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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/10  
 LAST UPDATED 02/13/10    HB 144/aSCORC

SPONSOR Stewart

SHORT TITLE Unemployment Contribution Schedule    SB \_\_\_\_\_

ANALYST Peery-Galon

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	\$32,500.0-\$33,300.0	\$19,500.0 -\$20,500.0	Recurring	New Mexico's UI Trust Fund
	\$107,000.0		Nonrecurring	New Mexico's UI Trust Fund
	(\$107,000.0)		Nonrecurring	State UI Trust Fund
	(\$742.6)	(\$742.6)	Recurring	RMD Unemployment Compensation

(Parenthesis ( ) Indicate Revenue Decreases)

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

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$186.0		\$186.0	Nonrecurring	Federal Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Based on Responses Received for Original Bill and HB 253

New Mexico Municipal League  
 Workforce Solutions Department (WSD)  
 Economic Development Department (EDD)  
 General Services Department (GSD)

No Responses Received From  
 State Treasurer's Office

## SUMMARY

### Synopsis of SCORC Amendment

The Senate Corporation and Transportation Committee amendment for House Bill 144 discontinues the temporary increase of weekly benefit amount to 60 percent of the average weekly wage. The temporary increase is set to expire on June 30, 2011. The amendment would change the weekly benefit amount to 53.5 percent of the average weekly wage.

### Synopsis of Original Bill

House Bill 144 proposes the following changes to statute: 1) implementing unemployment insurance contribution schedule 1 effective July 1, 2010 through December 31, 2011, 2) eliminating the state unemployment insurance trust fund, and 3) transferring the approximately \$107 million fund balance of the state unemployment insurance trust fund to New Mexico's unemployment insurance trust fund for the payment of benefits.

## FISCAL IMPLICATIONS

WSD reported the department issued the temporary increase in the weekly benefit amount under the guidance of a formal opinion from the U.S. Department of Labor. The opinion stated the increase could only be applied to claims that were filed after the effective date. This meant the number of claimants that have benefited from the increase and the corresponding amount the increase has cost New Mexico's unemployment insurance trust fund is well below what WSD predicted in its fiscal impact report analysis submitted in the 2009 legislative session for House Bill 20. For the period of July 1, 2009 through October 31, 2009 of the 37,000 claimants receiving UI benefits, 16,000 were receiving benefits based on the temporary increase. For the same July through October period, the temporary increase resulted in an additional \$3.3 million being paid from the unemployment insurance trust fund. Total payments during this period were \$126 million, the temporary increase accounted for 2.6 percent of the total unemployment insurance payments. WSD projects at current unemployment rates, if the temporary increase stays in place until its legislative sunset date of June 30, 2011, the total cost to the unemployment insurance trust fund would be approximately \$23 to \$25 million. This estimate includes paying all current claims through the end of eligibility (grandfathering) as described in the Administrative Implication section. If the temporary increase is repealed the maximum base unemployment insurance benefit would drop from the current high of \$403 per week back to a high of \$359 per week.

GSD reported because the Risk Management Division (RMD) collects unemployment compensation charges from state agencies and uses the funds to pay the Workforce Solutions Department for unemployment compensation claims paid to ex-agency employees, the proposed amendment would reduce unemployment compensation payments by \$742.6 thousand in FY11 and reduce the amount of unemployment compensation premiums that RMD will need to collect from state agencies also by \$742.6 thousand. This amount is based on actual unemployment compensation charges of \$5,712,411 experienced in the first six months of FY10 multiplied by two to obtain a full year projection. This figure is then multiplied by 6.5 percent, which is the difference between 60 percent and 53.5 percent.

WSD reported the implementation of contribution schedule 1 will increase annual employer contributions by approximately \$21 million. These contributions will be deposited to New

Mexico’s unemployment insurance trust fund. The department estimates total annual contributions are \$120 million under schedule 0 and \$141 million under schedule 1.

New Mexico Municipal League stated that at a time of declining revenues and diminishing budgets the proposed legislation will increase the cost of unemployment tax payments for local governments that do not self fund their unemployment liability.

**SIGNIFICANT ISSUES**

WSD noted the temporary increase was passed in the 2009 legislative session to increase benefits to New Mexicans on unemployment during the downturn in the economy. Part of the impetus for this increase were the studies that show for every \$1 of unemployment insurance benefits paid, the local economy benefits by \$1.73.

The amendment would help GSD to reduce the escalating agency unemployment compensation payments, which have doubled from FY09 to FY10, and are currently approximately \$3 million per quarter. There were 6,472 ex-agency employee claimants in FY09, up from 4,639 claimants in FY08.

Employer taxes are collected by WSD and deposited in the federal treasury in the UI trust fund. New Mexico’s unemployment insurance (UI) trust fund currently has a fund balance of approximately \$231 million. WSD reported that due to a nearly 500 percent increase in unemployment insurance claims over the past 18 months, the department has experienced an unprecedented demand on the unemployment compensation fund. The trust fund is declining at a rate of approximately \$1 million a day, and benefits paid from New Mexico’s UI trust fund in FY09 totaled \$473 million. With the proposed increase in employer contributions, WSD estimates 2010 contributions to the fund will be \$99 million. It is estimated that total benefits paid from the fund will be \$365 million in 2010. WSD projects New Mexico’s UI trust fund will have a negative balance by January 2011. However, with the changes proposed in the bill New Mexico’s UI trust fund is projected to have a fund balance of \$65 million in January 2011.

WSD reported that under statute, contribution schedule 0 is legislatively implemented through December 31, 2010. However, statute will automatically increase tax rates as needed to replenish New Mexico’s UI trust fund. WSD noted without the changes in the proposed legislation, contribution schedule 6 will be implemented on January 1, 2011. Employers pay unemployment taxes on the first \$20,900 of a worker’s wages. The rates vary for businesses depending on their employment history. The following table shows WSD’s estimated changes in tax schedule amounts for contributory employers based on FY08 employer contributions.

From Schedule 0 to	Contributions	Percentage Change	2009 Est. Avg. Contribution per Employee	2009 Est. Avg. Contributions per Rated Employer
Schedule 0	93,045,824	0.00%	156.11	2,934.37
Schedule 1	113,435,920	21.91%	190.32	3,577.40
Schedule 2	138,667,417	49.03%	232.65	4,373.12
Schedule 3	220,022,327	136.47%	369.15	6,938.80
Schedule 4	247,097,904	165.57%	414.57	7,792.67
Schedule 5	274,271,462	194.77%	460.16	8,649.64
Schedule 6	315,267,449	238.83%	528.94	9,942.52

Source: Workforce Solutions Department

WSD reported that since 2005 New Mexico employers saved approximately \$167 million from the statutory change to schedule 0.

WSD reported that if the unemployment compensation fund becomes insolvent, all New Mexico contributing employers will lose Federal Unemployment Tax Act (FUTA) credits in accordance with 26 U.S.C. 3302(c). This will result in New Mexico employers facing increased federal unemployment taxes.

In 2007, the Legislature approved the creation of a state UI trust fund. WSD has diverted \$100 million over the last two and half years with the principle invested by the State Investment Council (SIC). Interest earned can be used to help support activities related to unemployment or employment security. Also, funds from the state UI fund are available to transfer to the federal UI trust fund if needed. WSD's FY10 operating budget included \$1.1 million from interest earned from the state UI trust fund; however, the total earnings from the fund was \$456 thousand in FY09. Currently, the fund is invested in short-term instruments earning approximately 0.2 percent. WSD's FY11 budget request included \$171 thousand from interest earned from the state UI trust fund.

EDD noted the proposed legislation will increase the contribution by employers. According to the Greater Albuquerque Chamber of Commerce, the increase would average 22 percent. EDD stated most businesses will not look favorably upon the increase.

#### **ADMINISTRATIVE IMPLICATIONS**

WSD reported the cost to the department to return the computer systems to the original calculation would be minimal in time and effort if the legislature follows the U.S. Department of Labor guidance and practice of grandfathering in the increased rate for those currently receiving claims until their claims expire. However, if the amendment is seeking to return all benefit amounts to the 2009 level, including those currently on the temporary increase, WSD does not have that capability and would need to substantially modify its systems. Additionally, reducing a benefit amount to a claimant already receiving benefits may run afoul of federal law and negate New Mexico's ability to be eligible for the numerous federally funded unemployment benefit extension currently in place as well as the ability to cover the system changes from the federal unemployment insurance grant.

WSD stated the proposed legislation will require the department to reprogram its unemployment insurance tax system to implement contribution schedule 1, at a cost of approximately \$96 thousand. Additionally, the department will be required to print and distribute revised wage and contribution reports to all contributing employers in the state at an approximate cost of \$90 thousand. WSD reported it should be able to cover these costs with federal funds.

#### **RELATIONSHIP**

House Bill 144 has a relationship with House Bill 253 which amends Section 51-1-4 NMSA 1978 to discontinue the temporary increase of weekly benefit amount to 60 percent of the average weekly wage. The temporary increase is set to expire on June 30, 2011. Enactment of House Bill 253 would change the weekly benefit amount to 53.5 percent of the average weekly wage.

**OTHER SUBSTANTIVE ISSUES**

The National Association of State Workforce Agencies reported that 33 states will raise employer taxes next year due to tax revenue in the last fiscal year being \$42 billion short of what is needed for unemployment aid.

National Conference of State Legislators (NCSL) reported that a number of states face critical shortfalls in their trust fund accounts or have low trust fund balances. Some trust fund accounts have been overwhelmed by the increased costs of claims and decreasing payroll tax revenue. NCSL noted states have several options to deal with trust fund insolvencies and shortfalls. The following is the list of options:

- Loans available from the federal unemployment account to the trust fund to cover benefits costs (loans from the U.S. Department of Labor had an interest rate of 4.6375 percent in 2009).
- Transfer funds from other state accounts to cover benefits.
- Raising either state payroll tax rates or the state wage base on which payroll taxes are calculated.
- Freeze or lower current benefit amounts paid to unemployed workers, restrict eligibility for benefits or expand disqualifications.

The U.S. Department of Labor collects data on weekly benefits provided by states. The table below compares New Mexico’s weekly benefits to Arizona, Colorado and Texas.

State	Weekly Benefit Amount		Minimum Wages Required for Maximum Weekly Benefit Amount	
	Minimum	Maximum	High Quarter	Base Period
Arizona	\$60	\$240	\$5,987.50	\$8,981.25
Colorado	\$25	\$395-\$435	\$8,559	\$17,117-\$45,240
New Mexico	\$65-\$97	\$326-\$386	\$8,073	
Texas	\$56	\$364	\$9,088	\$13,468

Source: U.S. Department of Labor

Colorado, New Mexico and Texas have automatic adjustments to benefit amounts that vary in method of computation. The waiting period for Arizona, Colorado, New Mexico and Texas are all one week for total and partial unemployment. Only New Mexico has dependent allowances with a maximum number of 4 dependents. The weekly allowance per dependent is \$15. Arizona and Texas have seasonal employment and benefits.

WSD reported that 91 percent of UI benefit payments are regular benefits paid in weekly benefit amount. New Mexico’s additional UI benefit payments account for 9 percent of UI benefit payments. The following table reflects the cost of New Mexico’s additional UI benefit payments from January through September 2009.

UI Additional Benefit Payments	Cost from Jan. thru Sept. 2009
Alternative Base Period	\$11,715,025
Dependant Allowance	\$27,736,274
Domestic Violence	\$334,983
Military Spouse	\$906,867
Part-time Student	\$15,725,961
Full-time Student	\$12,661,954
Total	\$69,081,064

Source: Workforce Solutions Department

WSD stated that New Mexico was awarded the American Recovery and Reinvestment Act UI modernization funding of \$39 million due to some of the additional UI benefits the state offers.

New Mexico's seasonally adjusted unemployment rate was 7.8 percent in November 2009, unchanged from October's revised rate, but up from 4.6 percent a year ago. The rate of over-the-year job growth, comparing November 2009 with November 2008, was negative 3.0 percent, representing a loss of 25,400 jobs. New Mexico's ranking among the states was twenty-second highest as all 50 states reported declining year-over-year employment.

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

WSD reported if the proposed legislation is not implemented, the department projects the unemployment compensation fund will become insolvent in January 2011. Consequently, the state will be required to obtain an advance from the U.S. Department of Labor to make unemployment compensation payments and will be required to pay interest in advance. While the principle for any loans can be paid from future tax revenues, the interest earned must be repaid in general funds. New Mexico employers would also face increased federal unemployment taxes. With regard to employers, WSD projects that if legislative action is not taken during the 2010 legislative session, the department will be required by operation of law to implement contribution schedule 6 effective January 1, 2011.

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