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

SPONSOR Stewart | **ORIGINAL DATE** 1-30-07 | **LAST UPDATED** 3/13/07 | **HB** 247/aSFC

SHORT TITLE Unemployment Payment Rate Increases | **SB**

ANALYST Lucero

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
150.0	150.0	150.0	Recurring	Penalty & Interest Fund
($37,300.0)	($37,300.0)	($37,300.0)	Recurring	Unemployment Insurance Trust Fund

(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total			Minimal to Substantial	Minimal to Substantial	Recurring	State Unemployment Trust Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Department of Labor (NMDL)
New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee Amendment to House Bill 247 deletes a proposed new section to the Unemployment Compensation Act which would have required an employer with more than fifty employees, during a calendar quarter, to file electronically or pay a penalty.

Synopsis of Bill

The bill proposes to make the following changes to existing benefits:

1. Increase the weekly benefit amount (WBA) to 53.5% from 52.5% of the average weekly wage. For 2007, the average WBA would be $242 when calculated at 53.5% and $238 when calculated at 52.5%. This modest increase would have no adverse impact on the solvency of the trust fund. ESTIMATED PROJECTED ANNUAL COST TO THE TRUST FUND: **$1,700,000**
2. Increase the dependant allowance benefit to $25 from $15 for each qualifying child under the age of 18, up to four children. Only one parent or legal guardian may receive the allowance if both are receiving benefits concurrently. This increase would have no impact on the solvency of the trust fund. These benefits are not charged against an employer's experience rating account. ESTIMATED PROJECTED ANNUAL COST TO THE TRUST FUND: **$7,500,000**

The bill proposes to make the following benefits to employees and businesses permanent by removing the contingent repeal clauses:

1. Allow an employee to voluntarily quit employment due to domestic abuse. This benefit is not charged against an employer's experience rating account. ESTIMATED PROJECTED ANNUAL COST TO THE TRUST FUND: **$65,000**
2. Allow an employee to search for part-time work of at least 20 hours per week, rather than full-time work. ESTIMATED PROJECTED ANNUAL COST TO THE TRUST FUND: **$190,000**
3. Allow an otherwise qualified individual to return to full-time school rather than seek full-time work. ESTIMATED PROJECTED ANNUAL COST TO THE TRUST FUND: **$1,200,000**
4. Allow receipt of benefits by an individual who voluntarily left work to relocate because of a spouse, who is in the military or National Guard, receiving permanent change of station orders, activation orders or unit deployment orders. This benefit is not charged against an employer's experience rating account. ESTIMATED PROJECTED ANNUAL COST TO THE TRUST FUND: **$136,000**
5. Alternative Base Period, which allows an individual who does not have enough wage credits on record to provide other reliable means of establishing wages sufficient to qualify the individual for receipt of benefits. ESTIMATED PROJECTED ANNUAL COST TO THE TRUST FUND: **$2,000,000**
6. Tax Schedule Zero – a reduced tax contribution schedule for employers to be in effect though at least 2010, and possibly longer depending on the solvency of the trust fund. ESTIMATED PROJECTED ANNUAL COST TO THE TRUST FUND: **$18,000,000**
7. 2.0% tax rate for start-up businesses. Provides for a tax rate of 2.0% for employers with less than 36 months of business history. Previous rate was 2.7%. ESTIMATED PROJECTED ANNUAL COST TO THE TRUST FUND: **$6,500,000**

The bill contains the following new provisions:

1. Implementing a penalty against employers who fail to file quarterly wage reports electronically. For employers with less than 50 employees, there is no penalty for failing to file electronically. For employers with between 50 and 250 employees, the penalty is

$500; for employers with more than 250 employees, the penalty is $1,000. ESTIMATED ANNUAL REVENUE: **$150,000**

2. Creation of the State Unemployment Trust Fund:

   The state unemployment trust fund will be created through the addition of a supplemental state employer contribution over a 3 ½ year period. Overall contributions by employers will not increase because the federal contribution will be reduced in a corresponding amount. At the conclusion of the 3 ½ year period, 100% of employer contributions will be deposited in the federal trust fund.

   For 14 quarters, employers will continue to pay their unemployment insurance contributions as usual, with one change: A reduced contribution owed will be deposited into the federal Unemployment Insurance Trust Fund and a newly imposed contribution will be deposited into the State Unemployment Insurance Trust Fund. Although employers will be required to report on a modified wage reporting form, a single payment will be accepted by the Department and the employer's effective contribution rate will not increase.

   The Department projects that the fund will have a $150,000,000 principal balance at the conclusion of the 3 ½ year period. The principal balance will be used only to pay benefits in the event the federal fund balance drops due to a severe economic downturn. The interest earned on the fund is subject to appropriation by the legislature to fund activities relating to the unemployment insurance or employment security programs administered by the Department.

   The state fund will be administered by the State Investment Officer in the same manner in which land grant permanent funds are administered. The State Investment Officer will advise and coordinate investments with the Labor Department.

3. Modifying contribution schedule triggers. The triggers used to determine the applicable tax rate schedule for any calendar year are being modified to allow the balance in the fund to drop to a lower level without resulting in a contribution increase to employers. The current triggers are extremely sensitive and may require a contribution schedule increase even when the solvency of the trust fund is not at risk.

FISCAL IMPLICATIONS

The Senate Finance Committee Amendment which eliminates the requirement to file electronically for employers with more than fifty employees may save employers penalty and interest. The amendment could possibly delay the full implementation of employer electronic reporting. NMDOL has had difficulty forcing employers to file electronically. Electronic filling is economical and more accurate.

The bill will provide approximately $12.8M in annual additional benefits to unemployed individuals and will reduce employer contributions by approximately $24.5M annually, assuming schedule zero is active. The total reduction in the trust fund due to increased payments and reduced contributions will be approximately $37.3M annually.

The enactment of this bill could result in a minimal increase in premiums paid to the Risk Management Division as a result of increased benefits payable to unemployed individuals.

The Corrections Department states: An additional administrative burden and cost to the Corrections Department (and all State agencies) will occur due to having to submit quarterly wage contribution reports in an electronic format.

SIGNIFICANT ISSUES

This proposes to divert a portion of unemployment taxes into a reserve fund. The principal in the reserve fund is used for unemployment insurance purposes (such as paying benefits). Any interest earned on the reserved fund can be used for other purposes, such as job training and administrative costs related to unemployment insurance and employment security programs. Unlike employer contributions, which are held in the Federal Unemployment Trust Fund until needed to pay benefits, the reserve fund moneys are not protected by the federal withdrawal standard which restricts the use of contribution to the payment of benefits. This means that state legislatures may, if the state constitution allows, redirect the reserve fund's principle (and interest) to other uses.

One page 40, the bill creates a state unemployment trust fund. NMDOL estimates one hundred fifty million dollars ($150,000,000) will be diverted from the Federal Unemployment Trust Fund to this newly created state trust fund. The legislature could in the future redirect the 150,000,000 to another use and effectively divert employer's taxes to another use. The legislature could also direct the earnings and interest be deposited into the general fund.

This bill aims to earmark or limit earnings/interest from this newly created state trust fund to NMDOL for the sole purpose of administering the unemployment insurance and employment security programs.

Limiting the funds to administrative purposes at NMDOL should be looked into further. As the source of funds would be taxes on employers, perhaps the funds should be used for direct services to employees or employers. Several states use interest on state unemployment trust funds for job training, workforce development, research and economic development.

Restricting the use of the earnings/interest earned on the newly created fund may limit legislative authority over the use of the funds.

PERFORMANCE IMPLICATIONS

None identified by NMDOL.

ADMINISTRATIVE IMPLICATIONS

Changing the criteria for contribution rate schedules will require the Department to design new wage reporting forms and to educate employers about the changes. Some modifications to the Department's computer systems will be required.

NMDOL did not provide estimates of the additional administrative cost of changing the benefits, taxes, and creating a new state unemployment trust fund. Computer system changes, employer education and outreach, form changes etc are expected.

The newly created state unemployment trust fund may generate annual earnings/interest in excess of $8 million dollars. This bill proposes to earmark/limit these funds for administrative costs in the unemployment insurance and employment security programs.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None at this time.

TECHNICAL ISSUES

The State Investment Council and State Treasurer did not submit fiscal impact reports. It is unclear what the impact would be of the newly created state unemployment trust fund.

The bill does not discuss any fees associated with the investment of corps of the newly created fund.

OTHER SUBSTANTIVE ISSUES

Early discussions on the process of creating the state unemployment trust fund identified that every attempt would be made to make the process of creating the new trust fund neutral to employers; however, NMDOL did forecast that some employers may experience increased contributions.

ALTERNATIVES

Status Quo.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The expanded benefits will be eliminated due to the contingent repeal of those sections of law. Contribution rate schedule zero will be eliminated and without the revision of the triggers, Schedule 2 will be implemented. The new employer tax rate will increase to 2.7%. Expansion of magnetic media filing will not occur. Contribution payments will continue to be sent to the federal treasury and unavailable to New Mexico.

DL/mt