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F I S C A L   I M P A C T   R E P O R T

SPONSOR	Chandler	**ORIGINAL DATE** **LAST UPDATED**	2/07/21 2/28/21	**HB**	148/aHLVMC
SHORT TITLE	Unemployment Contribution Rate Change			**SB**	
				ANALYST	Torres

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22	FY23	FY24		
		At least $26,500.0	About $53,000.0	Up to $26,500.0	Nonrecurring	Unemployment Compensation Fund

Parenthesis ( ) indicate revenue decreases

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		
$300,000.0	0.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to an appropriation in the General Appropriation Act.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Workforce Solutions Department

SUMMARY

Synopsis of HLVMC Amendment

The House Labor, Veterans', and Military Affairs Committee amendment to House Bill 148 adjusts the contingency language in the bill to require changes in contributions and the taxable wage base to revert back to original levels before the two year deadline if the federal government deposits funds or forgives loans to the unemployment compensation fund.

Synopsis of Bill

House Bill 148 (HB 148) appropriates $300 million from the general fund to the unemployment compensation fund to pay for continuing unemployment claims and related federal loans.

HB 148 also raises the applicable taxable wage base from $25.8 thousand a year to $40 thousand a year and creates a temporary enhanced contribution rate of 0.2 percent to address the solvency of the fund and repayment of federal loans. Both changes to the wage base and the solvency contribution begin in 2022 and expire no later than 2024, dependent on the repayment of federal loans.

FISCAL IMPLICATIONS

HB148 makes a one-time appropriation of $300 million from the general fund to the unemployment compensation fund. In effect, this uses general fund reserves to help restore balances in the unemployment compensation fund. The balance of the unemployment compensation fund at the end of January was $18.5 million, with outstanding federal loans of $206.2 million. The current balance of the fund is the remainder of $50.4 million that was transferred to the fund at the beginning of January from CARES Act funds appropriated in the 2020 Second Special Session. The $300 million appropriation is included in the LFC Budget Recommendation and in the General Appropriations Act of 2021 as written in HB117.

Using FY20 employer contribution data, LFC and Workforce Solutions Department economists estimate HB148 will result in $53 million in additional annual revenue to the unemployment compensation fund. Without additional revenues or transfers to the unemployment compensation fund, the fund will remain insolvent and require an estimated additional $350 million in federal loans for calendar year 2021.

Interest accrued on the associated federal loans cannot be paid directly or indirectly by unemployment compensation fund revenues. Annual interest payments are expected to be more than $3 million dollars a year with terms of several years, depending on the state's approach to federal loan repayment. As included in the General Appropriation Act, general fund may be used to pay interest accrued.

SIGNIFICANT ISSUES

Prior to the pandemic, New Mexico's unemployment fund had a balance of $459.7 million, higher than the federally-recommended minimum, ranking 22nd highest in the nation for its solvency, as determined by the U.S. Department of Labor. [1] Since the start of the pandemic, unemployment claims have spiked to record levels, and as a result, New Mexico's unemployment compensation fund was depleted and reached insolvency on September 8, 2020. New Mexico, like many other states, began borrowing from the federal government to stand up the fund until it can be replenished.

The principal on federal loans must be repaid by November 10, 2022, or a payment plan must be reached with the federal government. If the state has not repaid the loan in full at that time, the federal unemployment tax on employers is increased until the balance is paid off. Federal tax rates are currently 0.6 percent but could increase up to 6.4 percent, depending on the balance of the loan.

[1] https://oui.doleta.gov/unemploy/docs/trustFundSolvReport2019.pdf

The fund is replenished through unemployment insurance (UI) tax rates on employers. Currently, the amount of tax an employer pays depends on: (1) the number of its employees; (2) the state determined taxable wage base per employee; (3) the contribution rate assigned to the employer; and (4) a multiplier based on the balance of the fund.

The taxable wage base changes every year and is based on a percentage of the average wage for all workers in New Mexico. The taxable wage base in New Mexico for calendar year 2020 was $25,800.

Experienced employers are assigned a contribution rate based on the number of former employees who file claims for unemployment insurance and new employers are assigned a rate based on the average tax rate of all employers in their industry. In 2020, 78.6 percent of all New Mexico employers paid the minimum rate. The program is designed so employers that lay off their employees with greater frequency face higher UI taxes than employers that maintain a good track record of avoiding layoffs.

The reserve multiplier on employer tax rates is determined by a ratio of the balance of the fund to total wages divided by the balance needed to meet the average of the five highest years for benefits paid in the last 25 years.

$$Reserve\ Multiplier = \frac{Reserve\ Ratio(fund\ balance\ by\ total\ wages)}{Average\ of\ five\ highest\ benefit\ cost\ years\ in\ the\ last\ 25\ years}$$

During the 2020 first special session, Chapter 6 (Senate Bill 3) included provisions to freeze employer tax rates for the upcoming two years and protect employers from being charged for Covid-19-related layoffs. Specifically, the bill requires that all data between January 1, 2020 and December 31, 2021 be ignored when calculating the state's UI tax rates. The bill further requires that the 2019 reserve factor be used for all state UI tax rate calculations between January 1, 2020 through December 31, 2021. Pursuant to Chapter 6, employer's tax rates will remain artificially low until tax year 2025, as the tax rate calculation uses a 3-year look back for benefit charges and Chapter 6 omits data from 2020 and 2021.

Under the most recent federal stimulus package, states have been granted a waiver on interest payments due and interest accrual on unemployment loans until March 14, 2021. Federal interest rates are expected to be between 2.25 and 2.5 percent interest.

ADMINISTRATIVE IMPLICATIONS

Training on the proposed tax rate calculation changes will be required for all UI Tax Operation and Tax Audit staff at the Workforce Solutions Department. Communication with the employer community will be necessary to prepare them for an increase in the unemployment tax contribution rates. WSD expects that the tax rate increase will generate additional calls, emails, and appeals, along with constituent complaints.

HB148 in its current form requires an enhanced contribution rate of 0.2 percent to be applied to contributory employers for calendar years 2022 and 2023. The Unemployment Insurance Application currently does not include a feature to add such an assessment, and the application code will have to be modified to add it. The coding changes will have to be made such that the contribution is applied for calendar or rate years 2022 and 2023, even if the calculation or recalculation for those calendar or rate years happens outside of the January 1, 2022 to December

31, 2023 time period. Additionally, the Annual Rate Notice and Experience Transfer Rate Notices will have to be modified to include the enhancement. This work will have to be scheduled and resources aligned accordingly with potential impacts to WSD's other project work.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB148 relates to the General Appropriation Act, which currently includes a $300 million transfer from general fund reserves to the unemployment compensation fund for the same purpose.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The unemployment compensation fund will remain insolvent and require additional borrowing from the federal government, which is estimated to reach a total of over $500 million by the end of 2021. Furthermore, if revenues for loan repayment are not implemented in time, the federal government will increase the unemployment insurance tax rate for New Mexico businesses, outside of the state's control. This will occur through the Federal Unemployment Tax Act, which will have an effective tax increase of 0.3 percent per year, at a minimum, for New Mexico employers. Successive years of outstanding loans could significantly increase the effective federal tax on employers.

IT/rl/al