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

SPONSOR	HJC	**ORIGINAL DATE** / **LAST UPDATED**	2/17/16	**HB**	CS/CS283/HBECS/ HJCS
SHORT TITLE	Unemployment Compensation Contribution Rates			**SB**	
				ANALYST	Klundt

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	**FY17**	**FY18**		
	($20,000.0-$30,000.0)	($20,000.0-$30,000.0)	Recurring	Unemployment Insurance Trust Fund

(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		$1,000.0			Nonrecurring	WSD Operating Budget

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Workforce Solutions Department (WSD)
General Services Department (GSD)
Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

The House Judiciary Committee (HJC) Substitute for House Business and Employment Committee Substitute for House Bill 283 makes technical drafting-oriented changes to the House Business and Employment Committee (HBEC) Substitute. The HBEC Substitute for House Bill 283 proposes a number of changes to the originally introduced HB 283. The Substitute Bill removes the delayed repeal provision, making HB 283's reforms permanent. Further, HB 283 changes the effective date of the legislation so that the new tax rate formula would apply to the third and fourth quarters of calendar year 2016 going forward. HB 283 originally proposed to make the new formula effective retroactively to the beginning of calendar year 2016. However, the HJC raised comes concerns about potential ambiguities and requested some drafting changes to assure that the intent of HB 283 was carried out and that the 2016 mid-year recalculation was not repeated in subsequent years.

Additionally, two lines at the lower end of the reserve ration-to-experience history chart were reversed inadvertently. The current substitute corrected this issue to reflect the intent of the HBEC Substitute.

In addition to pushing forward the effective date and eliminating the delayed repeal provision, HB 283 makes minor technical changes to the proposed tax rate formula. First, the bill adjusts some of the ranges for matching reserve ratios to experience history factors. Specifically, HB 283 inserts ranges to provide an experience history factor for reserve ratios between 1.0 percent and 1.9 percent, and between 0.9 percent and 0 percent. Second, the HB 283 clarifies that all contributing employers who have 24 months of experience history with New Mexico's Unemployment Insurance (UI) program receive an experience history factor ranging between 0.4000 and 1.0000.

The original bill had proposed a number of temporary changes to the formula for calculating employers' UI tax rates. The bill introduced an "Experience History Factor" which acts as a multiplier ranging between 0.4 and 1.0 to be applied to the product of an employer's benefit ratio and the applicable reserve factor. The Experience History Factor is based on an employer's reserve ratio, calculated as an employer's total life time UI contributions (taxes) minus all benefit charges attributable to the employer, divided by the employer's last three year's average payrolls. The original bill also set forth a table that listed reserve ratios and corresponding Experience History Rates.

In addition to introducing the Experience History Rate, the bill proposed to cap an employer's total potential rate increase from one year to the next at 2 percentage points. The rate increase cap would apply to an employer's total rate, including the contribution rate plus any applicable excess claims rate.

FISCAL IMPLICATIONS

The HJC Substitute is drafting-oriented, and does not change the fiscal impact analysis originally submitted for the HBEC Substitute.

WSD estimates that HB 283 will result in a decrease in revenues of between $20 and $30 million to the Unemployment Insurance Trust Fund. The Unemployment Insurance Trust Fund is a reserve fund in which employers' Unemployment Insurance contributions are pooled for the payment of unemployment benefits. The balance of the Fund as of the first of February 2016 is approximately $247 Million.

WSD estimates Information Technology (IT) costs of approximately $1 Million to carry out the IT projects necessary to implement HB 283. Those costs include the additional IT staff and contractors needed for design, development, testing and implementation.

SIGNIFICANT ISSUES

The Social Security Act of 1935 compelled states to enact Unemployment Insurance (UI) programs nationally. UI is a joint state-federal social insurance program which provides benefits to eligible workers who become temporarily unemployed through no fault of their own, and meet certain other eligibility requirements. Benefits are paid from a state administered UI trust fund financed by a tax on employers.

Currently employer tax rates for contributing employers with more than 24 months of experience with New Mexico's UI program are set using a benefit ratio formula. Under this formula, an employer's last three year of benefit charges are divided by the employer's last three years average taxable payroll. This calculation yields the benefit ratio, which is then multiplied by a reserve factor ranging from 0.5 to 4.0. The reserve factor is set according to the health of the trust fund, with low fund balances triggering higher reserve factors. The maximum contribution rate available is 5.4 percent, but employers who have substantial benefit charges can also receive up to a 1 percent excess claims rate, which they pay in addition to their contribution rate. The reforms proposed in HB 283 are designed to discount tax rates by capping year over year rate increases and by allowing an employer's positive history to pull down the employer's tax rate in a given year through the operation of the Experience History Factor.

WSD notes that all legislation to amend the State's formula for calculating UI contribution rates must be approved and deemed by the United States Department of Labor to conform to federal law. WSD has requested an opinion from USDOL and has received an informal indication that USDOL intends to hold a portion of HB 283 to be out of compliance with federal law. The specific provision identified by USDOL is the two percentage-point cap on employer rate increases from one year to the next. WSD is in continuing discussions to clarify the USDOL's reasoning. An official determination from USDOL is not expected for two to three weeks. If the USDOL moves forward and finds a provision of New Mexico's Unemployment Compensation law to be non-conforming, the WSD Secretary may be required to suspend the application of the specific provision that USDOL finds non-conforming. *See* NMSA 1978, § 51-1-58.

ADMINISTRATIVE IMPLICATIONS

WSD reports the agency expects that it would have sufficient time to implement the provisions of the HBEC Substitute for HB 283 given that the Substitute removes the original bill's retroactivity requirement and makes the new tax rate formula applicable from the third and fourth quarters of 2016 going forward.

OTHER SUBSTANTIVE ISSUES

In 2015, New Mexico implemented a new employer contribution structure with tax rates which vary by employer and is primarily dependent the employer's experience rating and the overall fiscal condition of the UI trust fund. This computation structure was a result of stakeholder input and discussion; however, some employers experienced substantial UI tax increases due to their individual experience rating. It is important to note an employer's contribution rate can be lowered relatively quickly since benefit charges are based on the previous three year experience. Therefore, as employers engage in practices to reduce benefit charges in conjunction with trust fund reserves growing the UI system will stabilize and contribution rates may decline.

Employer Contribution Rate

$$\frac{\text{Benefits Charged Against Employer Account (3 yrs)}}{\text{Employers Average Taxable Payroll (3 yrs)}} \times \text{Reserve Factor}$$

Reserve Factor

More than Adequate Reserves = Between 0.5 and 0.9999 percent
Adequate Reserves = 1.0 percent
Less than Adequate Reserves = Between 1.0001 and 4.0 percent

The analysis of regional minimum, maximum, and average benefits indicates that New Mexico is in general alignment with surrounding states. However, the duration of benefits is significantly above average, resulting in longer durations of unemployment and larger draws from the fund. The eligibility of 26 weeks is federally mandated and therefore not adjustable; however best practice in other states has focused on reducing the duration of benefits by implementing programs to re-employ workers quicker. As a secondary benefit, reducing duration would also reduce benefit charges to employers and therefore possibly reduce the employer contribution rate.

Comparison of Surrounding States Weekly Benefit Amounts

State	Weekly Benefit Amount	
	Minimum	Maximum
Arizona	$126	$240
California	$40	$450
Colorado	$25	$532
Kansas	$118	$474
Nevada	$16	$412
New Mexico	$77	$412
Oklahoma	$16	$490
Texas	$64	$465
Utah	$28	$498
Wyoming	$34	$475
Average	**$54**	**$445**

Comparison of Surrounding States Average Weekly Benefit Amounts and Duration

State	Average Weekly Benefit	Average Duration in Weeks
Arizona	$224	16.0
California	$303	18.1
Colorado	$374	14.9
Kansas	$358	13.6
Nevada	$318	16.1
New Mexico	$307	19.1
Oklahoma	$324	16.6
Texas	$360	15.9
Utah	$352	13.2
Wyoming	$360	14.6
Average	**$328**	**15.8**

2014 NM UI Benefit Highlights

CY14		National Ranking
Exhaustion Rate	43.3%	11th Highest in the Nation
Average Duration	19.1 weeks	5th Highest in the Nation
Average Weekly Benefit Amount	$306.52	25th Among States

Source: WSD

KK/al/jle