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

SPONSOR: Stewart DATE TYPED: 2/12/03 HB 261\aHTRC\aHAFC\aHFl#1

SHORT TITLE: Amend Unemployment Compensation Law SB

ANALYST: Collard

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	$2,392.4		See Narrative	Non-Recurring	Reed Act

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB 142 and SB 558

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	($54,450.0)	($54,450.0)	Recurring	UI Trust Fund
		(Significant) – See Narrative		

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC files

Responses Received From
New Mexico Labor Department
Attorney General's Office

SUMMARY

Synopsis of HFl Amendment #1

The House Floor amends House Bill 261 by deleting HTRC amendment number 10 and making technical adjustments to ensure effective dates are correct and correctly cited.

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amends House Bill 261 first by deleting HTRC amendments 2, 3, 4, 5, 6 and 12. The amendment also provides technical changes to the bill by identifying the dates on which certain provisions will become effective and by adding language required by federal law.

The non-charging of benefits to workers who seek part-time employment and non-charging of benefits for the lag quarter used for the alternate base period create federal conformity issues, thus HAFC amends House Bill 261 further by lowering the tax rates in schedule zero to compensate for not holding employers harmless.

The amended tax schedule zero raises the estimated annual cost of number 8 in the original bill synopsis from $8 million to $11 million and the amended schedule zero reads:

0.03%
0.06%
0.09%
0.10%
0.30%
0.50%
0.80%
1.20%
1.50%
1.80%
2.40%
3.30%
4.20%
5.00%
5.40%

Finally, HAFC amends House Bill 261 by inserting Section 5, pertaining to the creation of the Unemployment Compensation Fund. The fund allows the department to have access to the unemployment compensation collections. This fund consists of:

- ? All contributions collected and payments due pursuant to the unemployment compensation law,
- ? Interest earned upon money in the fund,
- ? Any property or securities acquired through use of money in the fund,
- ? All earnings on the securities,
- ? All money received from the federal unemployment account in the unemployment trust fund,
- ? All money credited to the state's account in the unemployment trust fund,
- ? All money received or due from the federal government as reimbursements, and
- ? All money received for the fund from any other source.

The bill also states all money in the fund shall be mingled and undivided. It gives the State Treasurer custody of the fund and the treasurer shall administer the fund under the direction of the department and Secretary of Labor. The treasurer will maintain three separate accounts: a clearing account, an unemployment trust fund account, and a benefit account.

FISCAL IMPLICATIONS

The Labor Department indicates there will be no fiscal impact in FY03. The department also indicates a need to add appropriation language to this bill to enable the department to use the Reed Act funds for unemployment insurance administration.

<u>Synopsis of HTRC Amendment</u>

The House Taxation and Revenue Committee amendment provides technical changes to HB 261, provides for non-charging of unemployment benefits to employers due to the application of the alternate base period to a workers' unemployment insurance claim, provides for non-charging of benefits to employers of workers receiving benefits and working part-time and adds language that will allow for the appropriation of federal Reed Act distribution funds to New Mexico under Section 209 of the Temporary Extended Unemployment Compensation Act of 2002 (TEUCA) to be used in FY03.

OTHER SUBSTANTIVE ISSUES

The New Mexico Labor Department (NMDOL) indicates amended items 4(3) and (4) create conformity issues under the federal unemployment tax act. The department notes these items must be removed. If not, the United States Labor Department (USDOL) will commence administrative sanctions against New Mexico employers and NMDOL. These sanctions include the loss of federal unemployment tax credits to New Mexico employers of approximately $325,000.0 per year and the loss of approximately $30,000.0 in administrative funds to NMDOL for the unemployment compensation program, the employment services program, and the labor market information program. The lost of this money will result in NMDOL's inability to pay unemployment insurance benefits to New Mexico workers, which totaled approximately $135,000.0 in 2002.

NMDOL recommends the following amendments:

- Strike item 4(3) and (4) as they create federal conformity issues,
- Strike the semicolon at the end of item 6, Section 51-1-19(H)(2)(b) and insert "except for amounts distributed on March 13, 2002 under Section 209 of the Temporary Extended Unemployment Compensation Act of 2002 (TEUCA)," and
- Strike "Economic Security and Recovery Act of 2001 and Section 903 of the Social Security Act" in Section 12 of HB 261 (not the amendment) on line 24, and insert "Section 209 of the Temporary Extended Unemployment Compensation Act of 2002 (TEUCA)."

<u>Synopsis of Original Bill</u>

House Bill 261 appropriates $2,392.4 from the Reed Act distribution fund to the unemployment compensation administration fund of the Labor Department for expenditure in fiscal years 2004 through 2007 to implement the following changes the unemployment compensation law. This information came directly from the Labor Department.

1. **Implement the extended benefits trigger:**

   Eight states have amended their laws to adopt the optional total unemployment rate (TUR) trigger. This proposal would add an additional 13 weeks of benefits to claimants that exhaust their regular benefit entitlement. This program triggers "on" during high unemployment periods, for which a calculation is provided, and is allowed under the Federal Unemployment Tax Act. It has also been authorized by Congress under the Extended Unemployment Compensation Act. States may elect to add the federal requirements to their state Unemployment Compensation (UC) law. The Federal government pays fifty percent of the benefit costs from reserves in the federal Extended Unemployment Compensation Account and the other fifty percent would be paid from New Mexico's trust fund. These benefits are not charged to New Mexico employers that are covered under the state UC law; however, reimbursable employers, such as state and local government entities and non-profit organizations are charged. The current tax structure in the New Mexico UC law anticipates these benefit costs, so there would be no change to tax rates to cover these benefit outlays.

   Estimated Cost to the Trust Fund for a 13-week Period: $6 million

2. **Increase claimants' benefit award from 50% of high quarter wage to 52.5%:**

   Currently, a claimant receives 50% of the average weekly wage paid to the individual during that quarter when wages were the highest, up to the statutory maximum, which changes each year (2003's maximum is $286). This law change would increase the benefit formula to 52.5 percent of the average weekly wage paid in the high quarter, an increase of 5 percent. This would affect all claimants. The last time the benefit formula was adjusted was 1967.

   Estimated First Year's Cost to the Trust Fund if at 52.5%: $9 million

3. **Eliminate the benefit denial for claimants in a training program or attending school full-time and who continue to search for and could accept full-time work:**

   Currently, a worker is denied benefits if he/she is attending school full-time, which may prevent that person from accepting full-time work in his/her customary occupation. This amendment would remove that benefit denial if the individual can continue to demonstrate availability for and could accept full-time work, which is commonly referred to as the Able, Available and Actively Seeking Work requirement in federal and state law.

   Estimated Annual Cost to the Trust Fund: $8 million

4. **Reduce new employer rate to 2.0%:**

   Currently new employers are required to pay a tax of 2.7 percent of the total taxable wages for at least four years, after which the employer's experience history determines the tax rate. Many new employers are eligible for a lower tax rate immediately if there has been a transfer of favorable experience history from a previous owner.

Estimated Annual Cost to the Trust Fund: $15 million

5. Alternative base periods (ABP):

In New Mexico the base period consists of the first four of the last five completed calendar quarters. Twelve states currently offer claimants the option of having eligibility determined under an alternative base period (ABP) when they are not eligible under the regular period.

Most alternative base periods use wages earned in more recent quarters as the basis for determining monetary eligibility. The types of ABP's include the last four completed quarters, the last three completed quarters plus weeks in filing quarter, or the last 52 weeks. In all states except one, claimants can only use the ABP option if they are ineligible under the regular base period. Massachusetts is the only state that allows a second benefit determination among claimants already eligible under the regular base period.

Benefit costs are estimated to rise from 4.2 percent to 5.8 percent if the ABP was defined as using the last four completed quarters (in New Mexico this would amount to an additional $4,116.0 to $5,684.0 a year in benefit costs.) If an ABP was defined as using the last 52 weeks before filing the claim, benefit costs would rise anywhere from 6 percent to 8.3 percent (in New Mexico this would amount to an additional $5,880.0 to $8,134.0 a year in benefit costs.)

Increase in Benefit Costs: $5.1 million

6. Dependents' allowances:

State laws that provide dependents' allowances vary in definition. There are twelve states with dependents' allowances that include children, usually under the age of 18. Stepchildren and adopted children are included in most states. Some state provisions include other dependents. New Mexico currently does not have a dependents' allowance provision.

The amount allowed per dependent is a fixed sum in most states, and ranges from one dollar to ninety-six dollars per dependent. In almost all states, only one parent may draw dependents' allowances if both are receiving benefits simultaneously.

If the amount per dependent is fixed in New Mexico at $15 with that amount not to exceed fifty percent of the individual's weekly benefit rate, benefits would increase by about $250.0 per month, which would total about $3,140.0 in additional benefits per year.

Estimated Annual Cost to the Trust Fund: $3.1 million

7. Domestic violence:

Seventeen states have laws that describe domestic violence as "good cause" for leaving work, preserving eligibility for UI benefits. New Mexico currently does not recognize domestic violence as "good cause" connected with the employment for leaving a job. Three states provide UI eligibility to domestic violence survivors, due to court rulings.

Seven other states provide UI to workers who have been separated from their jobs for personal reasons, including domestic violence. Claimants in these states must provide one of the following: a restraining order, police record, legal documentation, medical documentation, or a sworn statement.

Estimated Annual Cost to the Trust Fund: $250,000 -- $1 million

8. **Implementing schedule zero with a solvency trigger:**

This provision would introduce a new tax rate and schedule. Currently, the tax rates for Schedule 1 are as follows:
0.05%
0.10%
0.20%
0.40%
0.60%
0.80%
1.10%
1.40%
1.70%
2.00%
2.40%
3.30%
4.20%
5.00%
5.40%

If the new Schedule 0 was implemented the following tax rates would apply to employers:
0.03%
0.06%
0.10%
0.30%
0.50%
0.70%
1.00%
1.30%
1.60%
1.90%
2.40%
3.30%
4.20%
5.00%
5.40%

Estimated Annual Cost to the Trust Fund: $8 million

9. **Benefits to workers seeking part-time work:**

Most states require claimants to be actively seeking full time work to receive unemployment benefits, but about 16 states pay claimants that are actively seeking only part-time employment. Currently claimants in New Mexico must look for full-time work to receive unemployment benefits.

Estimated Annual Cost to the Trust Fund: $2 million

10. Transfer favorable employment history from other states:

Currently all new employers are required to pay a tax of 2.7 percent of the total taxable wages for at least four years, after which the employer's experience history determines the tax rate. This law change would allow employers that are doing business in another state to transfer their experience history from that state if they want to do business in New Mexico, possibly resulting in a lower rate. No such transfer is currently allowed.

Estimated Annual Cost to the Trust Fund: $20,000 - $100,000

<u>Significant Issues</u>

The provision allowing employers from other states to transfer history to New Mexico is meant to be a permanent change and not subject to the sunset clause provisions. Except for this provision, all other changes are subject to a "delayed revision" provision which states that those provisions will end in early 2007 or the trigger of tax schedule 2 or higher.

FISCAL IMPLICATIONS

The appropriation of $2,392.4 contained in this bill is a non-recurring expense to the Reed Act distribution fund. Any unexpended or unencumbered balance remaining at the end of FY07 shall revert to the Reed Act distribution fund.

The Labor Department estimates non-recurring expenses of $1,087.0 in FY03 and FY04 for systems design, development and implementation of the changes. The department also anticipates $1,455.4 ($363.8 annually) in recurring costs for FY04 through FY07. These costs have been addressed within the appropriation in the bill. These costs will sunset at the end of FY07. All appropriations are drawn from the federal Reed Act distribution fund provided to New Mexico.

In addition, annual costs of $54,450.0 are estimated against the Unemployment Compensation Trust Fund which will result in increased benefits and reduced taxes.

ADMINISTRATIVE IMPLICATIONS

The Labor Department indicates the amendment to unemployment compensation would require significant information technology modifications to the recently constructed unemployment insurance claims and tax systems. The cost for these changes has been addressed in the appropriation of the bill.

RELATIONSHIP

House Bill 261 relates to Senate Bill 142 in that both bills address new employer rates in New

Mexico and using former, out-of-state employment history.

TECHNICAL ISSUES

The Labor Department indicates the provision allowing employers from other states to transfer history to New Mexico is meant to be a permanent change and is not subject to the delayed repeal clause provisions. The department also indicates the need for an additional section pertaining to usage of the Reed Act distribution fund and the need for the money to be appropriated in FY03, instead of FY04, as to begin systems design and development.

The Attorney General's Office indicates there may be a conflict in that Section 14 (A) has an effective date of April 1, 2003 and Section 15 is an emergency clause. There will be a conflict if the bill passes during the last three days of the session and the governor has twenty days to sign or veto it, pursuant to Article IV, Section 22.

KBC/njw