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FISCAL IMPACT REPORT

ORIGINAL DATE 02/05/10
 LAST UPDATED 02/13/10 **HB** 253

SPONSOR Gardner

SHORT TITLE No Unemployment Benefit Weekly Increase **SB** _____

ANALYST Peery-Galon

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	\$11,500.0-\$12,500.0	\$11,500.0-\$12,500.0	Recurring	NM UI Trust Fund
	(\$742.6)	(\$742.6)	Recurring	RMD Unemployment Compensation

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Workforce Solutions Department (WSD)
 Economic Development Department (EDD)
 General Services Department (GSD)

No Responses Received From

State Personnel Office
 New Mexico Municipal League

SUMMARY

Synopsis of Bill

House Bill 253 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 the proposed legislation would change the weekly benefit amount to 53.5 percent of the average weekly wage.

FISCAL IMPLICATIONS

WSD reported that 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 legislation will 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.

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.

WSD noted while the unemployment insurance trust fund is declining rapidly, and may be insolvent as of January 2011, if legislation like House Bill 144 is not passed, the proportion of the decline that can be traced to the temporary increase is small. By far the major contributor to the rapid decline in the unemployment insurance trust fund is the five fold increase in the amount of unemployment insurance claims paid over the last eighteen months.

GSD noted the proposed legislation will help 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.

EDD states as the state and nation continue to struggle to recover from the economic recession there are significant impacts to those claiming unemployment and to the state which is working to reduce expenditures to meet the shortfalls in revenue.

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 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. WSD estimates 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.

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.

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 legislating 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.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 253 has a relationship to House Bill 144 that 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.

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. NSCL 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.

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