sites/default/files/2023-07/2023%20SES%20Pit%20Production%20Fact%20Sheet-0623-R2.pdf
[2] Nuclear Weapons: NNSA Does Not Have a Comprehensive Schedule or Cost Estimate for Pit Production Capabilityhttps://www.gao.gov/assets/gao-23-104661.pdf

NMSA 1978 and assumes manufacturing production of pits begins the end of calendar year 2024 and therefore impacts FY2025. The fiscal impact analysis used the current Los Alamos GRT rate and the additional distribution to Los Alamos under 7-1-6.4 NMSA 1978.

Although the bulk of this program is expected to be developed in LANL, the program will provide funding to supporting institutions in New Mexico, particularly universities, which might have a fiscal impact on other local governments.

Policy Issues: The current law under 7-9-46 (D) and 7-9-46.1 (B) NMSA 1978 states the purpose of these deductions is to reduce the businesses' tax burden to incentivize manufacturing in New Mexico. However, 'pit' manufacturing is not necessarily economically-driven and therefore might lie outside the law's purpose. Furthermore, the waste generated from this manufacturing process is radioactive, creating environmental externalities the State might address by employing tax collection from pit manufacturing.

While the deduction would represent lost revenue to Los Alamos and the General Fund, per the LANL website, approximately 2,500 new employees will be hired to support the pit mission at LANL[3]. These new employees will contribute to the economy in northern New Mexico and represent new revenue through personal income tax and consumption-related GRT revenue. This growth in employees would not have occurred without LANL and the federal government expanding the mission of LANL.

The exclusion of a sub-set of taxpayers erodes horizontal equity among taxpayers eligible for this deduction and adds complexity to the administration of these deductions. LANL and the federal government can be assumed to have factored in the tax code of New Mexico when budgeting for this pit production project. To exclude these taxpayers from the GRT deductions after the finalization of budget plans and certification by the federal government, may be seen as discrimination by the taxpayer and the budget planning at the local and federal level. Adding complexity and exceptions to the tax code does not comport generally with the best tax policy.

Technical Issues: None.

Other Issues: None.

Administrative & Compliance Impact: Tax & Rev will update forms, instructions, and publications and make information system changes. Tax & Rev's Administrative Services Division (ASD) anticipates this bill will take approximately 40 hours, split between two existing full-time employees to be implemented at a cost of $2,900 in staff workload.

Estimated Additional Operating Budget Impact*				**R or NR****	**Fund(s) or Agency Affected**
FY2024	**FY2025**	**FY2026**	**3 Year Total Cost**		
--	$2.9	--	$2.9	NR	Tax & Rev – ASD – Staff workload

* In thousands of dollars. Parentheses ( ) indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).

[3] https://discover.lanl.gov/publications/national-security-science/2021-winter/pit-production-explained/