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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/23/11

SPONSOR Dodge LAST UPDATED \_\_\_\_\_ HB 597

SHORT TITLE Legislative Session Employee Unemployment SB \_\_\_\_\_

ANALYST Peery-Galon

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

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$20.0		\$20.0	Nonrecurring	Federal Funding
<b>Total</b>		*	*	*	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

**\*See Fiscal Implications.**

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Workforce Solutions Department (WSD)

#### No Responses Received From

Legislative Council Services (LCS)

General Services Department (GSD)

### SUMMARY

#### Synopsis of Bill

House Bill 597 proposes new provisions to the Unemployment Compensation Law relating to a “temporary legislative session employee.” A “temporary legislative session employee” is defined as an individual employed by the New Mexico legislative branch but who has not been so employed for more than six consecutive months of the previous 12 months or nine of the previous 12 months. The proposed legislation provides the following benefit eligibility conditions to a “temporary legislative session employee”:

- A “temporary legislative session employee” is ineligible for a week if unemployment benefits that commences during a period between two regular sessions of the Legislature unless the individual establishes to the satisfaction of the secretary of Workforce Solutions Department that he or she is available for and making an active search for permanent full-time work; and
- A “temporary legislative session employee” who has been employed by the New Mexico legislative branch during two successive regular sessions of the legislature is presumed to

be unavailable for permanent new work during a period after the second successive regular session of the Legislature that the individual was employed as a “temporary legislative session employee.”

**FISCAL IMPLICATIONS**

WSD reported the department may need to contract with computer programmers to modify the unemployment insurance claims and tax system by the effective date of July 1, 2011.

The General Service Department – Risk Management Division’s assessment schedule for unemployment insurance for legislative agencies shows an increase of \$256 thousand in FY12.

**General Service Department – Risk Management Division’s  
Assessment Schedule for Unemployment Insurance for Legislative Agencies**

	FY11	FY12	Difference
NM Legislative Council	27,081	71,534	44,453
Legislative Finance Committee	1,745	1,660	(85)
Senate Intern	4,590	145,245	140,655
NM House Internim (House Chief Clerk)	3,366	100	(3,266)
Legislative Education Study Committee	551	100	(451)
Legislative Building Services	0	74,392	74,392
Legislative Session (1)	0	100	100
Senate Session (1)	0	100	100
House Session (1)	0	100	100
<b>TOTALS</b>	<b>37,333</b>	<b>293,331</b>	<b>255,998</b>

Source: General Services Department

LFC analyst notes while permanent legislative staff levels have remained stable over the past few years, unemployment insurance costs are significantly increasing for legislative agencies.

**SIGNIFICANT ISSUES**

Section 3304(a)(6)(A) of the Federal Unemployment Tax Act (FUTA) contains an “equal treatment” provision that requires, as a condition for certification of the state’s unemployment compensation law, that compensation be “payable on the basis of service of which Section 3309(a)(1) applies, in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service” subject to the state law. Section 3309(a)(1) of FUTA applies to services performed for state and local governments, certain nonprofit organizations and federally recognized Indian tribes. This “equal treatment” requirement means all qualifying, benefit formula, eligibility and disqualification provisions applicable to other services must apply equally to services performed for state and local governments, Indian tribes and nonprofit organizations, including services performed for educational institutions. Given the proposed legislation is limited to governmental entities and public employees, it violates the “equal treatment” provisions of 3004(a)(10).

**OTHER SUBSTANTIVE ISSUES**

Section 51-1-5 (H) NMSA 1978 defines a “seasonal ski employee” as an employee who has not worked for a ski area operator for more than six consecutive months of the previous 12 months or nine of the previous 12 months. The following unemployment insurance benefit eligibility conditions apply to a “seasonal ski employee”:

- A “seasonal ski employee” employed by a ski area operator on a regular seasonal basis is ineligible for a week of unemployment benefits that commences during a period between two successive ski seasons unless the individual establishes to the satisfaction of the secretary of the Workforce Solutions Department that he or she is available for and is making an active search permanent full-time work; and
- A “seasonal ski employee” who has been employed by a ski area operator during two successive ski seasons is presumed to be unavailable for permanent new work during a period after the second successive ski season that the individual was employed as a seasonal ski employee.

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