Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

October 15, 2003

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 248 and Assembly Bill 520: Individual and Corporate Income and Franchise Taxes--Technology Zones Tax Credits

Assembly Bill 520, which changes the technology zones tax credit, was introduced on September 11, 2003, and referred to the Committee on Ways and Means. On September 23, 2003, the Committee on Ways and Means recommended AB 520 for passage by a vote of 12-0. AB 520 was placed on the Assembly calendar on September 25. The Assembly adopted Assembly Amendment 1 to AB 520 and passed AB 520 as amended by a vote of 95-0. The bill was messaged to the Senate and referred to the Senate Select Committee on Job Creation on September 29. On October 3, 2003, the Select Committee on Job Creation recommended AB 520 for passage by a vote of 4-1. The bill was referred to the Joint Committee on Finance on October 8, 2003.

Senate Bill 248, which is identical to AB 520, was introduced on September 17, 2003, and referred to the Select Committee on Job Creation. On September 29, 2003 that committee adopted Senate Amendment 1 to SB 248 by a vote of 5-0, and recommended the bill, as amended by SB 1, for passage by a vote of 4-1. The bill was placed on the Senate calendar on October 1, 2003, and SA 1 was adopted. The bill was then referred to the Joint Committee on Finance.

CURRENT LAW

The 2001-03 biennial budget (2001 Wisconsin Act 16) created the technology zones program under which the Department of Commerce is authorized to create eight technology zones. A business that is located in a technology zone and that is certified by Commerce may be eligible to claim certain development zones tax credits and the technology zone tax credit. To be certified as eligible for the technology zone tax credit, the business must be new or expanding and be a high-technology business. "High-technology business" means either of the following:

a. A business engaged in the activities of the research, development, or manufacture of advanced products or materials for use in factory automation, biotechnology, chemicals, computer hardware, computer software, defense, energy, environmental, manufacturing equipment, medical, pharmaceuticals, photonics, subassemblies and components, test and measurement, telecommunications, and transportation; or

b. A business identified as part of a target cluster that is a knowledge-based business or a business that utilizes advanced technology production processes, systems, or equipment. "Knowledge-based businesses" possess some, if not all, of the following attributes: highly-skilled and educated workforce; high level of research and development activities; strong export orientation; high percentage of intangible assets; and products and materials with short life expectations and high gross margins. In addition, knowledge-based businesses are considered more likely to use and/or develop advanced technologies and to be innovative in their products, services, or processes.

The technology zone tax credit equals the sum of the following: (a) the amount of real and personal property taxes paid during the tax year; (b) the amount of state income and franchise taxes paid during the tax year; and (c) the amount of state, county, and special district sales and use taxes paid during the tax year. The maximum amount of credits that can be claimed in a technology zone is $5.0 million. Credits that are not entirely used to offset income or franchise taxes in the current year can be carried forward up to 15 years to offset future tax liabilities. The Department of Revenue (DOR) is authorized to deny any portion of a technology zone credit that was claimed if allowing the full amount of the credit to be claimed would cause the total amount of credits to be claimed to exceed the maximum credit limit for the zone. DOR is required to notify the Department of Commerce of all technology zone tax credit claims, administer credit claims, take any action, conduct any proceeding, and proceed as authorized under income and franchise tax provisions relating to timely claims, assessments, refunds, appeals, collection, interest, and penalties. Income and franchise tax provisions related to change of ownership also apply.

Commerce is required to certify an eligible high-technology business as eligible for tax credits. In determining whether or not to certify a business for tax benefits, Commerce must consider the following:

a. The prospects for the project to attract related high-technology businesses to the area;

b. The extent and nature of the high-technology used or produced by the business;

c. The amount of private investment that is likely to result from the project;

d. The number and quality of jobs that are likely to be retained, created, or upgraded as a result of the project;

e. The competitive effect of the tax benefits on other businesses in the area;

f. Whether the project is likely to occur or continue without allocation of available tax benefits;

g. The financial soundness of the business;

h. The baseline goals of the business; and

i. Other factors the Department considers relevant.

When Commerce determines that the business is eligible to be certified for tax benefits, the Department notifies the business of its certification. The Department establishes a limit on the amount of tax credits the business may claim. Subject to the limit, a business that is certified for tax credits may claim a tax credit for three years. Commerce may extend the certification for one additional two-year period based on at least one of the following factors: (a) additional significant job creation; or (b) additional significant capital investment. The business must meet or exceed baseline goals established in the original certification to have certification extended.

Commerce must enter into an agreement with a high-technology business that is certified for tax credits that specifies: (a) the limit on the amount of credits the business may claim; (b) the extent and type of growth, specific to the business that the high-technology business must experience to extend eligibility for tax credits; (c) the business baseline against which that growth will be measured; (d) any other conditions the business must satisfy to expand eligibility for a tax credit; and (e) reporting requirements.

All eight authorized technology zones have been designated encompassing 54 counties. The designated technology zones are the following:

SuperiorLife Technology Zone. The zone includes Ashland, Bayfield, Burnett, Douglas, Iron, and Washburn Counties.

I-94 Corridor Technology Zone. The zone includes Chippewa, Dunn, Eau Claire, Pierce, Polk, and St. Croix Counties.

North Central Advantage Technology Zone. The zone includes Adams, Forest, Langlade, Lincoln, Marathon, Oneida, Portage, Vilas, and Wood Counties.

NEWREP Technology Zone. The zone includes Brown, Calumet, Door, Florence, Fond du Lac, Kewaunee, Manitowoc, Marinette, Menominee, Oconto, Outagamie, Shawano, Sheboygan, Waushara, Waupaca, and Winnebago Counties.

Western Wisconsin Technology Zone. The zone includes Crawford, Jackson, Juneau, LaCrosse, Monroe, Trempealeau, and Vernon Counties.

Metropolitan Milwaukee Technology Zone. The zone includes Milwaukee, Ozaukee, Washington, and Waukesha Counties.

Capital Ideas Technology Zone. The zone includes Dane, Jefferson, and Rock Counties.

Southeast Tri-County Technology Zone. The zone includes Kenosha, Racine, and Walworth Counties.

SUMMARY OF BILLS

Senate Bill 248/Assembly Bill 520 would eliminate the current technology zones tax credit components that provide individual and corporate income and franchise tax credits for: (a) the amount of state income and franchise taxes paid during the tax year; and (b) the amount of state, county, and special district sales and use taxes paid during the tax year. Instead, SB 248/AB 520 would create technology zones capital investment and jobs tax credit components. The current tax credit component for the amount of real and personal property taxes paid during the tax year would be retained.

Under the provisions of SB 248/AB 520, the technology zones capital investment tax credit component would provide a tax credit, under the state individual and corporate income and franchise taxes, equal to 10% of the following amounts of capital investments that are made by the business in the technology zone in the tax year:

a. The purchase price of depreciable, tangible personal property.

b. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property in a technology zone.

Investment amounts used to claim this credit could not be used in calculating any other credit, such as the development zones capital investment credit, provided under the state individual and corporate income and franchise taxes. In addition, the investments on which the tax credit was based must be retained for use in the technology zone as long as the business was certified as eligible for technology zones tax credits.

SB 248/AB 520 would also create a technology zones jobs tax credit component equal to 15% of the amount spent for the first 12 months of wages for each full-time job created in a technology zone. "Full-time job" would be defined as a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 200% of the federal minimum wage and receives benefits that are not required by federal or state law. Commerce could decrease the required number of hours to 1,820, based on the normal work week of a certified business. A full-time job would not include initial training before an employment position begins.

The bills would also expand current technology zone tax credit provisions to require that, in order to receive a tax credit, tax credit claimants include with their tax return:

a. A copy of a verification from the Department of Commerce that the claimant's business is certified as eligible to receive a technology zones tax credit, and that the business and Department have entered into the required agreement concerning the amount, eligibility, and reporting requirements for the tax credit.

b. A statement from the Department of Commerce verifying the purchase price of any investment used to claim the technology zones tax credit and that the investment is used in the technology zone for the period in which the claimant's business is certified as eligible for the tax credit.

SB 248/AB 520 would require the Department of Commerce, in certifying a business as eligible for tax credits, to consider the number of new <u>full-time</u> jobs, rather than jobs, that would be created. The Department would also be required to promulgate administrative rules related to the number of hours an individual is required to work for his or her employment to be considered a full-time job. As noted, Commerce would be permitted to reduce the required number of hours for a full-time job to 1,820 hours, based on the normal work week of a certified business.

The tax credit and other provisions of the bills would first apply to tax years beginning on or after January 1, 2002.

SENATE AMENDMENT 1/ASSEMBLY AMENDMENT 1

Senate Amendment 1 to Senate Bill 248 and Assembly Amendment 1 to Assembly Bill 520 would delete the requirement that the jobs tax credit would be based on full-time jobs. Rather, the jobs credit component of the technology zones tax credit would equal 15% of the first 12 months of wages for each job created in a technology zone. The definition, rules, and certification provisions related specifically to full-time jobs would also be deleted.

FISCAL EFFECT

Senate Bill 248/AB 520 would replace the current technology zones tax credit for state income and franchise taxes paid with a 10% capital investment tax credit. Similarly, the bills would replace the current technology zones tax credit for sales and use taxes paid with a 15% jobs tax credit. However, the bills would not increase the maximum limit of $5 million for the total amount of tax credits that could be claimed in a technology zone. As a result, the bills would have no aggregate effect on state individual and corporate income and franchise tax revenues. However, the timing of when technology zone tax credits would be claimed would be slightly accelerated. Since the new technology zone tax credit components would first apply to tax year 2002 and thereafter, a fiscal effect would occur in the 2003-05 biennium. Based on information provided by the Department of Commerce, it is estimated that SB 248/AB 520 would reduce individual and corporate income and franchise tax revenues by $150,000 in 2004-05. SA 1 to SB 248/AA1 to AB 520 would further reduce the time in which technology zone tax credits could be claimed, but would have a minimal fiscal effect.

The Department of Commerce has prepared a fiscal estimate that indicates that SB 248/AB 520 would not increase the workload of the Department.

Prepared by: Ron Shanovich