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

SPONSOR Sharer **ORIGINAL DATE** 03/06/09 **LAST UPDATED** 3/6/09 **HB**

SHORT TITLE Energy Exporting Jobs Credit **SB** 620

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY11		
	($720.0)	($4,080.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Energy Minerals and Natural Resource (EMNRD)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 620 creates a credit for energy exporting businesses equal to 25 percent of the wages and benefits for each new job created up to $40 thousand per job. The credit can be used to offset combined reporting taxes—gross receipts and compensating taxes, withholding, interstate telecommunications gross receipts tax and other surcharges—less any credits and excluding the local government taxes. An eligible employer is one that is eligible for the Job Training Investment Program (JTIP) and that made more than 50 percent of its sales to persons outside New Mexico. An eligible employee is one that is a New Mexico resident and is not one of the following in relation to the employer:

- A child or a descendant of a child.
- A brother, sister, stepbrother, or stepsister.
- The father or mother, or an ancestor of either.
- A stepfather or stepmother.
- A son or daughter of a brother or sister of the taxpayer.
- A brother or sister of the father or mother of the taxpayer.
- A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

- An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

Employees who own, directly or indirectly, or who work for or has worked for an entity that owns 50 percent of the value of outstanding stock or interest in the company are ineligible.

A new job is defined as a job created on or after July 1, 2009, and is occupied for 48 weeks of the qualifying period. The employer receiving the credit must certify for each job the amount of wages, the number of weeks occupied, and whether the employee was in a municipality with less than 40,000 people or in unincorporated county area. The Economic Development Department must report to the appropriate legislative committee before November 1 of each year the cost of the credit and its impact on recruitment and job creation.

The credit is available for tax years beginning on or after January 1, 2010.

FISCAL IMPLICATIONS

	calendar year				
	2009	**2010**	**2011**	**2012**	**2013**
Energy export sector employment: 50% of Natural Resource & Mining, and 30% of Transportation, Warehousing, & Utilities	16,755	16,227	16,730	17,062	17,151
projected change in employment (BBER)		(528)	503	332	89
change in emp due to credit incentive		106	101	66	(18)
assume wages & benefits of $66,340		1,753,034	10,014,686	6,601,493	1,474,407

	fiscal year				
	2009	**2010**	**2011**	**2012**	**2013**
fiscal impact ($K)			(720)	(4,080)	(8,980)

Source: TRD

SIGNIFICANT ISSUES

EMNRD reports this credit would benefit both fossil-fuel based energy generating facilities and those based on renewable energies. However, because the infrastructure is more accessible to fossil fuel based generators, they will be the primary beneficiaries. "Merchant" plants, such as the proposed Desert Rock facility, that are powered by natural gas or coal would receive a significant incentive.

ADMINISTRATIVE IMPLICATIONS

The hold-harmless provision will be very difficult to administer and will require extensive re-tooling of TRD systems and procedures.

TECHNICAL ISSUES

There is a requirement for the employer to certify certain things but no clear entity to submit the certification to. Presumably the intent is for TRD to be the agency.

There is a requirement to report on the size of community where a new job is but the credit is not different for different locations.

EMNRD has highlighted some additional issues:

> The tax credit is based on a percentage of wages and benefits. The employer must provide certification of the new employee's wages, but the bill does not clarify how the value of benefits will be calculated established.
>
> The eligibility for the new job appear to be based, in parts, on the number of employees employed at the job location one day prior to the hiring of the eligible employee. It appears that a business could have a vacancy that was previously filled, but because it is now vacant it can be claimed as a "new" job. The provisions of SB 620 apply to taxable years beginning on or after January 1, 2010, but the legislation also includes that the tax credit is available for energy-exporting industry businesses that create new jobs, on or after July 1, 2009.

OTHER SUBSTANTIVE ISSUES

EMNRD notes that there is no sunset clause, so this tax credit will continue until revoked. There is also no dollar limit on the tax credit.

POSSIBLE QUESTIONS

1. What other incentives are available for energy-exporting companies?
2. Will the companies also receive JTIP training money?

NF/svb

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

1. ***Adequacy:*** *revenue should be adequate to fund government services.*
2. ***Efficiency:*** *tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.*
3. ***Equity****: taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.*
4. ***Simplicity****: taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.*
5. ***Accountability/Transparency:*** *Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.*

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc