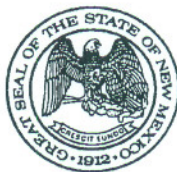


received 4/19/10

BILL RICHARDSON
GOVERNOR



KEN ORTIZ
SECRETARY

NEIL MEONI
DEPUTY SECRETARY

STATE OF NEW MEXICO
DEPARTMENT OF WORKFORCE SOLUTIONS
401 Broadway, NE
PO Box 1928
Albuquerque, NM 87103
(505) 841-8405 / FAX (505) 841-8491

TERESA CASADOS
DEPUTY SECRETARY

April 16, 2010

Ms. Cheryl Atkinson
Administrator
Office of Workforce Security
200 Constitution Avenue NW
Room S-4231
Washington, DC 20210

Re: Application for the Two-Thirds Modernization Incentive Payment to New Mexico

Dear Ms. Atkinson:

Pursuant to the Assistance for Unemployed Workers and Struggling Families Act, Title II of Division B of Public Law No. 111-5, enacted February 17, 2009, and pursuant to Unemployment Insurance Program Letter No. 14-09, I am submitting an application on behalf of the State of New Mexico for distribution of the two-thirds portion of the Unemployment Insurance Modernization Incentive Payment pursuant to the "part-time work" and "dependant allowance" provisions.

New Mexico's Unemployment Compensation Law, NMSA 1978, § 51-1-5(A)(3) and § 51-1-42(I) permit an individual to seek, apply for or accept part-time work of at least 20 hours per week to be eligible to receive unemployment compensation benefits. Sections 51-1-4(C) and (D) provide a dependant allowance of \$25 per week per eligible dependant, up to a maximum of four dependants.

I hereby certify that the statutory provisions cited above are currently in effect and have been in effect since January 1, 2005, as permanent law and are not subject to discontinuation, suspension, or nullification under any circumstances other than repeal by the legislature and that the application is submitted in good faith.

Enclosed with this application is a plan identifying how New Mexico intends to use the two-thirds incentive payment to improve and strengthen its unemployment compensation program.

Please contact me if you need additional information or documentation to approve this application for distribution of the two-thirds modernization incentive payment.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Ortiz", written in a cursive style.

Kenneth Ortiz
Secretary

Enclosure

UI Tax System Modernization Project

Initiative	Cost
<p>Replace the legacy UI Tax system with a web/server based system which will meet federal performance and reporting requirements.</p>	<p>Framework Customization, Hardware, Software Licenses, Project Management Services, IV&V Services</p> <p style="text-align: right;">\$16,000,000</p> <p>TOTAL</p> <p>Including gross receipts tax</p> <p style="text-align: right;">\$16,000,000</p>

Justification & Benefit

The Agency has completed a competitive procurement and begun the implementation of a new UI Tax system as part of an overall modernization of the Agency's UI system. This new system will replace current UI Tax systems that are over twenty years old and suffer from many of the problems found in older, batch oriented, flat file, video terminal applications.

Currently the Agency UI Tax Section maintains accounts, processes quarterly reports, receives contributions and makes refunds, deposits and draws down funds, carries out various other transactions, and reports on approximately 46,000 active employer accounts. As part of the UI Tax system, the Agency currently processes and maintains historical quarterly wage record information for millions of workers provided by employers.

A proven UI Tax framework has been selected, and will be implemented in two phases for NMDWS by a proven integration contractor. Existing federal Reed Act funding (\$9M) has been appropriated for the initial phase of the UI Tax system implementation project. ARRA funding (\$16M) will be required to complete the project. The 2010 New Mexico Legislature appropriated approximately \$25M "[f]or enhancements to the unemployment insurance program and to fund phased implementation of the unemployment insurance tax system...", contingent upon receipt of ARRA funding.

The Agency is moving toward improved employer services through automation and online resources while increasing UI staff efficiencies and improving process efficiency. By implementing a modern UI Tax system replacement, the Agency will also enable efficient, accurate, timely, and cost-effective federal and state program administration.

UI Claims Integration	
Initiative	Cost
Integrate the existing UI Claims system with the new UI Tax system.	Professional Services, Hardware, Software Licenses \$5,500,000
	TOTAL Including gross receipts tax \$5,500,000
Justification & Benefit	
<p>This project component will integrate the services of the new UI Tax solution with the data and processes of the legacy UI Claims system. The integration effort will provide a standard interface for use by Employers and Employees and allow for data sharing to cross-validate information presented to both users. The agency anticipates using a competitive procurement process or existing state price agreements to procure the hardware and services for this initiative.</p> <p>The following requirements identify the interrelationship between the UI Claims and UI Tax systems.</p> <p>UI Tax system must provide employer wage data to the UI Claims system to be used in the determination of eligibility for UI benefit payments.</p> <p>UI Claims must provide employers with employee claim information that has the potential to affect claimant eligibility and employer wage, liability, and charge data.</p> <p>UI Claims system must process interstate and combined wage claims from other states.</p> <p>NMDWS staff must adjudicate UI benefit claims, adjudicate UI benefit overpayments, and conduct UI benefit appeal hearings.</p> <p>As the new UI Tax system is implemented, there will be interfaces required to the UI Claims system to achieve full integration. Also new infrastructure components implemented for UI Tax, can be reused by UI Claims to replace infrastructure components that have been problematic, such as Workflow and Reporting. The integration will streamline the tax payment and appeals processes for employers through a self-service module, and enable NMDWS staff to obtain UI-related data more efficiently.</p>	

Toll Free 800 Service (2 years)

Initiative	Cost
Provide toll-free phone services for constituents dialing the New Mexico Department of Workforce Solutions (NMDWS).	Telecommunications \$2,000,000
	TOTAL Including gross receipts tax \$2,000,000

Justification & Benefit

New Mexico is one of a few states that does not provide a toll free phone service for constituents accessing the department's unemployment insurance program. In an effort to eliminate long distance phone charges being paid by UI claimants, the department is establishing a special toll-free telephone number for use by unemployed workers in filing a new claim or reopening an established claim. The toll free solution will be in place in FY10 and FY11. During this same time period, the department will be working to implement a long-term solution, Voice Over Internet Protocol (VOIP) in all of its area offices which will allow the same toll-free access by customers without the 800-cost to the department. Initial costs for implementation are funded through the ARRA One-third UI modernization incentive funding. This request is to provide funding to support the monthly recurring costs associated with the toll-free number for a two-year period. The agency anticipates using existing state price agreements to procure the services.

Additional services provided as part of this request include:

1. Automated self-service functions allowing an unemployed worker to:
 - o Reset their access PIN
 - o Obtain an update on the status of their claim
 - o Perform their weekly certifications
2. Expand the number of phone lines available for unemployment services from 180 to 999.
3. Implementation of a voice-messaging service in order to deliver important information regarding the claimant's benefits. Messages will be able to be customized and vary in content alerting claimants to receipt of weekly certification, new system capabilities, extension qualifications, and other Unemployment Insurance claim information.

NMDWS realizes that these expenses are potentially recurring. To address this issue, NMDWS will structure the purchase of the

potentially recurring services in such a way that the expenses can be eliminated when ARRA expires or will pay for these from other available budget sources. The pressure on the call center that causes the call volume and thus toll charges to be potentially high is largely caused by the additional unemployment benefits provided pursuant to state and federal law due to high unemployment rates and the increased levels of unemployment caused by the economic downturn. After ARRA and the economic recovery, these pressures should subside and the toll charge cost should drop. In addition, the NMDWS plan focuses on claimant self-service and automated solutions which should also reduce the need for toll charges and call center personal. Into the future NMDWS believes this will reduce the need for some staff that can be managed through attrition. In addition, there will be savings from the elimination of toll charges paid by NMDWS from its filed office to the central office that will help offset these costs into the future.

Implement Voice Over Internet Protocol (VOIP) in Area Offices

Initiative	Cost
Implement Voice Over Internet Protocol to NMDWS area offices statewide.	Hardware \$1,000,000
	Installation Services \$ 500,000
	TOTAL \$1,500,000
	Including gross receipts tax
Justification & Benefit	
<p>Voice over Internet Protocol (VoIP) is a general term for new technology that provides the ability to deliver voice communications over an existing IP network such as the Internet.</p> <p>Implementing Voice over IP in area offices will significantly reduce the cost of long distance phone charges being incurred for area offices to call our Albuquerque Call Center. NMDWS is currently paying for calls being made from the Workforce Connection offices related to unemployment. Implementing this technology will allow these calls to be carried on existing data circuits that our agency has in place. Estimated payback for this investment is three years. A secondary benefit would be UI claimants outside of the Albuquerque metro area being able to call a local phone number and be routed to the Albuquerque UI Call Center. The agency anticipates using a competitive procurement process or existing state price agreements to procure the hardware and services for this initiative.</p> <p>The major benefit of this initiative is the elimination of long distance phone charges being paid by UI claimants for filing initial unemployment claims or certifying for their weekly benefit payments. In addition, both claimants and staff making calls to the TIWA building in Albuquerque will not incur long distance costs that are currently being paid by the department</p>	

Appropriation to the Workforce Transitions Services Program

Initiative	Cost	
Legislative appropriation to the Workforce Transitions Services Program for operational and administrative expenses relating to UI activities.	Operational and Administrative Expenses	\$1,000,000
	TOTAL	\$1,000,000
	Including gross receipts tax	

Justification & Benefit

Due to significant budget deficits for approximately \$330 million for fiscal year (FY) 2011, the New Mexico Legislature approved, and Governor Richardson signed into law, legislation appropriating \$1 million of the Two-thirds ARRA UI modernization incentive funding to the Workforce Transitions Services Program to fund UI administrative costs. Further exemplifying the budgets problems were a gap between forecast FY11 general fund revenue and recurring FY10 appropriations of \$149 million. This gap occurred even though at \$5.25 billion, FY11 general fund spending is down \$673 million from the originally budgeted amount for FY09. The challenges in meeting this gap were great and the need to utilize the ARRA UI modernization funding for operational and administrative expenses associated with the employment security program was deemed necessary by the New Mexico Legislature and Governor.

In accordance with Unemployment Insurance Program Letter No. 14-09, Attachment I, a state may use the ARRA UI modernization incentive funding "...upon appropriation of its state legislature, to pay UC and employment service administrative costs." Without these funds, the Workforce Transitions Services Program budget would not be sufficient to administer UI activities throughout the state, resulting in reductions to staff and field offices.

The General Appropriation Act of 2010, Laws of 2010, Chapter 6 (House Bill 2), enacted by the New Mexico Legislature during its 2010 Second Special Session, includes the following appropriation language:

Section 4. Fiscal Year 2011 Appropriations.—F. Health, Hospitals & Human Services—Workforce Solutions Department: (1) Workforce transition services: The federal fund appropriation to the workforce transition services program of the workforce solutions department includes one million dollars (\$1,000,000) for operational and administrative expenses associated with the employment security program, contingent on receipt of federal Reed Act funds available through the Assistance for Unemployed Workers and Struggling Families Act, Title II of Division B of Public Law 111-5, enacted February 17, 2009, and the department providing a revised expenditure plan for approval by the New Mexico office of recovery and reinvestment and the United States department of labor.

51-1-5. Benefit eligibility conditions.

A. An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual:

- (1) has made a claim for benefits with respect to such week in accordance with such rules as the secretary may prescribe;
- (2) has registered for work at, and thereafter continued to report at, an employment office in accordance with such rules as the secretary may prescribe, except that the secretary may, by rule, waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which the secretary finds that compliance with such requirements would be oppressive or would be inconsistent with the purposes of the Unemployment Compensation Law. No such rule shall conflict with Subsection A of Section 51-1-4 NMSA 1978;
- (3) is able to work and is available for work and is actively seeking permanent full-time work or part-time work in accordance with Subsection I of Section 51-1-42 NMSA 1978 and in accordance with the terms, conditions and hours common in the occupation or business in which the individual is seeking work, except that the secretary may, by rule, waive this requirement for individuals who are on temporary layoff status from their regular employment with an assurance from their employers that the layoff shall not exceed four weeks or who have an express offer in writing of substantially full-time work that will begin within a period not exceeding four weeks;
- (4) has been unemployed for a waiting period of one week. A week shall not be counted as a week of unemployment for the purposes of this paragraph:
 - (a) unless it occurs within the benefit year that includes the week with respect to which the individual claims payment of benefits;
 - (b) if benefits have been paid with respect thereto; and
 - (c) unless the individual was eligible for benefits with respect thereto as provided in this section and Section 51-1-7 NMSA 1978, except for the requirements of this subsection and of Subsection D of Section 51-1-7 NMSA 1978;
- (5) has been paid wages in at least two quarters of the individual's base period;
- (6) has reported to an office of the division in accordance with the rules of the secretary for the purpose of an examination and review of the individual's availability for and search for work, for employment counseling, referral and placement and for participation in a job finding or employability training and development program. An individual shall not be denied benefits under this section for any week that the individual is participating in a job finding or employability training and development program; and
- (7) participates in reemployment services, such as job search assistance services, if the division determines that the individual is likely to exhaust regular benefits and need reemployment services pursuant to a profiling system established by the division, unless the division determines that:
 - (a) the individual has completed such services; or
 - (b) there is justifiable cause for the individual's failure to participate in the services.

B. A benefit year as provided in Section 51-1-4 NMSA 1978 and Subsection P of Section 51-1-42 NMSA 1978 may be established; provided an individual may not receive benefits in a benefit year unless, subsequent to the beginning of the immediately preceding benefit year during which the

individual received benefits, the individual performed service in "employment", as defined in Subsection F of Section 51-1-42 NMSA 1978, and earned remuneration for such service in an amount equal to at least five times the individual's weekly benefit amount.

C. Benefits based on service in employment defined in Paragraph (8) of Subsection F of Section 51-1-42 and Section 51-1-43 NMSA 1978 are to be paid in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other services subject to the Unemployment Compensation Law [51-1-1 NMSA 1978]; except that:

(1) benefits based on services performed in an instructional, research or principal administrative capacity for an educational institution shall not be paid for any week of unemployment commencing during the period between two successive academic years or terms or, when an agreement provides for a similar period between two regular but not successive terms, during such period or during a period of paid sabbatical leave provided for in the individual's contract, to any individual 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 any such capacity for any educational institution in the second of such academic years or terms;

(2) benefits based on services performed for an educational institution other than in an instructional, research or principal administrative capacity shall not be paid for any week of unemployment commencing during a period between two successive academic years or terms if the services are performed in the first of such academic years or terms and there is a reasonable assurance that the individual will perform services for any educational institution in the second of such academic years or terms. If compensation is denied to an individual under this paragraph and the individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a claim and certified for benefits in accordance with the rules of the division and for which benefits were denied solely by reason of this paragraph;

(3) benefits shall be denied to any individual for any week that commences during an established and customary vacation period or holiday recess if the individual performs any services described in Paragraphs (1) and (2) of this subsection in the period immediately before such period of vacation or holiday recess and there is a reasonable assurance that the individual will perform any such services in the period immediately following such vacation period or holiday recess;

(4) benefits shall not be payable on the basis of services specified in Paragraphs (1) and (2) of this subsection during the periods specified in Paragraphs (1), (2) and (3) of this subsection to any individual who performed such services in or to or on behalf of an educational institution while in the employ of a state or local governmental educational service agency or other governmental entity or nonprofit organization; and

(5) for the purpose of this subsection, to the extent permitted by federal law, "reasonable assurance" means a reasonable expectation of employment in a similar capacity in the second of such academic years or terms based upon a consideration of all relevant factors, including the historical pattern of reemployment in such capacity, 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.

D. Paragraphs (1), (2), (3), (4) and (5) of Subsection C of this section shall apply to services performed for all educational institutions, public or private, for profit or nonprofit, which are operated in this state or subject to an agreement for coverage under the Unemployment Compensation Law of this state, unless otherwise exempt by law.

E. Notwithstanding any other provisions of this section or Section 51-1-7 NMSA 1978, no otherwise eligible individual is to be denied benefits for any week because the individual is in training or attending

school on a full-time basis with the approval of the division nor is the individual to be denied benefits by reason of application of provisions in Paragraph (3) of Subsection A of this section or Paragraph (3) of Subsection A of Section 51-1-7 NMSA 1978 with respect to any week in which the individual is in training or attending school on a full-time basis with the approval of the division. The secretary shall provide, by rule, standards for approved training and the conditions for approving training for claimants, including any training approved or authorized for approval pursuant to Section 236(a)(1) and (2) of the Trade Act of 1974, as amended, or required to be approved as a condition for certification of the state's Unemployment Compensation Law by the United States secretary of labor.

F. Notwithstanding any other provisions of this section, benefits shall not be payable on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time the services were performed, was lawfully present for the purposes of performing the services or was permanently residing in the United States under color of law at the time the services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 212(d)(5) of the Immigration and Nationality Act; provided that:

- (1) any information required of individuals applying for benefits to determine their eligibility for benefits under this subsection shall be uniformly required from all applicants for benefits; and
- (2) an individual shall not be denied benefits because of the individual's alien status except upon a preponderance of the evidence.

G. Notwithstanding any other provision of this section, benefits shall not be paid to any individual on the basis of any services substantially all of which consist of participating in sports or athletic events or training or preparing to so participate for any week that commences during the period between two successive sport seasons, or similar periods, if the individual performed the services in the first of such seasons, or similar periods, and there is a reasonable assurance that the individual will perform the services in the latter of such seasons or similar periods.

H. As used in this subsection, "seasonal ski employee" means an employee who has not worked for a ski area operator for more than six consecutive months of the previous twelve months or nine of the previous twelve months. An employee of a ski area operator who has worked for a ski area operator for six consecutive months of the previous twelve months or nine of the previous twelve months shall not be considered a seasonal ski employee. The following benefit eligibility conditions apply to a seasonal ski employee:

- (1) except as provided in Paragraphs (2) and (3) of this subsection, a seasonal ski employee employed by a ski area operator on a regular seasonal basis shall be 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 that the individual is available for and is making an active search for permanent full-time work;
- (2) a seasonal ski employee who has been employed by a ski area operator during two successive ski seasons shall be 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; and
- (3) the presumption described in Paragraph (2) of this subsection shall not arise as to any seasonal ski employee who has been employed by the same ski area operator during two successive ski seasons and has resided continuously for at least twelve successive months and continues to reside in the county in which the ski area facility is located.

I. Notwithstanding any other provision of this section, an otherwise eligible individual shall not be denied benefits for any week by reason of the application of Paragraph (3) of Subsection A of this section because the individual is before any court of the United States or any state pursuant to a lawfully

issued summons to appear for jury duty.

51-1-42. Definitions.

As used in the Unemployment Compensation Law [51-1-1 NMSA 1978]:

A. "base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except that "base period" means for benefit years beginning on or after January 1, 2005 for an individual who does not have sufficient wages in the base period as defined to qualify for benefits pursuant to Section 51-1-5 NMSA 1978, the individual's base period shall be the last four completed calendar quarters immediately preceding the first day of the individual's benefit year if that period qualifies the individual for benefits pursuant to Section 51-1-5 NMSA 1978; provided that:

(1) wages that fall within the base period of claims established pursuant to this subsection are not available for reuse in qualifying for a subsequent benefit year; and

(2) in the case of a combined-wage claim pursuant to the arrangement approved by the federal secretary of labor, the base period is that base period applicable under the unemployment compensation law of the paying state;

B. "benefits" means the cash unemployment compensation payments payable to an eligible individual pursuant to Section 51-1-4 NMSA 1978 with respect to the individual's weeks of unemployment;

C. "contributions" means the money payments required by Section 51-1-9 NMSA 1978 to be made into the fund by an employer on account of having individuals performing services for the employer;

D. "employing unit" means any individual or type of organization, including any partnership, association, cooperative, trust, estate, joint-stock company, agricultural enterprise, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, household, fraternity or club, the legal representative of a deceased person or any state or local government entity to the extent required by law to be covered as an employer, which has in its employ one or more individuals performing services for it within this state. An individual performing services for an employing unit that maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of the Unemployment Compensation Law. An individual performing services for a contractor, subcontractor or agent that is performing work or services for an employing unit, as described in this subsection, which is within the scope of the employing unit's usual trade, occupation, profession or business, shall be deemed to be in the employ of the employing unit for all purposes of the Unemployment Compensation Law unless the contractor, subcontractor or agent is itself an employer within the provisions of Subsection E of this section;

E. "employer" includes:

(1) an employing unit that:

(a) unless otherwise provided in this section, paid for service in employment as defined in Subsection F of this section wages of four hundred fifty dollars (\$450) or more in any calendar quarter in either the current or preceding calendar year or had in employment, as defined in Subsection F of this section, for some portion of a day in each of twenty different calendar weeks during either the current or the preceding calendar year, and irrespective of whether the same individual was in employment in each such day, at least one individual;

(b) for the purposes of Subparagraph (a) of this paragraph, if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one calendar week and the days beginning January 1, another such week; and

(c) for purposes of defining an "employer" under Subparagraph (a) of this paragraph, the wages or remuneration paid to individuals performing services in employment in agricultural labor or domestic services as provided in Paragraphs (6) and (7) of Subsection F of this section shall not be taken into account; except that any employing unit determined to be an employer of agricultural labor under Paragraph (6) of Subsection F of this section shall be an employer under Subparagraph (a) of this paragraph so long as the employing unit is paying wages or remuneration for services other than agricultural services;

(2) any individual or type of organization that acquired the trade or business or substantially all of the assets thereof, of an employing unit that at the time of the acquisition was an employer subject to the Unemployment Compensation Law; provided that where such an acquisition takes place, the secretary may postpone activating the separate account pursuant to Subsection A of Section 51-1-11 NMSA 1978 until such time as the successor employer has employment as defined in Subsection F of this section;

(3) an employing unit that acquired all or part of the organization, trade, business or assets of another employing unit and that, if treated as a single unit with the other employing unit or part thereof, would be an employer under Paragraph (1) of this subsection;

(4) an employing unit not an employer by reason of any other paragraph of this subsection:

(a) for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or

(b) that, as a condition for approval of the Unemployment Compensation Law for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to that act, to be an "employer" under the Unemployment Compensation Law;

(5) an employing unit that, having become an employer under Paragraph (1), (2), (3) or (4) of this subsection, has not, under Section 51-1-18 NMSA 1978, ceased to be an employer subject to the Unemployment Compensation Law;

(6) for the effective period of its election pursuant to Section 51-1-18 NMSA 1978, any other employing unit that has elected to become fully subject to the Unemployment Compensation Law;

(7) an employing unit for which any services performed in its employ are deemed to be performed in this state pursuant to an election under an arrangement entered into in accordance with Subsection A of Section 51-1-50 NMSA 1978; and

(8) an Indian tribe as defined in 26 USCA Section 3306(u) for which service in employment is performed;

F. "employment":

(1) means any service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied;

(2) means an individual's entire service, performed within or both within and without this state if:

(a) the service is primarily localized in this state with services performed outside the state being only incidental thereto; or

(b) the service is not localized in any state but some of the service is performed in this state and: 1) the base of operations or, if there is no base of operations, the place from which such service is directed or controlled, is in this state; or 2) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state;

(3) means services performed within this state but not covered under Paragraph (2) of this subsection if contributions or payments in lieu of contributions are not required and paid with respect to such services under an unemployment compensation law of any other state, the federal government or Canada;

(4) means services covered by an election pursuant to Section 51-1-18 NMSA 1978 and services covered by an election duly approved by the secretary in accordance with an arrangement pursuant to Paragraph (1) of Subsection A of Section 51-1-50 NMSA 1978 shall be deemed to be employment during the effective period of the election;

(5) means services performed by an individual for an employer for wages or other remuneration unless and until it is established by a preponderance of evidence that:

(a) the individual has been and will continue to be free from control or direction over the performance of the services both under the individual's contract of service and in fact;

(b) the service is either outside the usual course of business for which the service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(c) the individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the contract of service;

(6) means service performed after December 31, 1977 by an individual in agricultural labor as defined in Subsection Q of this section if:

(a) the service is performed for an employing unit that: 1) paid remuneration in cash of twenty thousand dollars (\$20,000) or more to individuals in that employment during any calendar quarter in either the current or the preceding calendar year; or 2) employed in agricultural labor ten or more individuals for some portion of a day in each of twenty different calendar weeks in either the current or preceding calendar year, whether or not the weeks were consecutive, and regardless of whether the individuals were employed at the same time;

(b) the service is not performed before January 1, 1980 by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to Sections 214(c) and 101(15)(H) of the federal Immigration and Nationality Act; and

(c) for purposes of this paragraph, an individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for a farm operator or other person shall be treated as an employee of the crew leader: 1) if the crew leader meets the requirements of a crew leader as defined in Subsection L of this section; or 2) substantially all the members of the crew operate or maintain mechanized agricultural equipment that is provided by the crew leader; and 3) the individuals performing the services are not, by written agreement or in fact, within the meaning of Paragraph (5) of this subsection, performing services in employment for the farm operator or other person;

(7) means service performed after December 31, 1977 by an individual in domestic service in a private home, local college club or local chapter of a college fraternity or sorority for a person or organization that paid cash remuneration of one thousand dollars (\$1,000) in any calendar quarter in the current or preceding calendar year to individuals performing such services;

(8) means service performed after December 31, 1971 by an individual in the employ of a religious, charitable, educational or other organization but only if the following conditions are met:

(a) the service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of Section 3306(c)(8) of that act; and

(b) the organization meets the requirements of "employer" as provided in Subparagraph (a) of

Paragraph (1) of Subsection E of this section;

(9) means service of an individual who is a citizen of the United States, performed outside the United States, except in Canada, after December 31, 1971 in the employ of an American employer, other than service that is deemed "employment" under the provisions of Paragraph (2) of this subsection or the parallel provisions of another state's law, if:

(a) the employer's principal place of business in the United States is located in this state;

(b) the employer has no place of business in the United States, but: 1) the employer is an individual who is a resident of this state; 2) the employer is a corporation organized under the laws of this state; or 3) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(c) none of the criteria of Subparagraphs (a) and (b) of this paragraph are met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

"American employer" for the purposes of this paragraph means a person who is: 1) an individual who is a resident of the United States; 2) a partnership if two-thirds or more of the partners are residents of the United States; 3) a trust if all of the trustees are residents of the United States; or 4) a corporation organized under the laws of the United States or of any state. For the purposes of this paragraph, "United States" includes the United States, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

(10) means, notwithstanding any other provisions of this subsection, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the Unemployment Compensation Law;

(11) means service performed in the employ of an Indian tribe if:

(a) the service is excluded from "employment" as defined in 26 USCA Section 3306(c) solely by reason of 26 USCA Section 3306(c)(7); and

(b) the service is not otherwise excluded from employment pursuant to the Unemployment Compensation Law;

(12) does not include:

(a) service performed in the employ of: 1) a church or convention or association of churches; or 2) an organization that is operated primarily for religious purposes and that is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(b) service performed by a duly ordained, commissioned or licensed minister of a church in the exercise of such ministry or by a member of a religious order in the exercise of duties required by such order;

(c) service performed by an individual in the employ of the individual's son, daughter or spouse, and service performed by a child under the age of majority in the employ of the child's father or mother;

(d) service performed in the employ of the United States government or an instrumentality of the United States immune under the constitution of the United States from the contributions imposed by the Unemployment Compensation Law except that to the extent that the congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, all of the provisions of the Unemployment Compensation Law shall be applicable to such instrumentalities, and to service

performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided that if this state shall not be certified for any year by the secretary of labor of the United States under Section 3304 of the federal Internal Revenue Code of 1986, 26 U.S.C. Section 3304, the payments required of such instrumentalities with respect to such year shall be refunded by the department from the fund in the same manner and within the same period as is provided in Subsection D of Section 51-1-36 NMSA 1978 with respect to contributions erroneously collected;

(e) service performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving that rehabilitation or remunerative work;

(f) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

(g) service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative;

(h) service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the person is performed for remuneration solely by way of commission;

(i) service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(j) service covered by an election duly approved by the agency charged with the administration of any other state or federal unemployment compensation law, in accordance with an arrangement pursuant to Paragraph (1) of Subsection A of Section 51-1-50 NMSA 1978 during the effective period of the election;

(k) service performed, as part of an unemployment work-relief or work-training program assisted or financed in whole or part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving the work relief or work training;

(l) service performed by an individual who is enrolled at a nonprofit or public educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution that combines academic instruction with work experience, if the service is an integral part of such program and the institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(m) service performed in the employ of a hospital, if the service is performed by a patient of the hospital, or services performed by an inmate of a custodial or penal institution for any employer;

(n) service performed by real estate salespersons for others when the services are performed for remuneration solely by way of commission;

(o) service performed in the employ of a school, college or university if the service is performed by a student who is enrolled and is regularly attending classes at the school, college or university;

(p) service performed by an individual for a fixed or contract fee officiating at a sporting event that is conducted by or under the auspices of a nonprofit or governmental entity if that person is not otherwise an employee of the entity conducting the sporting event;

(q) service performed for a private, for-profit person or entity by an individual as a product demonstrator or product merchandiser if the service is performed pursuant to a written contract between that individual and a person or entity whose principal business is obtaining the services of product demonstrators and product merchandisers for third parties, for demonstration and merchandising purposes and the individual: 1) is compensated for each job or the compensation is based on factors related to the work performed; 2) provides the equipment used to perform the service, unless special equipment is required and provided by the manufacturer through an agency; 3) is responsible for completion of a specific job and for any failure to complete the job; 4) pays all expenses, and the opportunity for profit or loss rests solely with the individual; and 5) is responsible for operating costs, fuel, repairs and motor vehicle insurance. For the purpose of this subparagraph, "product demonstrator" means an individual who, on a temporary, part-time basis, demonstrates or gives away samples of a food or other product as part of an advertising or sales promotion for the product and who is not otherwise employed directly by the manufacturer, distributor or retailer, and "product merchandiser" means an individual who, on a temporary, part-time basis builds or resets a product display and who is not otherwise directly employed by the manufacturer, distributor or retailer; or

(r) service performed for a private, for-profit person or entity by an individual as a landman if substantially all remuneration paid in cash or otherwise for the performance of the services is directly related to the completion by the individual of the specific tasks contracted for rather than to the number of hours worked by the individual. For the purposes of this subparagraph, "landman" means a land professional who has been engaged primarily in: 1) negotiating for the acquisition or divestiture of mineral rights; 2) negotiating business agreements that provide for the exploration for or development of minerals; 3) determining ownership of minerals through the research of public and private records; and 4) reviewing the status of title, curing title defects and otherwise reducing title risk associated with ownership of minerals; managing rights or obligations derived from ownership of interests and minerals; or utilizing or pooling of interest in minerals; and

(13) for the purposes of this subsection, if the services performed during one-half or more of any pay period by an individual for the person employing the individual constitute employment, all the services of the individual for the period shall be deemed to be employment, but, if the services performed during more than one-half of any such pay period by an individual for the person employing the individual do not constitute employment, then none of the services of the individual for the period shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period, of not more than thirty-one consecutive days, for which a payment of remuneration is ordinarily made to the individual by the person employing the individual. This paragraph shall not be applicable with respect to services performed in a pay period by an individual for the person employing the individual where any of such service is excepted by Subparagraph (f) of Paragraph (12) of this subsection;

G. "employment office" means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices;

H. "fund" means the unemployment compensation fund established by the Unemployment Compensation Law to which all contributions and payments in lieu of contributions required under the Unemployment Compensation Law and from which all benefits provided under the Unemployment Compensation Law shall be paid; provided that, for the purposes of paying contributions, "fund" may also include the state unemployment trust fund and contributions paid to that fund pursuant to contribution schedule B in Paragraph (5) of Subsection I of Section 51-1-11 NMSA 1978 and Section 51-1-19.1 NMSA 1978;

I. "unemployment" means, with respect to an individual, any week during which the individual performs no services and with respect to which no wages are payable to the individual and during which the individual is not engaged in self-employment or receives an award of back pay for loss of employment. The secretary shall prescribe by rule what constitutes part-time and intermittent

employment, partial employment and the conditions under which individuals engaged in such employment are eligible for partial unemployment benefits, but no individual who is otherwise eligible shall be deemed ineligible for benefits solely for the reason that the individual seeks, applies for or accepts only part-time work, instead of full-time work, if the part-time work is for at least twenty hours per week;

J. "state", when used in reference to any state other than New Mexico, includes, in addition to the states of the United States, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

K. "unemployment compensation administration fund" means the fund established by Subsection A of Section 51-1-34 NMSA 1978 from which administrative expenses under the Unemployment Compensation Law shall be paid. "Employment security department fund" means the fund established by Subsection B of Section 51-1-34 NMSA 1978 from which certain administrative expenses under the Unemployment Compensation Law shall be paid;

L. "crew leader" means a person who:

- (1) holds a valid certificate of registration as a crew leader or farm labor contractor under the federal Migrant and Seasonal Agricultural Worker Protection Act;
- (2) furnishes individuals to perform services in agricultural labor for any other person;
- (3) pays, either on the crew leader's own behalf or on behalf of such other person, the individuals so furnished by the crew leader for service in agricultural labor; and
- (4) has not entered into a written agreement with the other person for whom the crew leader furnishes individuals in agricultural labor that the individuals will be the employees of the other person;

M. "week" means such period of seven consecutive days, as the secretary may by rule prescribe. The secretary may by rule prescribe that a week shall be deemed to be "in", "within" or "during" the benefit year that includes the greater part of such week;

N. "calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31;

O. "insured work" means services performed for employers who are covered under the Unemployment Compensation Law;

P. "benefit year" with respect to an individual means the one-year period beginning with the first day of the first week of unemployment with respect to which the individual first files a claim for benefits in accordance with Subsection A of Section 51-1-8 NMSA 1978 and thereafter the one-year period beginning with the first day of the first week of unemployment with respect to which the individual next files such a claim for benefits after the termination of the individual's last preceding benefit year; provided that at the time of filing such a claim the individual has been paid the wage required under Paragraph (5) of Subsection A of Section 51-1-5 NMSA 1978;

Q. "agricultural labor" includes all services performed:

- (1) on a farm, in the employ of a person, in connection with cultivating the soil or in connection with raising or harvesting an agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife;
- (2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation or maintenance of the farm and its tools and equipment, if the major part of the service is performed on a farm;
- (3) in connection with the operation or maintenance of ditches, canals, reservoirs or waterways used

exclusively for supplying and storing water for farming purposes when such ditches, canals, reservoirs or waterways are owned and operated by the farmers using the water stored or carried therein; and

(4) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivery to storage or to market or to a carrier for transportation to market any agricultural or horticultural commodity but only if the service is performed as an incident to ordinary farming operations. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, greenhouses, ranges and orchards;

R. "payments in lieu of contributions" means the money payments made into the fund by an employer pursuant to the provisions of Subsection B of Section 51-1-13 NMSA 1978 or Subsection E of Section 51-1-59 NMSA 1978;

S. "department" means the labor department; and

T. "wages" means all remuneration for services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be established and determined in accordance with rules prescribed by the secretary; provided that the term "wages" shall not include:

(1) subsequent to December 31, 1977, that part of the remuneration in excess of the base wage as determined by the secretary for each calendar year. The base wage upon which contribution shall be paid during any calendar year shall be sixty percent of the state's average annual earnings computed by the division by dividing total wages reported to the division by contributing employers for the second preceding calendar year before the calendar year the computed base wage becomes effective by the average annual employment reported by contributing employers for the same period rounded to the next higher multiple of one hundred dollars (\$100); provided that the base wage so computed for any calendar year shall not be less than seven thousand dollars (\$7,000). Wages paid by an employer to an individual in the employer's employ during any calendar year in excess of the base wage in effect for that calendar year shall be reported to the department but shall be exempt from the payment of contributions unless such wages paid in excess of the base wage become subject to tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund;

(2) the amount of any payment with respect to services performed after June 30, 1941 to or on behalf of an individual in the employ of an employing unit under a plan or system established by the employing unit that makes provision for individuals in its employ generally or for a class or classes of individuals, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any payment, on account of:

(a) retirement if the payments are made by an employer to or on behalf of an employee under a simplified employee pension plan that provides for payments by an employer in addition to the salary or other remuneration normally payable to the employee or class of employees and does not include any payments that represent deferred compensation or other reduction of an employee's normal taxable wages or remuneration or any payments made to a third party on behalf of an employee as part of an agreement of deferred remuneration;

(b) sickness or accident disability if the payments are received under a workers' compensation or occupational disease disablement law;

(c) medical and hospitalization expenses in connection with sickness or accident disability; or

- (d) death; provided the individual in its employ has not the option to receive, instead of provision for the death benefit, any part of such payment, or, if such death benefit is insured, any part of the premiums or contributions to premiums paid by the individual's employing unit and has not the right under the provisions of the plan or system or policy of insurance providing for the death benefit to assign the benefit, or to receive a cash consideration in lieu of the benefit either upon the individual's withdrawal from the plan or system providing for the benefit or upon termination of the plan or system or policy of insurance or of the individual's service with the employing unit;
- (3) remuneration for agricultural labor paid in any medium other than cash;
- (4) a payment made to, or on behalf of, an employee or an employee's beneficiary under a cafeteria plan within the meaning of Section 125 of the federal Internal Revenue Code of 1986;
- (5) a payment made, or benefit furnished to or for the benefit of an employee if at the time of the payment or such furnishing it is reasonable to believe that the employee will be able to exclude the payment or benefit from income under Section 129 of the federal Internal Revenue Code of 1986;
- (6) a payment made by an employer to a survivor or the estate of a former employee after the calendar year in which the employee died;
- (7) a payment made to, or on behalf of, an employee or the employee's beneficiary under an arrangement to which Section 408(p) of the federal Internal Revenue Code of 1986 applies, other than any elective contributions under Paragraph (2)(A)(i) of that section;
- (8) a payment made to or for the benefit of an employee if at the time of the payment it is reasonable to believe that the employee will be able to exclude the payment from income under Section 106 of the federal Internal Revenue Code of 1986; or
- (9) the value of any meals or lodging furnished by or on behalf of the employer if at the time the benefit is provided it is reasonable to believe that the employee will be able to exclude such items from income under Section 119 of the federal Internal Revenue Code of 1986.

51-1-4. Monetary computation of benefits; payment generally.

A. All benefits provided herein are payable from the unemployment compensation fund. All benefits shall be paid in accordance with rules prescribed by the secretary through employment offices or other agencies as the secretary approves by general rule.

B. Weekly benefits shall be as follows:

(1) except as provided in Paragraph (2) of this subsection, an individual's "weekly benefit amount" is an amount equal to fifty-three and one-half percent of the average weekly wage for insured work paid to the individual in that quarter of the individual's base period in which total wages were highest. No benefit as so computed may be less than ten percent or more than fifty-three and one-half percent of the state's average weekly wage for all insured work. The state's average weekly wage shall be computed from all wages reported to the department from employing units in accordance with rules of the secretary for the period ending June 30 of each calendar year divided by the total number of covered employees divided by fifty-two, effective for the benefit years commencing on or after the first Sunday of the following calendar year. An individual is not eligible to receive benefits unless the individual has wages in at least two quarters of that individual's base period. For the purposes of this subsection, "total wages" means all remuneration for insured work, including commissions and bonuses and the cash value of all remuneration in a medium other than cash;

(2) from July 1, 2009 through June 30, 2011, an individual's "weekly benefit amount" shall be an amount equal to sixty percent of the average weekly wage for insured work paid to the individual in that quarter of the individual's base period in which total wages were highest, and no benefit as so computed may be less than ten percent or more than sixty percent of the state's average weekly wage for all insured work;

(3) an eligible individual who is unemployed in any week during which the individual is in a continued claims status shall be paid, with respect to the week, a benefit in an amount equal to the individual's weekly benefit amount, less that part of the wages, if any, or earnings from self-employment, payable to the individual with respect to such week that is in excess of one-fifth of the individual's weekly benefit amount. For purposes of this subsection only, "wages" includes all remuneration for services actually performed in a week for which benefits are claimed, vacation pay for a period for which the individual has a definite return-to-work date, wages in lieu of notice and back pay for loss of employment but does not include payments through a court for time spent in jury service;

(4) notwithstanding any other provision of this section, an eligible individual who, pursuant to a plan financed in whole or in part by a base-period employer of the individual, is receiving a governmental or other pension, retirement pay, annuity or any other similar periodic payment that is based on the previous work of the individual and who is unemployed with respect to any week ending subsequent to April 9, 1981 shall be paid with respect to the week, in accordance with rules prescribed by the secretary, compensation equal to the individual's weekly benefit amount reduced, but not below zero, by the prorated amount of the pension, retirement pay, annuity or other similar periodic payment that exceeds the percentage contributed to the plan by the eligible individual. The maximum benefit amount payable to the eligible individual shall be an amount not more than twenty-six times the individual's reduced weekly benefit amount. If payments referred to in this section are being received by an individual under the federal Social Security Act, the division shall take into account the individual's contribution and make no reduction in the weekly benefit amount;

(5) in the case of a lump-sum payment of a pension, retirement or retired pay, annuity or other similar payment by a base-period employer that is based on the previous work of the individual, the payment shall be allocated, in accordance with rules prescribed by the secretary, and shall reduce the amount of unemployment compensation paid, but not below zero, in accordance with Paragraph (4) of this

subsection; and

(6) the retroactive payment of a pension, retirement or retired pay, annuity or any other similar periodic payment as provided in Paragraphs (4) and (5) of this subsection attributable to weeks during which an individual has claimed or has been paid unemployment compensation shall be allocated to those weeks and shall reduce the amount of unemployment compensation for those weeks, but not below zero, by an amount equal to the prorated amount of the pension. Any overpayment of unemployment compensation benefits resulting from the application of the provisions of this paragraph shall be recovered from the claimant in accordance with the provisions of Section 51-1-38 NMSA 1978.

C. An individual otherwise eligible for benefits shall be paid for each week of unemployment, in addition to the amount payable under Subsection B of this section, the sum of twenty-five dollars (\$25.00) for each unemancipated child under the age of eighteen, up to a maximum of four and subject to the maximum stated in Subsection D of this section, of the individual who is in fact dependent upon and wholly or mainly supported by the individual, including:

(1) a child in the individual's custody pending the adjudication of a petition filed by the individual for the adoption of the child in a court of competent jurisdiction; or

(2) a child for whom the individual, under a decree or order from a court of competent jurisdiction, is required to contribute to the child's support and for whom no other person is receiving allowances under the Unemployment Compensation Law if the child is domiciled within the United States or its territories or possessions, the payment to be withheld and paid pursuant to Section 51-1-37.1 NMSA 1978.

D. Dependency benefits shall not exceed fifty percent of the individual's weekly benefit rate. The amount of dependency benefits determined as of the beginning of an individual's benefit year shall not be reduced for the duration of the benefit year, but this provision does not prevent the transfer of dependents' benefits from one spouse to another in accordance with this subsection. If both the husband and wife receive benefits with respect to a week of unemployment, only one of them is entitled to a dependency allowance with respect to a child. The division shall prescribe standards as to who may receive a dependency allowance when both the husband and wife are eligible to receive unemployment compensation benefits. Dependency benefits shall not be paid unless the individual submits documentation satisfactory to the division establishing the existence of the claimed dependent. If the provisions of this subsection are satisfied, an otherwise eligible individual who has been appointed guardian of a dependent child by a court of competent jurisdiction shall be paid dependency benefits.

E. An otherwise eligible individual is entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of twenty-six times the individual's weekly benefit amount, plus any dependency benefit amount pursuant to Subsections C and D of this section, or sixty percent of the individual's wages for insured work paid during the individual's base period.

F. A benefit as determined in Subsection B or C of this section, if not a multiple of one dollar (\$1.00), shall be rounded to the next lower multiple of one dollar (\$1.00).

G. The secretary may prescribe rules to provide for the payment of benefits that are due and payable to the legal representative, dependents, relatives or next of kin of claimants since deceased. These rules need not conform with the laws governing successions, and the payment shall be deemed a valid payment to the same extent as if made under a formal administration of the succession of the claimant.

H. The division, on its own initiative, may reconsider a monetary determination whenever it is determined that an error in computation or identity has occurred or that wages of the claimant pertinent to such determination but not considered have been newly discovered or that the benefits have been allowed or denied on the basis of misrepresentation of fact, but no redetermination shall be made after one year from the date of the original monetary determination. Notice of a redetermination shall be given to all interested parties and shall be subject to an appeal in the same manner as the original

determination. In the event that an appeal involving an original monetary determination is pending at the time a redetermination is issued, the appeal, unless withdrawn, shall be treated as an appeal from redetermination.

[bracketed material] = deletion

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
1 The purpose of the child support enforcement program is to provide location, establishment and collection					
2 services for custodial parents and their children; to ensure that all court orders for support payments					
3 are being met to maximize child support collections; and to reduce public assistance rolls.					
4 Appropriations:					
5 (a) Personal services and					
6 employee benefits	5,455.1	2,976.2		12,860.0	21,291.3
7 (b) Contractual services	1,835.8	1,001.5		4,327.7	7,165.0
8 (c) Other	1,386.7	756.5		3,269.0	5,412.2
9 Authorized FTE: 400.00 Permanent					
10 Performance measures:					
11 (a) Outcome: Amount of child support collected, in millions					\$110.1
12 (b) Outcome: Percent of current support owed that is collected					60%
13 (c) Outcome: Percent of cases with support orders					70%
14 (6) Program support:					
15 The purpose of program support is to provide overall leadership, direction and administrative support to					
16 each agency program and to assist it in achieving its programmatic goals.					
17 Appropriations:					
18 (a) Personal services and					
19 employee benefits	4,057.2	3,079.2		10,754.5	17,890.9
20 (b) Contractual services	4,279.0	129.5		7,155.3	11,563.8
21 (c) Other	4,995.2	680.1		9,063.3	14,738.6
22 Authorized FTE: 252.50 Permanent					
23 Subtotal	[709,791.6]	[82,402.7]	[125,438.0]	[3,866,083.9]	4,783,716.2
24 WORKFORCE SOLUTIONS DEPARTMENT:					
25 (1) Workforce transition services:					

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
1 The purpose of the workforce transition program is to administer an array of demand-driven workforce					
2 development services to prepare New Mexicans to meet the needs of business.					
3 Appropriations:					
4 (a) Personal services and					
5 employee benefits	1,537.6	700.0		11,763.5	14,001.1
6 (b) Contractual services	0.3	850.8			851.1
7 (c) Other	218.1	616.5		2,052.8	2,887.4
8 (d) Other financing uses			791.9		791.9
9 Authorized FTE: 285.00 Permanent; 22.50 Term					

10 The federal funds appropriation to the workforce transition services program of the workforce solutions
11 department includes one million dollars (\$1,000,000) for operational and administrative expenses
12 associated with the employment security program, contingent on receipt of federal Reed Act funds available
13 through the Assistance for Unemployed Workers and Struggling Families Act, Title II of Division B of
14 Public Law 111-5, enacted February 17, 2009, and the department providing a revised expenditure plan for
15 approval by the New Mexico office of recovery and reinvestment and the United States department of labor.

16 Performance measures:

17 (a) Outcome:	Percent of adult participants receiving workforce	
18	development services through the public workforce system	
19	who are employed in the first quarter after the exit quarter	86%
20 (b) Outcome:	Percent of Workforce Investment Act dislocated workers	
21	receiving workforce development services who are employed	
22	in the first quarter after the exit quarter	88%
23 (c) Outcome:	Percentage of youth participants who are in employment or	
24	enrolled in postsecondary education or advanced training in	
25	the first quarter after the exit quarter	71%

[bracketed material] = deletion

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
1 (d) Output:					
2 Percent of eligible unemployment insurance claims issued a					
3 determination within twenty-one days from the date of claim					80%
4 (e) Output:					
5 Percent of adult Workforce Investment Act participants					
6 employed in both the second and third quarter following the					
7 exit quarter					72%
8 (f) Output:					
9 Percent of Workforce Investment Act dislocated worker					
10 participants employed in both the second and third quarter					
11 following the exit quarter					90%
12 (g) Output:					
13 Average unemployment insurance call center wait time to					
14 reach an agent, in minutes					<5

(2) Labor relations division:

The purpose of the labor relations program is to provide employment rights information and other work-site-based assistance to employers and employees.

Appropriations:

(a) Personal services and					
employee benefits	1,200.0	51.4	691.5	243.9	2,186.8
(b) Contractual services	8.0			3.5	11.5
(c) Other	192.3	1,025.8		2.6	1,220.7
(d) Other financing uses			1,077.2		1,077.2

Authorized FTE: 38.00 Permanent

The internal service funds/interagency transfers appropriations to the labor relations program of the workforce solutions department include six hundred ninety-one thousand five hundred dollars (\$691,500) from fund balances in the workers' compensation administration fund.

Performance measures:

(a) Outcome: Number of backlogged human rights commission hearings

[bracketed material] = deletion

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
1					0
2					
3					96%
4					
5					78%
6					1,800
7	(3) Workforce technology division:				
8	The purpose of the workforce technology program is to provide and maintain customer-focused, effective and				
9	innovative information technology services for the department and its service providers.				
10	Appropriations:				
11	(a) Personal services and				
12	employee benefits	869.2		1,974.0	2,843.2
13	(b) Contractual services	230.1	75.0	507.1	812.2
14	(c) Other	243.2		695.5	938.7
15	(d) Other financing uses			35.6	35.6
16	Authorized FTE: 41.00 Permanent				
17	(4) Business services division:				
18	The purpose of the business services program is to provide standardized business solution strategies and				
19	labor market information through New Mexico public workforce system that is responsive to the needs of New				
20	Mexico businesses.				
21	Appropriations:				
22	(a) Personal services and				
23	employee benefits	3.2		1,661.2	1,664.4
24	(b) Contractual services			283.6	283.6
25	(c) Other			3,018.0	3,018.0

[bracketed material] = deletion

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
1 Authorized FTE: 30.00 Permanent					
2 Performance measures:					
3 (a) Outcome: Percent of employers sampled reporting customer satisfaction					90%
4 (b) Output: Number of personal contacts made by field office personnel					
5 with New Mexico businesses to inform them of available					
6 services or provide actual services					30,000
7 (5) Program support:					
8 The purpose of program support is to provide overall leadership, direction and administrative support to					
9 each agency program to achieve organizational goals and objectives.					
10 Appropriations:					
11 (a) Personal services and					
12 employee benefits	333.9	26.4	1,067.6	4,799.9	6,227.8
13 (b) Contractual services	175.8			999.2	1,175.0
14 (c) Other		230.3		12,708.2	12,938.5
15 (d) Other financing uses		1,042.4			1,042.4
16 Authorized FTE: 89.00 Permanent; 4.00 Term					
17 Subtotal	[5,011.7]	[4,618.6]	[3,663.8]	[40,713.0]	54,007.1
18 WORKERS' COMPENSATION ADMINISTRATION:					
19 (1) Workers' compensation administration:					
20 The purpose of the workers' compensation administration program is to assure the quick and efficient					
21 delivery of indemnity and medical benefits to injured and disabled workers at a reasonable cost to					
22 employers.					
23 Appropriations:					
24 (a) Personal services and					
25 employee benefits		8,038.1			8,038.1

[bracketed material] = deletion