F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 02/03/12
SPONSOR James **LAST UPDATED** 02/10/12 **HB** 256/aHBIC

SHORT TITLE Manufacturing Property Gross Receipts **SB**

ANALYST Walker-Moran

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY12	FY13	FY14	FY15	FY16		
$0.0	($10,500.0)	($20,600.0)	($21,500.0)	($22,150.0)	Recurring	General Fund
$0.0	($5,900.0)	($12,200.0)	($12,700.0)	($13,100.0)	Recurring	Local Governments
$0.0	($160.0)	($170.0)	($170.0)	($180.0)	Recurring	Small Counties Assistance
$0.0	($130.0)	($140.0)	($140.0)	($150.0)	Recurring	Small Cities Assistance
$0.0	($40.0)	($50.0)	($50.0)	($50.0)	Recurring	Muni Equivalent Distribution

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates SB 276 (if amended)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenues Department (TRD)
joint analysis with Department of Finance and Administration (DFA)
Economic Development Department (EDD)

SUMMARY

Synopsis of HBIC Amendment

The House Business and Industry Committee amends House Bill 256 to include a purpose and reporting requirements.

The purpose of the deductions provided in this section is to encourage manufacturing businesses to locate in New Mexico and to reduce the tax burden, including reducing pyramiding, on the tangible personal property that is consumed in the manufacturing process and that is purchased by manufacturing businesses in New Mexico.

Synopsis of Original Bill

House Bill 256 amends section 7-9-46 NMSA 1978 to expand the existing deduction for tangible personal property to include the property consumed in the manufacturing process; provided that the tangible personal property is not a toll or equipment used to create the manufactured product.

The existing deduction extends only to tangible personal property incorporated as an ingredient or component part of the products that the buyer is in the business of manufacturing. Because utilities are defined as "tangible property" for GRT purposes, the proposed deduction would cover utilities.

The effective date of this bill is January 1, 2013. There is no sunset date. The LFC recommends adding a sunset date.

FISCAL IMPLICATIONS

This bill may be counter to the LFC tax policy principle of adequacy. According to the LFC staff General Fund Recurring Appropriation Outlook for FY14 and FY15, December 2011 forecasted revenues will be insufficient to cover growing recurring appropriations.

The HBIC amendment does not change the fiscal impact. The impact to the general fund in FY13 for half a year is $10.5 million but doubles to $20.6 in FY14 for a full year. The impact to all other funds in FY13 is $6.2 million and $12.6 million in FY14. The estimate uses data from the U.S. Bureau of Economic Analysis, the U.S. Census Bureau's Economic Census, and the Taxation and Revenue Department (TRD) to calculate the GRT base. The impact uses the average state gross receipts rate of 7% and a 60/40 split of GRT between general fund and local governments to estimate the impacts. The estimate applies the consensus revenue growth rate for GRT and compensating tax to determine the fiscal impact in the out years. The first year impact is ½ of an annual total, as the legislation takes effect halfway through FY13. It is important to note that a Gross Receipts tax deduction creates a simultaneous compensating tax deduction, even if that compensating tax deduction is not explicitly stated.

SIGNIFICANT ISSUES

According to the TRD, by reducing the GRT burden on manufacturing inputs, this proposal would make New Mexico's GRT similar to other states' sales taxes, few of which are imposed on manufacturers' inputs. As a result, the proposal would be likely to increase manufacturing investment in New Mexico.

According to EDD, GRT relief for manufacturing entities will encourage greater capital investment and employment growth in New Mexico.

A recent study by Ernst & Young ranked New Mexico last in terms of tax competiveness on new investment. Gross receipts tax imposed on business inputs was largely to blame for the low ranking. In contrast, Oregon, which was ranked second best, imposes no sales tax on business inputs. According to a new Ernst & Young study released January 23, 2012 after incentives are included New Mexico still ranks first in some industries compared to 8 other states but its rank improves for other industries when incentives are included. [1]

[1] For more detail please refer to "New Mexico Business Tax Competitiveness and Simulations of Selected Tax

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the HBIC amendment since TRD is required in the bill to report annually to the Revenue Stabilization and Tax Policy committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

According to the TRD, the separate reporting requirement of the amendment will be costly to design and implement and will be, in the opinion of Department staff, quite ineffective in generating information.

ADMINISTRATIVE IMPLICATIONS

TRD reports that processing CRS returns claiming the new deductions will impose minimal impacts on the Department. The changes to the instructions and publications can be made with the semi-annual review of the CRS tax program documentation. High taxpayer and department employee education needs. A new NTTC will need to be developed, including audit procedures to help define who qualifies.

TECHNICAL ISSUES

“Consumed in the manufacturing process” needs to be defined through regulation. A definition of tool or equipment would be beneficial and regulations would need to be promulgated. The definition and instructions should make clear the types of tangible personal property that would be considered as eligible.

ALTERNATIVES

The EDD recommends that in order to stimulate the New Mexico economy, the manufacturing sector should be reviewed for any impediments to growth; a reduction in the cost of doing business will create jobs for the state and all options should be considered.

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

EWM/svb:amm

Policy Changes” by Ernst & Young, January 23, 2012.