# FLOOR ALERT

September 8, 2011

TO: Members, California State Senate

FROM: California Manufacturers & Technology Association

**SUBJECT: OPPOSE ABx1 40 and SB 116**
**MANDATORY SINGLE SALES FACTOR**

On behalf of the California Manufacturers & Technology Association, I write today to respectfully **OPPOSE** ABx1 40 and SB 116, which call for the singles sales apportionment factor to be mandatory for all qualified taxpayers. The proposal contained in each bill makes the single sales apportionment factor mandatory for most corporate taxpayers, requires the use of market sourcing with a modification for cable companies that meet an investment threshold, provides a woefully inadequate one percent sales and use tax exemption for business equipment purchases and makes additional changes in the tax code to help incentivize small business in California. While there are benefits to some of the provisions, the total package incentivizes some companies by penalizing others who operate in this state, which will hinder California's economic recovery.

**Mandatory Single Sales Factor**

In its current form, the single sales factor was approved by the Legislature and Governor in February 2009-10 to help stimulate business investment in the state. At a time when California's economy has struggled to rebound from the global recession, the move has been highlighted as a remarkable, although rare, bright spot in California's notoriously bad business climate. At the time of its approval, the Legislature rightfully allowed for the tax reform to be elective in nature, allowing all employers to pay a more equitable tax rate.

The proposal does not recognize the importance of business contributions to the state's overall economic health. Both formulas have merit, and allow employers to elect between them, encouraging more investment in California. The single sales factor formula eliminates payroll and property investments from a company's tax calculation, which means businesses will no longer be punished for growing in the state. However, certain business models do not easily fit in a single sales calculation. Many out-of-state companies have significant investments of property and payroll in California, but the size of their sales in one of the largest markets in the world render those investments moot by comparison.

Requiring the new apportionment methodology to be mandatory is nothing short of a massive tax increase on an existing group of taxpayers already contributing to the California economy through one of the highest corporate tax rates in the country. Shifting the tax burden to these companies unfairly targets companies who have chosen or may choose to do business in the state, regardless of where they make their headquarters or shape their overall business models and will only further erode California's ability to attract and compete for business.

**Bad Tax Policy**

While the other components of the proposal are designed to encourage employers to invest in California and hire new workers, these tax changes would be funded by tax increases to other California employers, mitigating any positive effect they might otherwise have on the economy. To take the proposed partial sales and use tax exemption as an example, there are strong policy merits to eliminate this tax on manufacturing and R & D capital equipment purchases. California is one of only three states in the U.S. (Wyoming and South Dakota are the other two) that taxes manufacturing equipment purchases with no credit or exemption. Most states recognize that taxing the input as well as the final manufactured product is double taxation that discourages investment. The current policy has resulted in less production in California, with out-of-state companies electing to grow elsewhere and in-state companies continuing to shift workers or facilities to other regions that do not burden capital investments with excess taxation.

However, this proposal only allows for a one percent tax exemption for existing employers, and funds this exemption by taxing more of the profits of other California businesses, ensuring they will have less to invest in the state going forward. Such a policy will not encourage significant long-term investment in California.

For these reasons, we must respectfully **OPPOSE this proposal.**

If you have any questions, please contact Greg Hines at (916) 498-3318 or greg@hinesgr.com.

cc: The Honorable Michael Allen, Assemblymember
The Honorable Kevin de Leon, Senator
Ms. Nancy McFadden, Executive Secretary, Office of the Governor
Mr. Gareth Elliott, Secretary, Legislative Affairs, Office of the Governor
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Ms. Jessica Billingsley, Lead Floor Consultant, Senate Republican Caucus
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