

**FORTY-SIXTH LEGISLATURE
FIRST SESSION, 2003**

February 12, 2003

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to whom has been referred

HOUSE BILL 261, as amended

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. Strike House Taxation and Revenue Committee Amendments 2, 3, 4, 5, 6 and 12.

2. On page 2, line 5, strike "Weekly" and insert in lieu thereof "Effective July 1, 2003, weekly".

3. On page 5, line 8, strike "An" and insert in lieu thereof "Effective January 1, 2004, an".

4. On page 6, line 3, strike "Dependency" and insert in lieu thereof "Effective January 1, 2004, dependency".

5. On page 7, line 1, after "amount" insert "pursuant to Subsections C and D of this section".

6. On page 18, line 9, after "(b)" insert "effective July 1, 2003, ".

7. On page 34, strike lines 21 through 25 and on page 35, strike lines 1 through 10 and insert in lieu thereof:

"10.0% and over	<u>0.03%</u>	0.05%	0.1%	0.6%
9.0%- 9.9%	<u>0.06%</u>	0.1%	0.2%	0.9%
8.0%- 8.9%	<u>0.09%</u>	0.2%	0.4%	1.2%
7.0%- 7.9%	<u>0.10%</u>	0.4%	0.6%	1.5%
6.0%- 6.9%	<u>0.30%</u>	0.6%	0.8%	1.8%
5.0%- 5.9%	<u>0.50%</u>	0.8%	1.1%	2.1%
4.0%- 4.9%	<u>0.80%</u>	1.1%	1.4%	2.4%
3.0%- 3.9%	<u>1.20%</u>	1.4%	1.7%	2.7%
2.0%- 2.9%	<u>1.50%</u>	1.7%	2.0%	3.0%
1.0%- 1.9%	<u>1.80%</u>	2.0%	2.4%	3.3%
0.9%- 0.0%	<u>2.40%</u>	2.4%	3.3%	3.6%
(- 0.1%) - (- 0.5%)	<u>3.30%</u>	3.3%	3.6%	3.9%
(- 0.5%) - (- 1.0%)	<u>4.20%</u>	4.2%	4.2%	4.2%

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(- 1.0%) - (- 2.0%)	<u>5.00%</u>	5.0%	5.0%	5.0%
Under (- 2.0%)	<u>5.40%</u>	5.4%	5.4%	5.4%".

8. On page 40, between lines 10 and 11, insert the following new Section 5 to read:

"Section 5. Section 51-1-19 NMSA 1978 (being Laws 1936 (S. S.), Chapter 1, Section 9, as amended) is amended to read:

"51-1-19. UNEMPLOYMENT COMPENSATION FUND. --

A. There is hereby established as a special fund, separate and apart from all public money, or funds of this state, an "unemployment compensation fund", which shall be administered by the department exclusively for the purposes of this section. [~~This~~] The fund shall consist of:

- (1) all contributions collected and payments in lieu of contributions collected or due pursuant to the Unemployment Compensation Law;
- (2) interest earned upon any money in the fund;
- (3) any property or securities acquired through the use of money belonging to the fund;
- (4) all earnings of such property or securities;
- (5) all money received from the federal unemployment account in the unemployment trust fund in accordance with Title 12 of the Social Security Act, as amended;
- (6) all money credited to this state's account in the unemployment trust fund pursuant to Section 903 of the Social Security Act, as amended;
- (7) all money received or due from the federal government as reimbursements pursuant to Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970; and
- (8) all money received for the fund from any other source. All money in the fund shall be mingled and undivided.

B. The state treasurer shall be the treasurer and custodian of the fund and shall administer such fund in accordance

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with the directions of the department and shall issue his checks upon it in accordance with such regulations as the secretary may prescribe. He shall maintain, within the fund, three separate accounts:

- (1) a clearing account;
- (2) an unemployment trust fund account; and
- (3) a benefit account.

C. All money payable to the fund upon receipt thereof by the department shall be forwarded to the treasurer, who shall immediately deposit it in the clearing account. Refunds payable pursuant to Sections 51-1-36 and 51-1-42 NMSA 1978 shall be paid from the clearing account or the benefit account upon checks issued by the treasurer under the direction of the department. After clearance thereof, all money in the clearing account, except as herein otherwise provided, shall be immediately deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to Section 904 of the act of congress known as the Social Security Act, as amended (42 U.S.C. Section 1104), any provisions of law in this state relating to the deposits, administration, release or disbursements of money in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all money requisitioned from this state's account in the unemployment trust fund. Except as herein otherwise provided, money in the clearing and benefit accounts may be deposited by the treasurer, under the direction of the secretary, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Money in the clearing and benefit accounts shall not be commingled with other state funds but shall be maintained in separate accounts on the books of the depository.

D. All of the money not deposited in the treasury of the United States shall be subject to the general laws applicable to the deposit of public money in the state; and collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of this state.

E. The state treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the unemployment compensation fund provided for under this section. The liability on the official bond of the state treasurer shall be

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effective immediately upon the enactment of this provision, and such liability shall exist in addition to the liability of any separate bond existent on the effective date of this provision or ~~[which]~~ that may be given in the future. All sums recovered for losses sustained by the fund shall be deposited therein.

F. All money in the clearing account established under this section is hereby appropriated for the purpose of making refunds pursuant to Sections 51-1-36 and 51-1-42 NMSA 1978, and all money in the clearing account not needed for the purpose of making the refunds shall be immediately paid ~~[over]~~ to the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund, and the money in the unemployment trust fund is hereby appropriated for the purposes of this section.

G. Money shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and for the payment of refunds pursuant to Sections 51-1-36 and 51-1-42 NMSA 1978 in accordance with regulations prescribed by the secretary, except that money credited to this state's account pursuant to Section 903 of the Social Security Act, as amended, shall be used exclusively as provided in Subsection H of this section. The secretary shall, from time to time, requisition from the unemployment trust fund such amounts not exceeding the amounts standing to this state's account therein, as he deems necessary for the payment of such benefits and refunds for a reasonable future period. Upon receipt thereof, the treasurer shall deposit such money in the benefit account and shall issue his checks for the payment of benefits solely from such benefit account. Expenditures of such money in the benefit account and refunds from the benefit account or the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. All money shall be withdrawn from the fund only upon a warrant issued by the department or its duly authorized agent upon the treasurer, and the treasurer upon receipt of such warrants shall issue his check against the fund in accordance with the warrant of the secretary. Any balance of money requisitioned from the unemployment trust fund that remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for, the payment of benefits and refunds during succeeding periods, or in the discretion of the secretary, shall be redeposited with the secretary of the treasury of the United States, to the credit of this state's account in the unemployment trust fund, as provided in

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Subsection C of this section. All money in the benefit account provided for hereinabove is hereby appropriated for the payment of benefits and refunds as provided herein.

H. Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to Section 903 of the Social Security Act may be requisitioned from this state's account or used only for:

(1) the payment of benefits pursuant to Subsection G of this section; and

(2) the payment of expenses incurred for the administration of the Unemployment Compensation Law and the federal Wagner-Peyser Act; provided that any money requisitioned and used for the payment of expenses incurred for the administration of the Unemployment Compensation Law and the federal Wagner-Peyser Act must be authorized by the enactment of a specific appropriation by the legislature that:

(a) specifies the purpose for which such money is appropriated and the amounts appropriated therefor;

(b) limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law, except for amounts distributed to the state of New Mexico on March 13, 2002 pursuant to Section 209 of the federal Temporary Extended Unemployment Compensation Act of 2002;

(c) limits the amount [~~which~~] that may be obligated to an amount which does not exceed the amount by which 1) the aggregate of the amounts credited to the account of this state pursuant to Section 903 of the Social Security Act exceeds 2) the aggregate of the amounts used by the state pursuant to this subsection and charged against the amounts transferred to the account of this state; and

(d) notwithstanding the provisions of [~~Subparagraph~~] Paragraph (1) of this subsection, money credited with respect to federal fiscal years 1999, 2000 and 2001 shall be used only for the administration of the Unemployment Compensation Law.

I. Amounts credited to this state's account in the unemployment trust fund under Section 903 of the Social Security Act that are obligated for administration shall be charged against

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transferred amounts at the exact time the obligation is entered into. The appropriation, obligation and expenditure or other disposition of money appropriated under Subsection H of this section shall be accounted for in accordance with standards established by the United States secretary of labor.

J. Money appropriated under Subsection H of this section for payment of expenses of administration shall be requisitioned as needed for payment of the obligations incurred under such appropriations and, upon requisition, shall be deposited in the unemployment compensation administration fund but, until expended, shall remain a part of the unemployment compensation fund for use only in accordance with the conditions specified in Subsection H of this section, notwithstanding any provision of Section 51-1-34 NMSA 1978. Any money so deposited that will not be expended shall be returned promptly to the account of the state in the unemployment trust fund.

K. The provisions of Subsections A [~~B, C, D, E, F, G, H, I and~~] through J of this section to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist and so long as the secretary of the treasury of the United States continues to maintain for this state a separate book account of all funds deposited therein by the state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all money, properties or securities therein belonging to the unemployment compensation fund of this state shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit and release such money, properties or securities in a manner approved by the secretary, in accordance with the provisions of this section; provided that such money shall be invested in the following readily marketable classes of securities; bonds or other interest-bearing obligations of the United States and of the state; and provided further that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the secretary. "".

9. On page 131, line 23, strike "pursuant to the", strike line 24 in its entirety and strike line 25 through "amended" and insert

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in lieu thereof "on March 13, 2002 pursuant to Section 209 of the federal Temporary Extended Unemployment Compensation Act of 2002".

10. On page 132, line 12, strike "2, 3 and 5" and insert in lieu thereof "2, 5 and 6".

Respectfully submitted,

Max Coll, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 15 For 0 Against

Yes: 15

Excused: Begaye, Moore, Varela

Absent: None

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