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SENATE BILL

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY

Bill B. O'Neill

AN ACT

RELATING TO UNEMPLOYMENT COMPENSATION; PROVIDING CERTAIN  
EXTENDED UNEMPLOYMENT BENEFITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 51-1-48 NMSA 1978 (being Laws 1971,  
Chapter 209, Section 7, as amended) is amended to read:

"51-1-48. DEFINITIONS--EXTENDED BENEFITS.--

A. As used in this section, unless the context  
clearly requires otherwise, "extended benefit period" means a  
period that:

(1) begins with the third week after a week  
for which there is a state "on indicator";

(2) ends with either of the following weeks,  
whichever occurs later:

(a) the third week after the first week

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1 for which there is a state "off indicator"; or

2 (b) the thirteenth consecutive week of  
3 such period; and

4 (3) does not begin by reason of a state "on  
5 indicator" before the fourteenth week following the end of a  
6 prior extended benefit period that was in effect with respect  
7 to this state.

8 B. There is a state "on indicator" for this state  
9 for a week if the rate of insured unemployment not seasonally  
10 adjusted under this section for the period consisting of that  
11 week and the immediately preceding twelve weeks:

12 (1) equaled or exceeded one hundred twenty  
13 percent of the average of the rates for the corresponding  
14 thirteen-week period ending in each of the preceding two  
15 calendar years; and

16 (2) equaled or exceeded five percent; or

17 (3) equaled or exceeded six percent,  
18 regardless of the rate of insured unemployment in the two  
19 previous years; provided that the operation of this paragraph  
20 shall not activate the state "on indicator" any time after four  
21 weeks prior to the last week for which one hundred percent  
22 federal sharing funding is available under Section 2005(a) of  
23 Public Law No. 111-5, without regard to the extension of  
24 federal sharing for certain claims as provided under Section  
25 2005(c) of that law; or

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1 (4) with respect to benefits for weeks of  
2 unemployment beginning [~~after July 1, 2003 and ending four~~  
3 ~~weeks prior to the last week for which one hundred percent~~  
4 ~~federal sharing funding is available under Section 2005(a) of~~  
5 ~~Public Law No. 111-5, without regard to the extension of~~  
6 ~~federal sharing for certain claims as provided under Section~~  
7 ~~2005(e) of that law] on or after the effective date of this  
8 2021 act:~~

9 (a) the average rate of total  
10 unemployment, seasonally adjusted, as determined by the United  
11 States secretary of labor, for the period consisting of the  
12 most recent three months for which data for all states are  
13 published before the close of such week equals or exceeds six  
14 and one-half percent; and

15 (b) the average rate of total  
16 unemployment in this state, seasonally adjusted, as determined  
17 by the United States secretary of labor, for the three-month  
18 period referred to in Subparagraph (a) of this paragraph,  
19 equals or exceeds one hundred ten percent of such average [~~1~~]  
20 for either or both of the corresponding three-month periods  
21 ending in the two preceding calendar years [~~or 2) for weeks of~~  
22 ~~unemployment beginning after December 17, 2010 and ending~~  
23 ~~before December 31, 2011, for any or all of the corresponding~~  
24 ~~three-month periods ending in the three preceding calendar~~  
25 ~~years].~~

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1           C. There is a state "off indicator" for this state  
2 for a week only if, for the period consisting of that week and  
3 the immediately preceding twelve weeks, none of the options  
4 specified in Subsection B of this section result in a state "on  
5 indicator".

6           D. Except as provided in Subsection E of this  
7 section, the total extended benefit amount payable to an  
8 eligible individual with respect to the applicable benefit year  
9 shall be the least of the following amounts:

10                   (1) fifty percent of the total amount of  
11 regular benefits that were payable to the individual pursuant  
12 to this section in the individual's applicable benefit year;

13                   (2) thirteen times the individual's average  
14 weekly benefit amount that was payable to the individual  
15 pursuant to this section for a week of total unemployment in  
16 the applicable benefit year; or

17                   (3) thirty-nine times the individual's average  
18 weekly benefit amount that was payable to the individual  
19 pursuant to this section for a week of total unemployment in  
20 the applicable benefit year, reduced by the total amount of  
21 regular benefits that were paid, or deemed paid, to the  
22 individual pursuant to this section with respect to the benefit  
23 year; provided that the amount determined pursuant to this  
24 paragraph shall be reduced by the total amount of additional  
25 benefits paid, or deemed paid, to the individual under the

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1 provisions of this section for weeks of unemployment in the  
2 individual's benefit year that began prior to the effective  
3 date of the extended benefit period that is current in the week  
4 for which the individual first claims extended benefits; and  
5 provided further, if the benefit year of the individual ends  
6 within an extended benefit period, the remaining balance of the  
7 extended benefits that the individual would, but for this  
8 paragraph, be entitled to receive in that extended benefit  
9 period, with respect to weeks of unemployment beginning after  
10 the end of the benefit year, shall be reduced, but not below  
11 zero, by the product of the number of weeks for which the  
12 individual received any amounts as readjustment allowances  
13 within that benefit year multiplied by the individual weekly  
14 benefit amount for extended benefits.

15 E. Effective with respect to weeks beginning in a  
16 high-unemployment period, the total extended benefit amount  
17 payable to an eligible individual with respect to the  
18 applicable benefit year shall be the least of the following  
19 amounts:

20 (1) eighty percent of the total amount of  
21 regular benefits that were payable to the individual pursuant  
22 to this section in the individual's applicable benefit year;

23 (2) twenty times the individual's average  
24 weekly benefit amount that was payable to the individual  
25 pursuant to this section for a week of total unemployment in

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1 the applicable benefit year; or

2 (3) forty-six times the individual's average  
3 weekly benefit amount that was payable to the individual  
4 pursuant to this section for a week of total unemployment in  
5 the applicable benefit year reduced by the total amount of  
6 regular benefits that were paid, or deemed paid, to the  
7 individual pursuant to this section with respect to the benefit  
8 year; provided that the amount determined pursuant to this  
9 paragraph shall be reduced by the total amount of additional  
10 benefits paid, or deemed paid, to the individual under the  
11 provisions of this section for weeks of unemployment in the  
12 individual's benefit year that began prior to the effective  
13 date of the extended benefit period that is current in the week  
14 for which the individual first claims extended benefits; and  
15 provided further, if the benefit year of an individual ends  
16 within an extended benefit period, the remaining balance of the  
17 extended benefits that the individual would, but for this  
18 paragraph, be entitled to receive in that extended benefit  
19 period, with respect to weeks of unemployment beginning after  
20 the end of the benefit year, shall be reduced, but not below  
21 zero, by the product of the number of weeks for which the  
22 individual received any amounts as readjustment allowances  
23 within that benefit year multiplied by the individual weekly  
24 benefit amount for extended benefits.

25 F. For purposes of Subsection E of this section,

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1 "high-unemployment period" means a period during which an  
2 extended benefit period would be in effect if Paragraph (4) of  
3 Subsection B of this section were applied by substituting  
4 "eight percent" for "six and one-half percent".

5 G. A benefit paid to an individual pursuant to this  
6 section shall be charged pursuant to Subsection A of Section  
7 51-1-11 NMSA 1978.

8 H. As used in this section:

9 (1) "rate of insured unemployment" means the  
10 percentage derived by dividing:

11 (a) the average weekly number of  
12 individuals filing claims for regular benefits in this state  
13 for weeks of unemployment with respect to the most recent  
14 thirteen-consecutive-week period, as determined by the  
15 secretary on the basis of the secretary's reports to the United  
16 States secretary of labor; by

17 (b) the average monthly employment  
18 covered under the Unemployment Compensation Law for the first  
19 four of the most recent six completed calendar quarters ending  
20 before the end of such thirteen-week period;

21 (2) "regular benefits" means benefits payable  
22 to an individual under the Unemployment Compensation Law or  
23 under any other state law, including benefits payable to  
24 federal civilian employees and to ex-servicemen pursuant to  
25 5 U.S.C., Chapter 85, other than extended benefits;

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1 (3) "extended benefits" means benefits,  
2 including benefits payable to federal civilian employees and to  
3 ex-servicemen pursuant to 5 U.S.C., Chapter 85, payable to an  
4 individual under the provisions of this section for weeks of  
5 unemployment in the individual's eligibility period;

6 (4) "eligibility period" of an individual  
7 means the period consisting of the weeks in the individual's  
8 benefit year that begin in an extended benefit period and, if  
9 the individual's benefit year ends within such extended benefit  
10 period, any weeks thereafter that begin in such period;

11 (5) "exhaustee" means an individual who, with  
12 respect to any week of unemployment in the individual's  
13 eligibility period:

14 (a) has received, prior to such week,  
15 all of the regular benefits that were available to the  
16 individual under the Unemployment Compensation Law or any other  
17 state law, including dependent's allowance and benefits payable  
18 to federal civilian employees and ex-servicemen under 5 U.S.C.,  
19 Chapter 85, in the individual's current benefit year that  
20 includes such week; provided that, for the purposes of this  
21 subparagraph, an individual shall be deemed to have received  
22 all of the regular benefits that were available to the  
23 individual, although, as a result of a pending appeal with  
24 respect to wages that were not considered in the original  
25 monetary determination in the individual's benefit year, the

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1 individual may subsequently be determined to be entitled to  
2 added regular benefits; or

3 (b) if the individual's benefit year has  
4 expired prior to such week, has no, or insufficient, wages on  
5 the basis of which the individual could establish a new benefit  
6 year that would include such week; and

7 (c) has no right to unemployment  
8 benefits or allowances, as the case may be, under the Railroad  
9 Unemployment Insurance Act, the Trade Expansion Act of 1962,  
10 the Trade Act of 1974, the Automotive Products Trade Act of  
11 1965 and such other federal laws as are specified in  
12 regulations issued by the United States secretary of labor; and  
13 has not received and is not seeking unemployment benefits under  
14 the unemployment compensation law of Canada, but if the  
15 individual is seeking such benefits and the appropriate agency  
16 finally determines that the individual is not entitled to  
17 benefits under such law, the individual is considered an  
18 exhaustee; and

19 (6) "state law" means the unemployment  
20 insurance law of any state, approved by the United States  
21 secretary of labor under Section 3304 of the Internal Revenue  
22 Code of 1986."