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

ORIGINAL DATE 2/20/17
SPONSOR Tallman **LAST UPDATED** **HB**

SHORT TITLE Permanent Top Corporate Income Tax Rate **SB** 389

ANALYST Clark

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19	FY20	FY21		
$0.0	$4,300.0	$3,900.0	$4,100.0	$4,300.0	Recurring	General Fund

Parenthesis ( ) indicate revenue decreases

* These estimates are imprecise due to the highly volatile nature of the underlying revenue source (see Fiscal Implications)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	$0	Minimal	$0	Minimal	Nonrecurring	Taxation and Revenue Department

Parenthesis ( ) indicate expenditure decreases

Conflicts with a variety of other bills that make changes to the corporate income tax

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Economic Development Department (EDD) – in response to a similar bill

SUMMARY

Synopsis of Bill

Senate Bill 389 stops the currently scheduled phase-down of the top corporate income tax (CIT) rate, permanently setting it at 6.2 percent, instead of dropping to 5.9 percent for taxable years beginning on or after January 1, 2018.

The provisions of the bill apply to taxable years beginning on or after January 1, 2018.

FISCAL IMPLICATIONS

LFC staff estimated the impact of this bill using data reported during the consensus revenue estimating group (CREG) process and CIT rate impact estimates provided by the Taxation and Revenue Department (TRD) in late 2015. Due to significant volatility and uncertainty in CIT revenues, the fiscal impact is highly uncertain and could be substantially higher or lower than the estimates shown.

This bill permanently sets the top marginal CIT rate at the current level of 6.2 percent. The estimating spreadsheet follows:

	FY14 Act	FY15 Act	FY16 Act	FY17	FY18	FY19	FY20	FY21
Gross CIT	246.8	350.0	208.3	162.1	218.8	231.3	242.6	255.5
Y/Y Growth		42%	-40%	-22%	35%	6%	5%	5%
Legis. Changes		-13.0%	-19.1%	-26.0%	-29.5%	-36.5%	-36.5%	-36.5%
Subtotal		304.5	168.5	120.0	154.3	146.9	154.1	162.2
Film Credit		-50	-50	-50	-50	-50	-50	-50
Net CIT	**196.8**	**254.5**	**118.5**	**70.0**	**104.3**	**96.9**	**104.1**	**112.2**
Difference				**0.0**	**4.3**	**3.9**	**4.1**	**4.3**

SIGNIFICANT ISSUES

Testimony in 2013 indicated that new companies, particularly manufacturing companies, were not expanding in New Mexico because the top marginal income tax rate was an outlier among competitive states. It is likely too early to arrive at a definitive conclusion about the effectives of the CIT rate reductions and single sales factor phase-in. However, since the 2013 tax package, the state's economy continues to struggle at growth rates well below national and regional averages, and New Mexico has shed manufacturing jobs in nearly every month over the last few years.

TRD provided the following analysis.

> Evaluating taxpayer data for tax years 2010 – 2015, the average annual corporate income tax liability due to New Mexico is approximately $265 million per year. However, tax liability and CIT revenue collected are very disparate.
>
> Tax liability due does not necessarily match fiscal year CIT collections. New Mexico is dealing with a budget challenge where corporations are over-paying tax. In recent years there has been a build-up of pre-paid taxes where corporations have an overpayment credit with New Mexico. Corporate taxpayers are entitled to either a refund of the overpayment, applying the overpayment to current or future tax liabilities, or some combination thereof. The result is a situation where New Mexico – having been prepaid for a tax liability – sees lower CIT collections due to carry-forwards and lower net contributions to the General Fund due to overpayment refunds. Holding tax rates constant will reduce the value of the overpayment credit carry-forwards.

In response to a similar bill, EDD noted, "Businesses and business development are negatively affected by 'inconsistent and uncertain' business climates. A change to the corporate tax policy at this time does not signal 'consistency and certainty' to the business community – both in-state and out-of-state…. On January 25, 2017, at the House Appropriations and Finance Committee hearing, the president and CEO of New Mexico Partnership stated that New Mexico had been eliminated for a project that would have brought 700 jobs due to the uncertainty associated with the future of the EDD programs and tax incentives."

ADMINISTRATIVE IMPLICATIONS

There will be a very minimal administrative impact to change forms showing the current rate phase-down, but there will also be savings from not changing other forms to reflect changing rates.

CONFLICT

This bill conflicts with a variety of other bills that make changes to the corporate income tax.

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

JC/sb