

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

01/30/12
ORIGINAL DATE 02/09/12
LAST UPDATED 02/14/12 **HB** 106/aHLC/aSCORC

SPONSOR Taylor

SHORT TITLE Airline Employee Overtime Pay **SB** _____

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	NFI	NFI	NFI	NFI	NFI

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

State Personnel Office (SPO)

Department of Workforce Solutions (DWS)

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment to House Bill 106 strikes the HLC amendment and replaces it with language that requires that the time period which may be the subject of voluntary trading agreements among employees be for shifts (rather than hours) and that those agreements be in writing, signed by the employees involved, and include a requirement that an employee who trades a scheduled work shift is responsible for working the new shift as part of the employee's regular work schedule.

Synopsis of HLC Amendment

The House Labor and Human Resources Committee amendment to House Bill 106 requires that the time period which may be the subject of voluntary trading agreements among employees be for shifts (rather than hours), and that those agreements be in writing, signed by the employees involved, and include a requirement that the employee is responsible for working the new shift as part of the employee's regular work schedule. Additionally, an employee shall not enter into such a trade more than thirty times in a three month period.

Synopsis of Original Bill

House Bill 106 would exempt airlines from state law requirements of paying employees one and one-half times an employee's hourly rate of pay for each hour worked over forty hours in any week of seven days if the airline has not required overtime hours and employees have voluntarily traded work hours.

HB 106 also corrects a mis-reference in the provision governing overtime provisions for employees engaged in the ginning of cotton for market.

The effective date of this bill is July 1, 2012.

SIGNIFICANT ISSUES

The DWS reports that the new exemption contained in HB 106 which applies to an employer subject to Subchapter II of the federal Railway Labor Act includes within its scope airlines. Thus, the bill exempts airlines from paying their employees overtime even when those employees work more than forty hours in any week of seven days if the airline has not required an employee to work more than forty hours during that week and the overtime hours are the result of an voluntary agreement among employees to trade scheduled work hours. According to DWS, this exemption mirrors that for air carriers set out in the Fair Labor Standards Act. *See* 29 U.S.C. § 213(b).

The SPO suggests this new exemption would apply to aircraft pilots or staff who are employed by state or local governments, since their employers are government agencies rather than airlines or air carriers (and thus likely not subject to Subchapter II of the federal Railway Labor Act, the prerequisite set out in HB 106).

MD/lj:svb:amm