

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 02/16/11  
 LAST UPDATED 03/14/11    HB CS/59/aHLC/aSFC

SPONSOR HCPAC

SHORT TITLE Unemployment Contribution Temporary Schedule    SB

ANALYST Peery-Galon

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	\$133,200.0	\$125,700.0	Recurring	New Mexico's UI Trust Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$120.0		\$120.0	Nonrecurring	Federal Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Workforce Solutions Department (WSD)  
 Economic Development Department (EDD)

#### No Responses Received From

General Services Department (GSD)  
 Governor's Office (GOV)  
 Municipal League (ML)

### SUMMARY

#### Synopsis of SFC Amendment

The Senate Finance Committee amendment for House Bill 59 makes a technical correction to the original bill to clarify the optional extended benefit triggers will only trigger on when the federal government pays the full amount of shareable compensation for extended benefits, regardless of the extension of federal sharing for certain claims as provided under Section 2005(a) of Public Law No. 111-5. The amendment adds a four week monitoring period before the last week for which 100 percent federal sharing funding is available.

Synopsis of HLC Amendment

The House Labor and Human Resources Committee amendment for House Bill 59 makes a technical correction to the proposed legislation to clarify that the optional extended benefit triggers will only trigger on when the federal government pays the full amount of shareable compensation for extended benefits.

Synopsis of Original Bill

The House Consumer and Public Affairs Committee substitute for House Bill 59 proposes the following:

- Implement unemployment insurance contribution schedule 3 effective January 1, 2012 through December 31, 2012.
- Reduce the number of qualifying dependents eligible to receive the \$25 dependent allowance from four to two.
- Eliminate the payment of unemployment benefits to individuals attending school, other than individuals in an approved vocational training institution program, on a full-time basis unless it is demonstrated that the recipient is able, available and actively seeking full- or part-time work.
- Prohibit the calculation or payment of extended benefits under the Unemployment Compensation Act during periods when the Workforce Solutions Department Secretary certifies to the governor that the state will not be fully reimbursed by the federal government for all extended benefits paid.

**FISCAL IMPLICATIONS**

WSD reported the change to contribution schedule 3 would take effect during the second quarter of 2012. This change would increase employer contributions by an estimated \$128.2 million, or 56 percent, through the fourth quarter of 2012. The estimated total contributions received during the FY12 would be \$218.6 million and an estimated \$250.6 million for FY13 for schedule 1. For schedule 3 the estimated total contributions in FY12 is \$277.4 million and in FY13 is \$337.9 million. Even if the proposed legislation is implemented, WSD projects New Mexico's unemployment insurance trust fund will experience a deficit early on in 2012.

WSD reported the proposed modification in benefits to full-time students will reduce expenditures by an estimated \$10 million in FY12 and an estimated \$10.7 million in FY13. Moreover, WSD anticipates the proposed modifications may reduce both clerical and adjudication staff time. In 2010, WSD issued approximately 11,000 claims determinations relating to individuals attending school. The proposed modification would decrease staff time required to adjudicate this high volume of determinations, thereby increasing the agency's efficiency to process the nearly 130,000 claims decisions received annually.

WSD reported the proposed dependent allowance reduction from four to two dependents will reduce expenditures by an estimated \$3.4 million in FY12. In FY13, the reduction in dependent allowance will reduce expenditures by an estimated \$2.2 million.

WSD noted the proposed legislation would eliminate the payment of the state's 50 percent share of extended benefits unless full reimbursed by the federal government. This change will occur during the first quarter of FY12 with an estimated off-set of \$62.9 million and an estimated \$50.8 million in FY13.

WSD noted the major assumption underlying the fiscal impact is that the 2011 and 2012 forecasted total unemployment rates used to project the annual level of benefits paid to claimants will not be substantially different from actual total unemployment rates. In November 2010, University of New Mexico Bureau of Business and Economic Research projected the total unemployment rates to be 8.8 percent in 2011, 8.5 percent in 2012, and 8.1 percent in 2013.

WSD stated in order to make the system modification required by the proposed legislation, WSD would be required to contract with a programmer at a cost of approximately \$120 thousand. Of which, \$60 thousand would be for modifications to the unemployment insurance tax system and \$60 thousand would be for modifications to the unemployment insurance claims system.

Even if the proposed legislation is implemented, WSD projects New Mexico’s unemployment insurance trust fund will have a deficit of \$8.9 million on March 31, 2012. However, WSD noted if the total unemployment rate drops from the projected rates and the economy continues to improve, the deficit may be off-set by the proposed increased contributions leaving the trust fund solvent.

**Unemployment Insurance Tax Schedules**

Schedule 0 to 6	UI Tax Rate	2010 Estimated Average Contributions Per Employee
Schedule 0	0.03-5.4%	\$185.13
Schedule 1	0.05-5.4%	\$214.50
Schedule 2	0.1%-5.4%	\$250.04
Schedule 3	0.6%-5.4%	\$369.80
Schedule 4	0.9%-5.4%	\$409.52
Schedule 5	1.2%-5.4%	\$449.43
Schedule 6	2.7%-5.4%	\$512.21

Source: WSD

WSD reported if New Mexico’s unemployment insurance trust fund becomes insolvent, the department will be required to take out a loan from the U.S. Department of Labor. WSD noted the loan must be repaid by October 2012 in order to avoid paying any interest on the loan and losing Federal Unemployment Tax Act (FUTA) credit for all New Mexico contributing employers. Loss of the FUTA credit would result in New Mexico employers being faced with increased federal unemployment taxes. Also, while the principal for the U.S. Department of Labor loan can be paid from future tax revenue, the interest earned must be repaid by non-federal funding. If the trust fund is insolvent at the end of 2012, pursuant to Section 51-1-11 NMSA 1978 employer taxes will automatically go from schedule 3 to schedule 6 on January 1, 2013.

**SIGNIFICANT ISSUES**

WSD reported the Senate Finance Committee amendment for House Bill 59 provides that optional extended benefit triggers will only trigger on when the federal government pays the full amount of shareable compensation for extended benefits. The amendment provides a four week monitoring period before the last week for which 100 percent federal sharing funding is available. WSD noted the amendment helps to protect the New Mexico unemployment insurance fund’s solvency.

WSD reported that the House Labor and Human Resources Committee amendment for House Bill 59 provides that optional extended benefit triggers will only trigger on when the federal government pays the full amount of shareable compensation for extended benefits. The amendment helps to protect the New Mexico unemployment insurance trust fund's solvency.

WSD reported that under current law, the unemployment insurance contribution schedule 1 is implemented from January 1, 2011 through December 31, 2011. Due to a nearly 500 percent increase in unemployment insurance claims over the past two years, the Workforce Solutions Department has experienced an unprecedented demand on the unemployment compensation trust fund, resulting in \$750 thousand to \$ 1million in daily payments to claimants.

WSD stated by the operation of law and considering current trust fund balance projections, unless the Legislature acts to implement an alternative schedule and/or take other measures to preserve the fund's solvency, it is projected the fund will become insolvent in 2012.

WSD reported the proposed schedule 3 contributions may be sufficient to maintain solvency of the unemployment insurance trust fund. The projections show only one quarter in 2012 with a negative \$8.9 million trust fund balance. However, if the total unemployment rate drops from the projected rates and the economy continues to improve, the deficit may be off-set by the proposed increased contributions leaving the trust fund solvent.

WSD noted that employers in New Mexico will be required to make payroll system modifications to implement the provisions of the proposed legislation. Employers will experience increased unemployment insurance rates and benefit charges for full-time students.

Employer taxes are collected by WSD and deposited in the federal treasury in the New Mexico unemployment insurance trust fund. Three years ago the fund was among the most solvent in the United States, with a balance of \$553.3 million. Due to high unemployment rates over the past two years, WSD has experienced an unprecedented demand for unemployment insurance benefits, paying out \$375.9 million in FY10. On November 1, 2010, the New Mexico unemployment insurance trust fund had a balance of \$201.5 million.

**New Mexico Unemployment Insurance Trust Fund  
Revenue and Benefits: FY07-FY11 (in millions)**

	Revenue	Benefits
FY07	\$111.9	\$130.3
FY08	\$94.9	\$156.0
FY09	\$86.1	\$386.6
FY10	\$127.4	\$375.9
FY11 projection	\$209.0	\$429.0

Source: WSD

In the 2010 legislative session, the Legislature enacted the following changes to address the declining New Mexico unemployment insurance trust fund:

- Increase the employer tax rate from schedule 0 to schedule 1 effective from January 1, 2011, through December 31, 2011;
- Eliminate the state unemployment insurance trust fund and transfer the balance to New Mexico's unemployment insurance trust fund; and
- Discontinue temporary increases to weekly benefit amounts.

The estimated net increase in revenues from the changes is approximately \$133 million for FY11. However, WSD still projects the trust fund will have a negative fund balance early on in 2012.

EDD noted the proposed legislation will increase annual employer contributions and will therefore, cost employers more. The proposed legislation takes measures to reduce the burden to New Mexico's unemployment insurance trust fund. However, WSD, as well as LFC, analysts indicate that additional measures must be taken in order to ensure the fund is not depleted. Should that happen automatic implementation of schedule 6 will be required, which will cost employers \$512 per employee, an increase of \$298. EDD stated while an increase in employer contributions may not be seen favorably, employers must understand measures are being taken to ensure enactment of schedule 6 does not occur as it will be detrimental to employers.

GSD reported the change to unemployment insurance contribution schedule 3 from January 1, 2012 through December 31, 2012, will not impact the department since the schedules do not apply to the State of New Mexico which has a reimbursing account at WSD.

### **ADMINISTRATIVE IMPLICATIONS**

WSD, along with EDD, noted the department will have to modify its computer systems to update the calculations due to changes in the unemployment insurance contribution schedule.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 59 has a relationship with Senate Bill 279 which proposes suspending certain unemployment insurance benefits for one year (dependent allowance, part-time workers and full-time student benefits) and increasing the unemployment insurance contribution schedule to 2.

### **OTHER SUBSTANTIVE ISSUES**

In the 2007 legislative session, the Legislature increased the average weekly unemployment benefit by \$4 to \$242 and increased the dependence allowance benefit by \$10 to \$25 for each qualifying child under the age of 18. Also, certain enhancements benefits enacted in 2003 were made permanent, including benefits for victims of domestic violence, full-time students, part-time workers, and military spouses.

The Legislature may want to consider eliminating other benefits to address the depleting fund balance, such as part-time workers, dependent allowance and alternative base period benefits. The following are the FY10 expenditures for those benefits: \$4.8 million for the alternative base period, \$7.2 million for part-time workers, and \$10 million for dependent allowance.

There are 30 states that owe about \$41 billion to the federal government due to borrowing money to sustain their unemployment insurance programs. The National Association of State Workforce Agencies reported that 35 states raised their unemployment taxes on employers in 2010.

New Mexico's seasonally adjusted unemployment rate was 8.7 percent in January 2011, up from 8.1 percent a year ago. The rate of over-the year job growth, comparing January 2011 with January 2010, was negative 0.4 percent, representing a loss of 3,500 jobs.

## ALTERNATIVES

The following are some additional options for consideration in addressing the solvency of the New Mexico unemployment insurance trust fund:

- Surcharge Fee - Nineteen states have instituted an additional solvency fee, or surcharge fee, to build up the balance of their unemployment insurance trust funds. This is a one-time surcharge fee assessed to employers. The fee generates immediate revenue and helps to offset the need to increase the tax schedule. A 0.5 percent surcharge would generate an estimated \$36.7 million in revenue.
- New Employer Tax Rate - In 2005, the new employer tax rate was changed from 2.7 percent to 2 percent. Changing the new employer tax rate back to 2.7 percent would provide needed revenue. To modify in the new employer tax rate would require statutory change. It is estimated the revenue generated in FY12 would be \$3.4 million and in FY13 would be \$12.7 million. The difference in revenue between FY12 and FY13 is due to the employer taxes being collected on a quarterly basis causing delay in generating revenue. A downside to this option is the effect on economic development.

EDD noted that additional measures should be taken to ensure solvency of New Mexico's unemployment insurance trust fund, such as eliminating eligibility for term and seasonal employees, and benefits for part-time workers and dependents.

RPG/mew:bym:svb