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

SPONSOR Maes **DATE TYPED** 2-17-04 **HB**

SHORT TITLE High Wage Jobs Tax Credit **SB** 28/aSCORC/aSFC

ANALYST Neel

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
	(600.0)	(2,250.0)	Recurring	General Fund
	(70.0)	(250.0)	Recurring	Local Gov.

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to

HB 67 High-Wage Jobs Tax Credit
SB 78 National Lab Water Treatment

SOURCES OF INFORMATION

LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Economic Development Department (EDD)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment places a January 1, 2010 repeal date for High Wage Jobs Tax Credit.

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment adds a definition of “benefits” which references definitions in federal law. Benefits are included as part of the base for the credit amount. The limitations on “eligible employee” is extended so that term excludes a person who has worked as an employee or as an independent contractor for a company that owns stock of the company applying for the credits.

Synopsis of Original Bill

Senate Bill 28 amends statute to create a high wage tax credit equal to 10 percent of wages and benefits of new employees in "high wage jobs". The total credit is limited to $12 thousand per eligible employee and credits must be claimed up to four years. An eligible high-wage job must:

- be created after July 1, 2004 and before July 1, 2009;
- be occupied for at least 48 weeks of the year prior to the claim for credit; and
- pay at least $40 thousand per year if located in a municipality of 40,000 or more residents, or at least $28,000 per year elsewhere in the state.

The tax credit can be taken against the taxpayer's modified combined tax liability (gross receipts tax, compensating tax and others, excluding local GRT).

SB 28 stipulates that the enterprise qualifying for the tax credit must be a growing business with employment greater on the last qualifying day of the credit than the day when the new positions was created. In addition, the job must be occupied for at least 48 weeks before an employer is eligible for credits.

Significant Issues

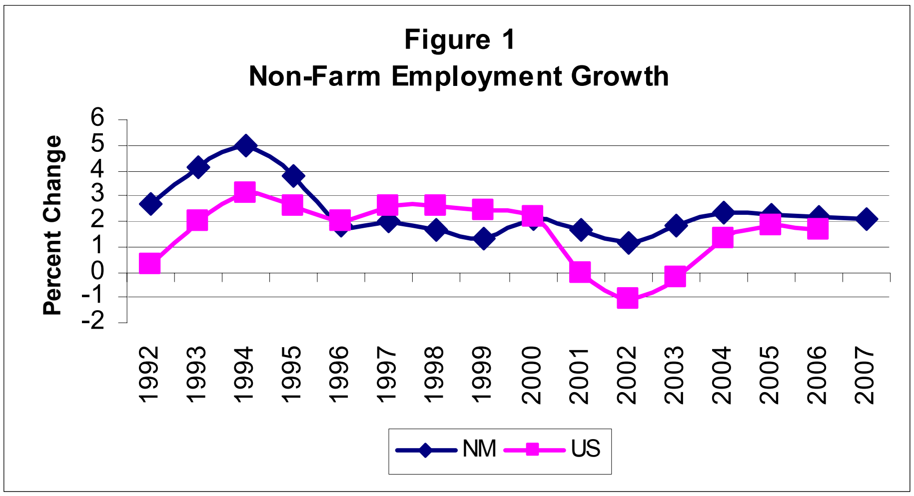
The Legislature has consistently emphasized economic development and job creation. The 2003 Legislature renewed the job mentorship tax credit that encourages businesses to hire young people to participate in career preparation education programs by providing tax credits of up to 30 percent of the gross wages paid for employing young people; the credit is limited to 320 hours per student. The Investment Tax Credit Act (Chapter 402) was amended to reduce the employment requirements to qualify for the credit; it now allows tax credits equal to 5 percent of the value of qualified equipment purchased and incorporated into certain manufacturing operations in the state.

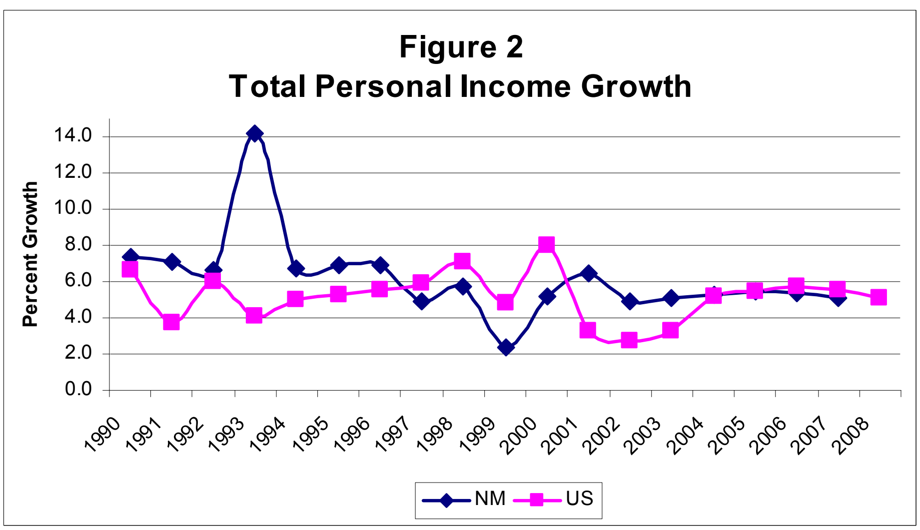
In 2002, the Legislature passed HB 40 *Software Development GRT Credit* (Laws 2002, Chapter 10) to provide a gross receipts tax deduction for receipts for software design and development and web-site design and development. The 2000 Legislature passed HB 19 *Technology Jobs Tax Credits* (Laws 2000, Chapter 22, 2nd SS) that provides a basic tax credit and an additional tax credit, both in the amount of 4 percent of the qualified expenditure made by a taxpayer conducting "qualified" research at a "qualified facility". To be eligible for the additional credit, the taxpayer must increase its payroll by $75.0 over the base payroll of the taxpayer for each $1.0 million of qualified expenditures.

New Mexico Economic Performance. Two of the most vital indicators of a state's economy are its employment and income growth. Although these indicators are often influenced by external forces, the mission of the Economic Development Department remains to provide programs and policies that help lead the state in a direction that produces an overall benefit for the citizens of New Mexico.

Figures 1 and 2 graphically depict New Mexico's need to "promote increased employment and higher wages". As illustrated in Figure 1, New Mexico lagged behind the United States in non-agricultural employment growth from 1996 to 2000. When the United States economy slipped into a recession in 2001, 2002, and 2003, New Mexico sustained a modest rate of job growth and ranked among the fastest growing states.

Similar to employment growth, New Mexico maintained a higher personal income growth from 1991 to 1996 than that of the nation. Growth, again, began to decline in 1997 and fell behind the United States. But in 2001 and 2002, New Mexico's growth surpassed the nation's, primarily due to the recession, as shown in the personal income growth graph.





FISCAL IMPLICATIONS

TRD notes the fiscal impacts of the provision are limited in the first year because of the requirement that an employee hold a new job for 48 weeks before an employer is eligible for credits.

TRD further notes the analysis of information from the in-plant training program suggests that, in a recent year, approximately 30 employees in non-urban settings and 90 employees in urban settings would have qualified for this credit had it been in effect. The associated cost of the credit for these employees would have been $400 thousand on an annual basis. The total population of eligible firms would be larger than the number of firms currently participating in in-plant training, so the impacts would be larger than $400 thousand per year. Although a precise estimate is not possible, the annual impact was doubled to $800 thousand to reflect firms not currently in the in-plant training program. The annual cost of the proposal increases over time because the credits can be claimed for up to 4 years for each eligible employee. The estimated "Subsequent Years Impact" of $3 million reflects the maximum annual cost of the provision once it has been in place for three years.

OTHER SUBSTANTIVE ISSUES

TRD notes the fiscal impact for this bill shows an increase from the $2.5 million estimate for the high wage jobs tax credit provision included as Section 32 of SB-5, 2003 Special Session. The increased estimate results from the loosening of restrictions on who is an "eligible employee" from those in Section 32 of SB-5. In order to return to the $2.5 million estimate, on page 4, line 18 this bill would have to include the following in its list of ineligible employees:

> (d) is working or has worked as an employee or as an independent contractor for an entity that directly or indirectly owns stock in a corporation of the eligible employer or other interest of the eligible employer that represents fifty percent or more of the total voting power of that entity or has a value equal to fifty percent or more of the capital and profits interest in the entity.

TECHNICAL ISSUES

TRD notes the following technical issues:

Refundability of credits:
The provision allowing the excess of credits over liabilities to be refunded to the taxpayer could be challenged under the anti-donation provisions of the NM Constitution.

Applicability with other tax incentives:
Applicants for this credit would potentially be eligible for certain other incentives including the investment credit, the rural job tax credit or the technology jobs tax credit. The lack of coordination between these statutes means that the extent of the subsidy being provided to a particular enterprise is unknown. Excessive subsidies may be provided.

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