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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 1st Session, 2023

Bill Number	<u>HB151</u>	Sponsor	<u>Trujillo/Roybal Caballero</u>
Tracking Number	<u>.223240.1</u>	Committee Referrals	<u>HEC/HLVMC;SEC/SJC</u>
Short Title	<u>Non-Tenure-Track Faculty Unemployment</u>		
Analyst	<u>Hoxie</u>	Original Date	<u>2/28/2023</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

House Bill 151 (HB151) amends the Unemployment Compensation Act to extend unemployment insurance benefits to non-tenured faculty at an educational institution unless the educational institution has made an offer of employment for the following year or term. The offer of employment for the following term requires “reasonable assurance” which requires all the following are met:

- The institution has made an offer of employment for the following year or term, either in writing, oral or implied;
- The offer was made by an individual with authority to make the offer;
- The offer is in the same type of position;
- The offer is not less than 90 percent of what the claimant earned previously;
- The offer is not contingent on factors within the school’s control, such as funding decisions, course offerings, and faculty availability; and
- The job offer contains a contingency, that the totality of circumstances show it is highly probable those contingencies will be satisfied.

The bill does not contain an effective date and as a result, if signed by the governor, would go into effect 90 days after the Legislature adjourns.

FISCAL IMPACT

The bill does not contain an appropriation.

SUBSTANTIVE ISSUES

LESC analysis will focus on impacts to K-12 Public Schools.

Under current statute, employees are not eligible for unemployment benefits if they have a “reasonable assurance” that they will be rehired the following year or term. Section 51-1-5 NMSA 1978 defines “reasonable assurance” as the reasonable expectation of employment in a similar

capacity for the following year or term based upon a consideration of all relevant factors. HB151 enumerates six factors that must be met to achieve “reasonable assurance.” The Department of Workforce Solutions notes the provisions of “reasonable assurance” in HB151 are consistent with federal requirements that govern unemployment compensation benefits.

HB151 appears to focus on non-tenure-track faculty at institutions of higher education but may have implications for other educational institutions. In subsection C, HB151 identifies non-tenure-track faculty members who work for higher education institutions. However, subsection D of the bill requires the provisions of subsection C to apply to all educational institutions which operate in the state. Provisions of HB151 could create confusion about how to apply the bill to non-tenure-track in all educational institutions, including public schools.

New Mexico does not currently have a non-tenure-track for public school teachers. The current career ladder career system for New Mexico’s teachers incorporates three levels of licensure. Level I licenses are a provision license issued for a three year period; Level II licenses are a professional license issued for up to a nine year period; and Level III licenses are a master teacher license issued for a nine year period. The three-tiered licensure system created as part of the 2003 comprehensive public school reform legislation was intended to enhance student achievement and address a teacher shortage identified in the late 1990s.

TECHNICAL ISSUES

The short title of the bill indicates it pertains to non-tenure-track faculty at colleges and universities. However, the use of “reasonable assurance” in unemployment benefit determinations applies to all educational institutions.

SOURCES OF INFORMATION

- LESC Files

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