

FIFTY-FIRST LEGISLATURE
FIRST SESSION, 2013

HB 329/a

March 12, 2013

Mr. President:

Your **PUBLIC AFFAIRS COMMITTEE**, to whom has been referred

HOUSE BILL 329, as amended

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. Strike House Labor and Human Resources Committee Amendment 1.

2. On page 1, line 15, before the period, insert "OR PREVENTING OR REDUCING THE PAYMENT OF BENEFITS".

3. On page 13, between lines 4 and 5, insert the following section:

"SECTION 2. Section 51-1-34 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 13, as amended) is amended to read:

"51-1-34. ADMINISTRATION FUNDS.--

A. There is created a special fund to be held in the custody of the state treasurer and known as the "unemployment compensation administration fund".

(1) All money paid into the fund is available to the secretary. All money in the fund shall be expended solely for the purposes and in the amount found necessary by the secretary of labor of the United States [~~of America~~] for the administration of the Unemployment Compensation Law. Except as provided in Subsection B of this section, the fund shall consist of money appropriated by the state, and all money received from the federal government or any of its agencies, including the department of labor of the United States [~~of America~~], the railroad retirement board or from any other source for such purpose. Money received from the railroad retirement board as compensation for services or facilities supplied to the board

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shall be paid into the fund. All money in the fund shall be deposited, administered and disbursed in accordance with the Unemployment Compensation Law and regulations, except that money in the fund shall not be commingled with other state funds but shall be maintained in a separate account on the books of the depository. Any balance in the fund shall not lapse at any time but shall be continuously available for expenditure consistent with the Unemployment Compensation Law. Such money is subject to the general laws applicable to the deposit of public money in New Mexico, and collateral pledged shall be maintained in a separate custody account.

(2) If Section 303(a)(5) of Title 3 of the Social Security Act and Section 3304(a)(4) of the Internal Revenue Code are amended to permit a state agency to use, in financing administrative expenditures incurred in carrying out its employment security functions, some part of the money collected, or to be collected, under the Unemployment Compensation Law, in partial or complete substitution for grants under Title 3, then the Unemployment Compensation Law shall be modified by proclamation and by general rules in the manner and to the extent and within the limits necessary to permit such use under the Unemployment Compensation Law, and the modification is effective on the same date as the use is permissible under federal amendments.

B. There is created a special fund to be held in the custody of the state treasurer and known as the "employment security department fund".

(1) The fund is separate from the unemployment compensation administration fund.

(2) All money paid into the employment security department fund may be expended only pursuant to an appropriation by the legislature or specific provision of law. The department shall submit its annual budget for expenditures from the fund in accordance with the rules and regulations established by the

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department of finance and administration governing the submission of budgets by state agencies. All balances in the fund at the end of the fiscal year [~~which~~] that have not been appropriated for expenditure shall remain in the fund and be invested by the state treasurer until appropriated by the legislature. The money in the fund, except for refunds of interest and penalties erroneously collected, and except for fiscal-year balances, shall be expended solely for the purposes and in the amount found necessary for the payment of the costs of administration not chargeable against federal grants or other funds received for the unemployment compensation administration fund. Nothing in this section shall prevent the unencumbered money of the fund from being used as a revolving fund to cover necessary and proper expenditures for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. Money shall not be expended or made available for expenditure in any manner [~~which~~] that would permit its substitution for, or cause a corresponding reduction in, federal funds [~~which~~] that would be available, in the absence of such money, to finance expenditures for the administration of the Unemployment Compensation Law. Except as provided in Paragraph (2) of Subsection B and Subsection D of Section 51-1-38 NMSA 1978, the fund shall consist of all interest collected on delinquent contributions and all penalties provided by the Unemployment Compensation Law and all other money received for the fund from any other source. All money in the fund shall be deposited, administered and disbursed in accordance with this section, except that money in the fund shall not be commingled with other state funds but shall be maintained in a separate account on the books of the depository and is subject to the general laws applicable to the deposit of public money in New Mexico, and collateral pledged shall be maintained in a separate custody account.

C. The state treasurer is liable on [~~his~~] the state treasurer's official bond for the faithful performance of [~~his~~] duties in connection with the funds created by Subsections A and B of this section, in addition to the liability upon all other

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bonds."".

4. Renumber the succeeding sections accordingly.
5. On page 14, line 15, before "Section", insert "Subsection B of".
6. On page 15, between lines 7 and 8, insert the following subsection:

"D. In addition to the penalty pursuant to Subsection C of this section, any employing unit or officer or agent of an employing unit that makes a false statement or representation knowing it to be false or that knowingly fails to disclose a material fact to prevent or reduce the payment of benefits to any individual entitled to benefits under the Unemployment Compensation Law shall be required to pay a civil penalty in an amount not to exceed ten thousand dollars (\$10,000), as determined by rule established by the department. The penalty shall be collected in a manner provided in Subsection B of Section 51-1-36 NMSA 1978 and distributed to the fund."
7. Reletter the succeeding subsections accordingly.
8. On page 18, line 21, strike "D" and insert in lieu thereof "E".,

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and thence referred to the **JUDICIARY COMMITTEE.**

Respectfully submitted,

Gerald Ortiz y Pino, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Candelaria, Keller

Absent: None

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