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

SPONSOR SFC
ORIGINAL DATE 01/30/12
LAST UPDATED 02/13/12
HB

SHORT TITLE High-Wage Jobs Tax Credit Application
SB 101 & 299/SFCS

ANALYST Smith

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	**FY14**	**FY15**		
		See Narrative	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

SUMMARY

Synopsis of Bill

The Senate Finance Committee substitute for Senate Bills 101 & 299 change the High-Wage Jobs Tax Credit as described below:

- Credit applications must be filed within one year of the end of the year in which the qualifying period closes.

- Jobs created pursuant to an organizational change would not be eligible for the credit if the same job existed prior to the organizational change, although a job that qualified the predecessor entity for a tax credit would qualify the successor entity for the credit for the remaining periods.

- A job created pursuant to the award of a government contract to a new contractor would not be eligible if the same job existed under the prior contractor.

- To be eligible for the credit, an employer must export 50 percent or more of their goods or services made in New Mexico.

- The threshold defining a high-wage job would be increased to $40,000 in a small municipality or unincorporated county areas and to $65,000 in a municipality of greater than 60,000 population. In both cases, the value of benefits would count toward the dollar amount.

- The bill also adds a definition of "wages" and "benefits", such that employer contributions to a 401(k) plan and other similar benefits would be included in the qualification and calculation and non-cash wages, such as stock options would not be included in the calculation of wages.

- An annual cap of $25 million is added. If total claims exceed the cap in any year, then later claims would be first in the queue for payment in the following year without additional application.

- The deadline by which a qualifying job is to have been created is extended from July 1, 2015 to July 1, 2018.

Effective Date: Emergency clause; effective immediately upon signing by the Governor.

FISCAL IMPLICATIONS

While all analysts agree that this bill has a positive and important fiscal impact, there is technical debate among analyst as to whether this actually adds a knowable amount to the current revenue estimate that can be used in the FY13 budget. This issue will have to be resolved by economists from both branches in the context of the consensus revenue estimate.

This bill would, on net, prevent the possibility of jobs created through merger or change of business organization or contract management from qualifying for the high wage jobs credit. This would limit new credit claims and thus increase General Fund revenue. The changes in the definition of "wages" and "benefits" are more expansive which would tend to increase credit claims. The increase in the dollar threshold from $40,000 to $65,000 would also reduce credit claims.

Fiscal impacts are uncertain in part because some credit claimants have attempted to claim credit for large numbers of employees who are already employed in the state but who are newly-employed by the credit claimant following a merger or a change of contract. The Taxation and Revenue Department has taken the position that these are not eligible jobs, and the bill makes that position clear in the law. However, in the absence of the changes in this bill, if those taxpayers were to succeed with those claims, there is a much larger possible exposure to the state, potentially as much as $100 million per year for several years. Passage of the bill should insure this does not occur.

SIGNIFICANT ISSUES

For 2012, the claims for HWJTC are already in excess of $12 million through November 2011 accrual period. This is roughly twice the money available to be awarded through the JTIP program. TRD reports that there have been three sources of dissatisfaction with the HWJTC program and legislation: (1) the wages needed to qualify a job as "high-wage" are set in the current law at $24,000 for a small-city/rural job and $40,000 for a larger city job; (2) there have been several claims, where the inexact definitions in the current law have or will create revenue loss exposure without creating any new jobs; and (3) at least one claimant ran afoul of the narrow definition of wages and benefits in the current law and had a valid claim reduced based on the Department's careful analysis of the meaning of the definitions as applied to particular claims. This bill addresses each of the three problems with the current law.

OTHER SUBSTANTIVE ISSUES

Does the bill meet the Legislative Finance Committee tax policy principles?

- **Adequacy**: Revenue should be adequate to fund needed government services.
- **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
- **Equity**: Different taxpayers should be treated fairly.
- **Simplicity**: Collection should be simple and easily understood.
- **Accountability**: Preferences should be easy to monitor and evaluate

SS/svb