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FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/21

SPONSOR Roybal Caballero LAST UPDATED _____ HB 44/ec

SHORT TITLE Unemployment Compensation Restriction Changes SB _____

ANALYST Bachechi

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown, but potential significant impact on the State's Unemployment Trust Fund					Unemployment Trust Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Workforce Solutions (WSD)

Human Services Department (HSD)

SUMMARY

Synopsis of Bill

House Bill 44 eases eligibility restrictions for unemployment compensation through January 1, 2023, and in the future when a federal or state public health emergency is declared pursuant to the Public Health Emergency Response Act. Under such circumstances, the bill proposes that an individual's absence from work shall be presumed to be involuntary and for good cause and an individual shall not be denied benefits when the division finds the absence was due to exposure or diagnosis with the communicable disease that is the subject of the emergency, a need to care for a family member diagnosed with the communicable disease that is the subject of the emergency, an underlying medical condition that makes an individual susceptible to a threatening communicable disease, instructions from an employer to not report to work or an individual's usual childcare being unavailable. These benefits are not available to individuals receiving any state or federal paid sick leave or family leave.

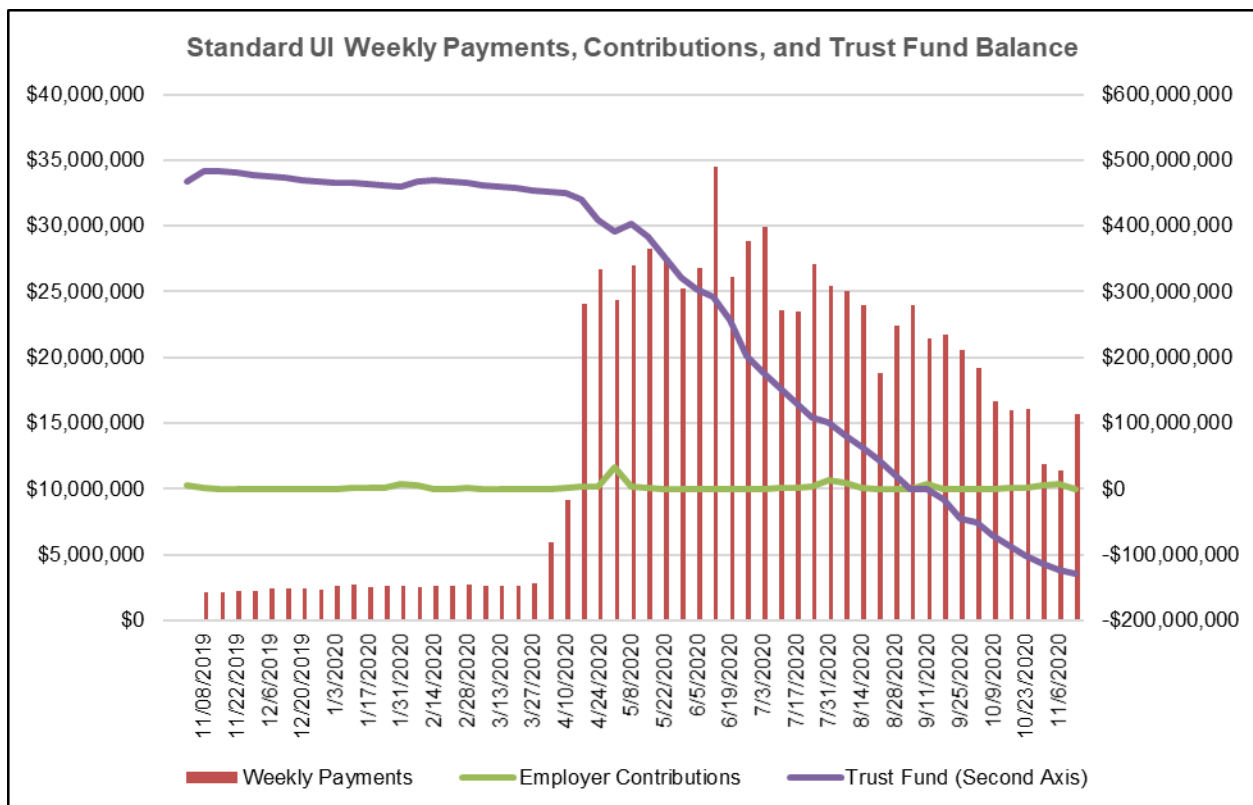
The bill contains an emergency clause, calling for the bill to take effect immediately for public peace, health and safety.

FISCAL IMPLICATIONS

The bill does not contain a provision for funding additional benefits. It is presumed that the benefits would be paid out of the state’s Unemployment Trust Account. The proposed change in the statute could extend benefits to a large number of new claimants and could potentially affect the solvency of the Unemployment Trust Fund. It might also place additional financial burdens on the employers who contribute to the trust fund to maintain a funding level sufficient to meet these potential benefits.

Regular unemployment benefits are funded by state unemployment taxes paid by employers for each of their employees. Prior to the current Covid-19 pandemic, New Mexico’s unemployment trust fund had a healthy balance of \$459.7 million, higher than the federally-recommended minimum. Since the start of the pandemic, unemployment claims have spiked to record levels. In March of 2020 there were about 9,600 people receiving unemployment, by July 2020 there were over 150,00 and there are currently, as of January 16, 2021, still over 80,000 people receiving weekly benefits. As a result of the unprecedented number of claim, New Mexico’s unemployment trust fund was depleted and reached insolvency on September 8, 2020. New Mexico, like many other states, is now borrowing from the federal government to stand up the fund until it can be replenished. As of January 22, 2021, the state has borrowed \$206 million.

The regular unemployment system was not designed to absorb the extraordinary number of claims filed during the current health crisis, and it will take years for the trust fund to be replenished through employer contributions. While there is little doubt that it is critical to provide relief to the many affected by the public health crisis, there is also the need for an alternative revenue source to fund these benefits.



SIGNIFICANT ISSUES

The bill provides that benefits shall not be denied if the absence from work is due to an emergency health declaration. However, the bill does not address all eligibility requirements under the Unemployment Compensation laws such as monetary eligibility or requirements that an individual is able and available and actively seeking work while separated from the employer. These provisions are US Department of Labor requirements and cannot be waived by state statute.

While the bill provides for unemployment benefits to those caring for family members, it does not define the family member as an immediate family member, and could be overly broad.

The Department of Workforce solutions suggests the provision that permits an individual to qualify when their usual childcare is unavailable may be too broad. WSD suggests the impact should be directly related to the health emergency whereby an individual's usual childcare is unavailable as a result of the emergency health declaration. Furthermore, the qualification that "a good faith effort to arrange alternative childcare was made" could be arbitrary and difficult to adjudicate.

WSD further suggest that the provision providing that an individual may not be eligible if it is possible for them to working remotely, should be applied to all areas of the bill and not limited to the childcare and employer restriction provisions.

ADMINISTRATIVE IMPLICATIONS

WSD's unemployment operations center would have to develop training and ensure all adjudication staff were adequately trained for administering the proposed provisions of this bill. The bill could result in delays on clearing benefit for eligible individuals.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If this bill is not enacted, the state will continue to rely on federal guidance when health emergencies are declared.

CLB/sb/rl