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

SPONSOR Stewart **DATE TYPED** 2/8/2005 **HB** 9/aHFl #1/aSFl #1

SHORT TITLE Amend Unemployment Compensation Law **SB**

ANALYST Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
		$363.8 See Narrative	$363.8 See Narrative	Recurring	Reed Act Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	($54,000.0) See Narrative	($54,000.0) See Narrative		UI Trust Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Department of Labor

SUMMARY

Synopsis of SFl #1 Amendment

Senate Floor Amendment # 1 provides for verification from the former employer that the individual left the employment voluntarily.

Synopsis of HFl #1 Amendment

House Floor Amendment # 1 acknowledges that the employer's tax rate shall be the corresponding rate in schedule 0 in the table provided in paragraph 4 for calendar year 2005. The amendment inserts language specifying the termination conditions of the new provisions relating to schedule 0. The new language corresponds to the language already provided in the bill pertaining to the additional benefits to the unemployed.

Synopsis of Original Bill

House Bill 9 provides for the following amendments to the unemployment compensation law. These same amendments were in effect in calendar year 2004 but were terminated December 2004 because of the unemployment rate trigger. A sunset clause was included to terminate these revisions after four years or sooner if the trust fund balance dropped below a threshold of 3.75 percent of total payrolls. Based on the latest available data, trust fund balances have fallen to just over 3.5 percent. However, the Unemployment Trust Fund balance remains healthy at approximately $570 million.

1. **Implement the extended benefits trigger:**

   Eight states have amended their laws to adopt the optional total unemployment rate (TUR) trigger. This proposal would add an additional 13 weeks of benefits to claimants that exhaust their regular benefit entitlement. This program triggers "on" during high unemployment periods, for which a calculation is provided, and is allowed under the Federal Unemployment Tax Act. It has also been authorized by Congress under the Extended Unemployment Compensation Act. States may elect to add the federal requirements to their state Unemployment Compensation (UC) law. The Federal government pays fifty percent of the benefit costs from reserves in the federal Extended Unemployment Compensation Account and the other fifty percent would be paid from New Mexico's trust fund. These benefits are not charged to New Mexico employers that are covered under the state UC law; however, reimbursable employers, such as state and local government entities and non-profit organizations are charged. The current tax structure in the New Mexico UC law anticipates these benefit costs, so there would be no change to tax rates to cover these benefit outlays.

   Estimated Cost to the Trust Fund for a 13-week Period: $6 million

2. **Increase claimants' benefit award from 50% of high quarter wage to 52.5%:**

   Currently, a claimant receives 50% of the average weekly wage paid to the individual during that quarter when wages were the highest, up to the statutory maximum, which changes each year (2003's maximum is $286). This law change would increase the benefit formula to 52.5 percent of the average weekly wage paid in the high quarter, an increase of 5 percent. This would affect all claimants. The last time the benefit formula was adjusted was 1967.

   Estimated First Year's Cost to the Trust Fund if at 52.5%: $9 million
   Actual expenditure through November 2004: $3.8 million

3. **Eliminate the benefit denial for claimants in a training program or attending school full-time and who continue to search for and could accept full-time work:**

   Currently, a worker is denied benefits if he/she is attending school full-time, which may prevent that person from accepting full-time work in his/her customary occupation. This amendment would remove that benefit denial if the individual can continue to demonstrate availability for and could accept full-time work, which is commonly referred to as the Able, Available and Actively Seeking Work requirement in federal and state law.

Estimated Annual Cost to the Trust Fund:	$8 million
Actual expenditure through November 2004:	$1.5 million

4. **Reduce new employer rate to 2.0%:**

   Currently new employers are required to pay a tax of 2.7 percent of the total taxable wages for at least four years, after which the employer's experience history determines the tax rate. Many new employers are eligible for a lower tax rate immediately if there has been a transfer of favorable experience history from a previous owner.

   Estimated Annual Cost to the Trust Fund: $15 million

   DOL is verifying that current actual costs but anticipates that the cost is in line with projection.

5. **Alternative base periods (ABP):**

   In New Mexico the base period consists of the first four of the last five completed calendar quarters. Twelve states currently offer claimants the option of having eligibility determined under an alternative base period (ABP) when they are not eligible under the regular period.

   Most alternative base periods use wages earned in more recent quarters as the basis for determining monetary eligibility. The types of ABP's include the last four completed quarters, the last three completed quarters plus weeks in filing quarter, or the last 52 weeks. In all states except one, claimants can only use the ABP option if they are ineligible under the regular base period. Massachusetts is the only state that allows a second benefit determination among claimants already eligible under the regular base period.

   Benefit costs are estimated to rise from 4.2 percent to 5.8 percent if the ABP was defined as using the last four completed quarters (in New Mexico this would amount to an additional $4,116.0 to $5,684.0 a year in benefit costs.) If an ABP was defined as using the last 52 weeks before filing the claim, benefit costs would rise anywhere from 6 percent to 8.3 percent (in New Mexico this would amount to an additional $5,880.0 to $8,134.0 a year in benefit costs.)

Increase in Benefit Costs:	$5.1 million
Actual expenditure through November 2004:	$844 thousand

6. **Dependents' allowances:**

State laws that provide dependents' allowances vary in definition. There are twelve states with dependents' allowances that include children, usually under the age of 18. Stepchildren and adopted children are included in most states. Some state provisions include other dependents. New Mexico currently does not have a dependents' allowance provision.

The amount allowed per dependent is a fixed sum in most states, and ranges from one dollar to ninety-six dollars per dependent. In almost all states, only one parent may draw dependents' allowances if both are receiving benefits simultaneously.

If the amount per dependent is fixed in New Mexico at $15 with that amount not to exceed fifty percent of the individual's weekly benefit rate, benefits would increase by about $250.0 per month, which would total about $3,140.0 in additional benefits per year.

Estimated Annual Cost to the Trust Fund:	$3.1 million
Actual expenditure through November 2004:	$2.9 million

DOL expects the yearly cost to exceed the estimate.

7. **Domestic violence:**

Seventeen states have laws that describe domestic violence as "good cause" for leaving work, preserving eligibility for UI benefits. New Mexico currently does not recognize domestic violence as "good cause" connected with the employment for leaving a job. Three states provide UI eligibility to domestic violence survivors, due to court rulings. Seven other states provide UI to workers who have been separated from their jobs for personal reasons, including domestic violence. Claimants in these states must provide one of the following: a restraining order, police record, legal documentation, medical documentation, or a sworn statement.

Estimated Annual Cost to the Trust Fund:	$250,000 -- $1 million
Actual expenditure through November 2004:	$98 thousand

8. **Implementing schedule zero with a solvency trigger:**

This provision would introduce a new tax rate and schedule. Currently, the tax rates for Schedule 1 are as follows:
0.05%
0.10%
0.20%
0.40%
0.60%
0.80%
1.10%
1.40%
1.70%

2.00%
2.40%
3.30%
4.20%
5.00%
5.40%

If the new Schedule 0 was implemented the following tax rates would apply to employers:
0.03%
0.06%
0.10%
0.30%
0.50%
0.70%
1.00%
1.30%
1.60%
1.90%
2.40%
3.30%
4.20%
5.00%
5.40%

Estimated Annual Cost to the Trust Fund: $8 million

DOL is verifying that current actual costs but anticipates that the cost is in line with projection.

9. Benefits to workers seeking part-time work:

Most states require claimants to be actively seeking full time work to receive unemployment benefits, but about 16 states pay claimants that are actively seeking only part-time employment. Currently claimants in New Mexico must look for full-time work to receive unemployment benefits.

Estimated Annual Cost to the Trust Fund: $2 million
The actual expenditure is reflected in item # 3 above.

10. Transfer favorable employment history from other states:

Currently all new employers are required to pay a tax of 2.7 percent of the total taxable wages for at least four years, after which the employer's experience history determines the tax rate. This law change would allow employers that are doing business in another state to transfer their experience history from that state if they want to do business in New Mexico, possibly resulting in a lower rate. No such transfer is currently allowed.

Estimated Annual Cost to the Trust Fund: $20,000 - $100,000

No expense for calendar year 2004.

Significant Issues

The provision allowing employers from other states to transfer history to New Mexico is meant to be a permanent change and not subject to the sunset clause provisions. Except for this provision, all other changes are subject to a "delayed revision" provision which states that those provisions will end in early 2008 or the trigger of tax schedule 2 or higher.

FISCAL IMPLICATIONS

The bill does not contain an appropriation. The department in the previous bill anticipated $1,455.4 ($363.8 annually) in recurring costs for FY04 through FY07 from Reed Act funds. These costs have been addressed within the previous bill. These costs will sunset at the end of FY07. All appropriations are drawn from the federal Reed Act distribution fund provided to New Mexico.

ADMINISTRATIVE IMPLICATIONS

The DOL indicates that there are administrative expenses associated with the administration of the additional provisions which were addressed in the previous bill.

BD/njw:yr