

LFC Requester:

Jorgensen, Conner

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) and email to billanalysis@dfa.nm.gov*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*Date Prepared 01.15.2025

Check all that apply:

Bill Number: HB0067Original Correction Amendment Substitute Sponsor: Garratt, JoyReasonable
assurance for Higher

Short Title:

Agency Name

and Code

Dept. of Workforce Solutions-631

Number:

Person Writing

Sarita NairPhone: 505-263-3187Email Evan.Sanchez@dws.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	50				NR	GF

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

House Bill 67 amends a provision of the Unemployment Compensation Law which excludes employees of educational institutions (including public schools and public and private colleges and universities) from receiving unemployment insurance (UI) benefits when those employees are between academic terms. Currently, the law provides that such employees are not eligible for UI benefits if they have a “reasonable assurance of rehire” in the academic term immediately succeeding the one in which they were employed. The existing statute also provides that reasonable assurance of rehire can be established if an individual has a historical pattern of reemployment in the same capacity as in the preceding term, a reasonable anticipation that such employment will be available and a reasonable notice or understanding that the individual will be eligible for and offered employment in a similar capacity. HB-67 changes this eligibility test by requiring, as a prerequisite to finding that an employee has a reasonable assurance of rehire, that all of the following six criteria are met:

- (a) the educational institution has made an offer of employment in the following academic year or term that is written, oral or implied;
- (b) the offer of employment in the following academic year or term was made by an individual with actual authority to offer employment;
- (c) the employment offered in the following academic year or term is in the same employment position as the previous employment;
- (d) the consideration for the employment offered is not less than ninety percent of the amount that the non-tenure-track faculty member employee earned in the then current academic year or term;
- (e) the offer of employment in the following academic year or term is not contingent upon a factor or factors that are within the educational institution's control, including course programming, decisions on how to allocate available funding, final course offerings, program changes and facility availability; and
- (f) based on a totality of the circumstances, it is highly probable that there is a job available for the employee in the following academic year or term.

Under HB 67, if a job offer contains a contingency, primary weight should be given to the contingent nature of the offer of employment, and the totality of the circumstances must show that it is highly probable that “the contingencies of that employment will be satisfied.”

FISCAL IMPLICATIONS

To the extent that these changes result with additional claimants receiving unemployment benefits, those employers, and their unemployment insurance accounts will bear the fiscal impact.

SIGNIFICANT ISSUES

Under NMSA 51-1-4, employees of academic institutions may be ineligible for UI benefits during the period between two successive academic years or terms if the individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services in such a capacity for any educational institution in the second

of such academic years or terms.

The proposed language in HB-67 removes the less well-defined factors of the statute and replaces them with six definite criteria to be used in determining whether “reasonable assurance” is present. The proposed definition would require an offer of employment, made by an individual with authority to make such an offer, for the following academic year or term, in the same employment position as held the term prior, for no less than 90% of the wages of the prior term. It further requires that the offer of employment not be contingent on factors with the educational institution’s control, such as course programming funding, course offerings, program changes or facility availability. Finally, reasonable assurance is to be determined based on a totality of circumstances that it is highly probable that there is a job available for the employee in the following academic year or term and that the primary weight for determining whether reasonable assurance is present should be given to the contingent nature of the offer and that it is highly probably that the contingencies will be satisfied.

The proposed language creates a clear definition of “reasonable assurance” which the current statute does not contain. The provisions of reasonable assurance in the new legislation are consistent with the federal requirements that govern unemployment compensation benefits under 3304(a)(6)(A), but clarify further, that the decision shall be based on the totality of the circumstances including the listed factors, that an individual does in fact have reasonable assurance of employment in the following academic term.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

The proposed changes will require division-wide training for adjudicators, customer service representatives, and the administrative law judges to inform the staff of the changes in determining whether reasonable assurance is present and will require a modification to the UFAX system to update the rationales used when issuing determinations or decisions. We would also anticipate holding trainings for educational institutions impacted by the bill. The fiscal impact of these requirements is estimated to be \$50,000.

OTHER SUBSTANTIVE ISSUES

The Department of Labor issues guidance on “reasonable assurance” from time to time. There exists a possibility that the USDOL could issue conflicting guidance that supersedes this bill’s language. If that occurred, WSD would work with the legislature to determine the appropriate next steps.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Department will continue to use its existing internal test, which is nearly identical to the

language proposed in this bill.

AMENDMENTS

N/A.