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

ORIGINAL DATE 3/3/17
SPONSOR Munoz/Griggs **LAST UPDATED** **HB**

SHORT TITLE New Jobs and Investment Tax Credit **SB** 438

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					R or NR **	Fund Affected
FY17	FY18	FY19	FY20	FY21		
	Indeterminate cost; indeterminate benefit***				R	General Fund
	No cost; indeterminate benefit				R	Local Government

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	R or NR **	Fund Affected
Total						

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 438 proposes the New Jobs and Investment Tax Credit. This credit would apply to both personal income tax and corporate income tax.

The provisions of the bill are intended to stimulate investment in the state. To be eligible, a business must create 250 new jobs and invest at least $50,000,000. The amount of tax credit is 100% of the sum of any income tax, corporate income tax and the state portion of gross receipts tax liabilities. This 100% tax credit is reduced by 10% each year until 2037, when the credit is summarily repealed. This scheme maximizes the credit for projects initiated in 2017 and 2018 and gradually reduces the total credit over time. This is not a refundable credit. The bill contains language from the high wage jobs credit that should prevent unintended consequences. An

eligible employer must sell a majority of their goods or services to out-of-state buyers.
There is no effective date of this bill. It is assumed that the implicit effective date is 90 days after this session ends June 16, 2017. The provisions of the bill are applicable for tax years beginning on or after January 1, 2017.

FISCAL IMPLICATIONS

This bill may be counter to the LFC tax policy principle of adequacy, efficiency, and equity. Due to the increasing cost of tax expenditures, revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

Credit %

Claim Tax Year / Year Investment Made	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037
2017	100	100	100	100	100	100	100	100	100	100	90	80	70	60	50	40	30	20	10	0
2018		100	100	100	100	100	100	100	100	100	100	90	80	70	60	50	40	30	20	10
2019			100	100	100	100	100	100	100	100	100	100	90	80	70	60	50	40	30	20
2020				100	100	100	100	100	100	100	100	100	100	90	80	70	60	50	40	30
2021					100	100	100	100	100	100	100	100	100	100	90	80	70	60	50	40
2022						100	100	100	100	100	100	100	100	100	100	90	80	70	60	50
2023							100	100	100	100	100	100	100	100	100	100	90	80	70	60
2024								100	100	100	100	100	100	100	100	100	100	90	80	70
2025									100	100	100	100	100	100	100	100	100	100	90	80
2026										100	100	100	100	100	100	100	100	100	100	90
2027											100	100	100	100	100	100	100	100	100	100
2028												100	100	100	100	100	100	100	100	100
2029													100	100	100	100	100	100	100	100
2030														100	100	100	100	100	100	100
2031															100	100	100	100	100	100
2032																100	100	100	100	100
2033																	100	100	100	100
2034																		100	100	100
2035																			100	100
2036																				100

Consider the effect this bill might have on the Facebook Call Center project in Las Lunas. The announced plan is for the company to invest $500 million and hire "hundreds of construction workers and dozens of permanent workers." This project would not qualify for this New Jobs and Investment Tax Credit, because there are an insufficient number of permanent jobs. The project might be certified for the construction phase, but the credit would be zero thereafter.

There seem to be four intended beneficiaries of this credit:

- New manufacturing enterprises;
- Call centers
- Retail enterprises

- National laboratories

There is not much marginal incentive in this credit for manufacturing enterprises. By the time the rate reduction and sales-only apportionment provisions are fully phased-in, the manufacturing operations will have no state-level gross receipts taxes or corporate income taxes to claim this credit against,

There may be significant incentive in this credit for call centers. Workers there are not highly paid, so the company would not qualify for the high-wage jobs credit. There would be relatively little state-level gross receipts tax, so this credit would zero out corporate income taxes for up to ten years and reduce corporate income taxes over a twenty-year period by up to 73%.

There could be substantial incentive in this credit for mail-order retail enterprises. Workers there are not highly paid, so the company would not qualify for the high-wage jobs credit. There would be modest state-level gross receipts taxes paid, so this credit would zero out those modest gross receipts taxes and corporate income taxes for up to ten years and reduce the sum of state level gross receipts taxes and corporate income taxes over a twenty-year period by up to 73%. Suppose that a division of Amazon.com were to locate to the state. Most of the sales of goods would be to out-of-state buyers. The company would figure out some way of qualifying for JTIP fund. However, the state level GRT would be very much less than for regular retail, but the company would not have access to the sales-only apportionment.

The national labs might also benefit from this proposal. The significant difference here is that the national laboratories pay very high salaries. Assume that either lab expands by 250 jobs. There is plenty of space available at both labs, so the $50,000,000 in investment might be questionable. Assume that each of the 250 jobs averages $100,000 in wages and total wages and benefits of $130,000. Assume productivity per worker is 2 times salary, or about $260,000 per worker. This represents a tax base of about $65 million and a state-level GRT of $3,300,000 annually. Add corporate income taxes and the general fund loss is on the order of an $3.5 million annually. Because these wages are relatively high, we should calculate the offset – the plausible amount that these 250 new employees would pay in state level taxes. State level taxes (PIT/Withholding, gross receipts tax, motor vehicle excise tax, liquor excise, cigarette tax, insurance premiums tax) might average 6% of disposable income, or close to $4,000 per worker annually in state-level revenue gain, about $1,000,000. The net loss annually would be on the order of $2.5 million annually or about $10,000 per job.

Some of the new jobs and investment covered by this bill, would also generate other credits, such as the high wage jobs credit. The provisions of this bill would provide less benefit to the company in the initial years, because the high wage jobs credit would reduce creditable taxes.

SIGNIFICANT ISSUES

This is likely to be a less utilized credit than the high wage job credit, but the credits will reduce those few qualified companies' liabilities to near zero for ten years and a diminishing percentage from the 10th to the 20th years. The companies involved must sell the majority of their production -- goods or services – out of state. The companies must be eligible for a jobs training investment partnership grant (JTIP).

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement that TRD report annually to an interim legislative 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.

TECHNICAL ISSUES

This bill does not contain a delayed repeal date. LFC recommends adding a delayed repeal date.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

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

1. **Vetted**: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee (RSTP), to review fiscal, legal, and general policy parameters.
2. **Targeted**: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.
3. **Transparent**: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.
4. **Accountable**: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.
5. **Effective**: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions "but for" the existence of the tax expenditure.
6. **Efficient:** The tax expenditure is the most cost-effective way to achieve the desired results.

LFC Tax Expenditure Policy Principle	Met?	Comments
Vetted	✘	
Targeted		
Clearly stated purpose	✓	
Long-term goals	✘	
Measurable targets	✘	
Transparent	✓	
Accountable		
Public analysis	?	
Expiration date	✓	
Effective		
Fulfills stated purpose	?	
Passes "but for" test	?	
Efficient	?	
Key: ✓ Met ✘ Not Met ? Unclear		

LG/al/sb