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FISCAL IMPACT REPORT

ORIGINAL DATE 2/1/21

SPONSOR Roybal Caballero LAST UPDATED _____ HB 110

SHORT TITLE Phased Minimum Wage Increase SB _____

ANALYST Dinces

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
	Indeterminable, likely positive	Indeterminable, likely positive	Recurring	Personal Income Taxes
	Indeterminable, likely positive	Indeterminable, likely positive	Recurring	Gross Receipts Taxes
	Indeterminable, possibly negative	Indeterminable, possibly negative	Recurring	Corporate Income Taxes

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$193.3	\$199.1	\$392.4	Recurring	General Fund WSD OpBud
		\$2,054.0	\$2,054.0	\$4,108.0	Recurring	General Fund, Jury Witness Fund
		Up to \$5,575.4	Up to \$5,575.4	Up to \$11,150.8	Recurring	Public Schools
		\$1,384.1	\$1,384.1	\$2,768.2	Recurring	General Fund, Federal Funds, Other Revenues, Personnel Expenditures State Agencies Op Buds

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB35 which would eliminate the minimum wage exemption for high school students.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Workforce Solutions Department (WSD)
Economic Development Department (EDD)
Governor’s Commission on Disability (GCD)
Department of Health (DOH)
Developmental Disabilities Planning Council (DDPC)

No Response Received

Tax and Revenue Department (TRD)

Other Responses

List other non-governmental organizations who provided unsolicited written analysis and are registered lobbyists with the Secretary of State (rarely used).

SUMMARY

Synopsis of Bill

House Bill 110 (HB 110) amends the state’s Minimum Wage Act (§50-4-22 NMSA 1978) to expand coverage for all but a few enumerated types of employees. Primarily, HB110 would require both high school students and tipped employees to be paid the set minimum wage. It also repeals an unused statutory provision that authorizes the employment of certain individuals with physical or mental disabilities at subminimum wage rates. HB110 revises the scheduled increases to the minimum wage that were passed by the Legislature in 2019 so that the increases continue through January 1, 2024, eventually bringing the statewide minimum wage up to \$15 an hour.

Between 2021 and 2024 the bill calls for a set increase as follows:

Starting January 1, 2022 the minimum wage would rise to \$12.00 per hour

Starting January 1, 2024 the minimum wage would rise to \$15.00 per hour

Finally, starting January 1, 2025, the minimum wage would be adjusted upward (but never downward) every year based on increases to the cost of living as measured by the United States Department of Labor’s consumer price index.

The effective date of this bill is July 1, 2021.

FISCAL IMPLICATIONS

According to the Economic Development Department (EDD), it is highly likely that this bill will increase PIT and GRT collections. However, staff at EDD do not have adequate information to estimate the amount of revenue potentially generated by this bill. Unquantifiable but positive impacts to personal income taxes (PIT) and to gross receipts tax (GRT) revenues would likely result from raising the minimum wage. Any positive increases may be partially offset by lower employment levels due to fewer minimum wage jobs. However, the effective PIT rate increases as the income level of a person increases, particularly in the lower income strata, so the net effect is likely to be a positive PIT revenue impact. For example, as previously reported, one person making \$25 thousand annually will contribute more than double the PIT revenues than two people each making \$12.5 thousand. However, this likely overall increase may be mitigated to

some extent by decreased profitability for businesses filing through PIT returns if the minimum wage increase reduces income after expenses. The positive impact to GRT would be due to the increased spending power of lower-income workers receiving increases in pay that could be significant, and this increased spending should increase GRT revenues. Unquantifiable impacts to corporate income taxes (CIT) may also result from raising the minimum wage, but revenues could decrease if the increase in minimum wage payments reduces corporate profitability.

According to the Workforce Solutions Department (WSD), House Bill 110, if enacted would impact the workload on the Labor Relations Division (LRD) of the workforce solutions department (DWS), and thus require additional staff to investigate wage claims by individuals currently exempted from MWA coverage. Right now the LRD employs six (6) Labor Law Administrators/investigators statewide. Although it is difficult to quantify the amount of claims and investigations required if this bill were enacted, WSD anticipates LRD would require at least one (1) additional staff member to assist in case assignments. WSD also anticipates at least one additional attorney position would be required to assist with potential increases in the caseload.

Financial eligibility for the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), General Assistance for Disabled Adults and Unrelated Children (GA), Low Income Home Energy Assistance Program (LIHEAP) and Medical Assistance is based on the Federal Poverty Limits (FPL). Raising the state minimum wage will increase the gross income of applicants and recipients and as a result decrease the number of individuals who are eligible for these and other income-based programs.

Statewide, 361 FTE for the state have hourly rates less than \$12, and 1.8 thousand FTE have hour rates less than \$15 (see tables below). Based on current (2021) salaries and staffing levels, the total estimated cost to increase minimum wage FTE to \$15 an hour by 2024 is estimated at \$9.81 million including benefits. Some state agencies may have to adjust vacancy rates for compensation increases if additional general fund is not provided.

Estimated State Agency FTE Affected by Minimum Wage Increase – Year 2022

Less than \$12.00	
Number of FTE	361
Cost to Increase Salary	\$1,064,690
Cost to Increase Benefits	\$319,406
Total Cost	\$1,384,096

Estimated State Agency FTE Affected by Minimum Wage Increase – Year 2024

Less than \$15.00	
Number of FTE	1,814
Cost to Increase Salary	\$7,549,832
Cost to Increase Benefits	\$2,264,950
Total Cost	\$9,814,782

In addition to state agencies, school districts will also experience increased personnel expenditures. Previous 2019 LESC analyses of PED data indicates the following estimated fiscal impact of a \$12 minimum wage and a \$15 minimum wage. However, the impact may be less due to salary increases for public school employees in the General Appropriation Act of 2020.

	Minimum Wage	Estimated New Cost to School Districts and Charter Schools
FY22	\$12.00	Up to \$5,575,380
FY24	\$15.00	Up to \$24,748,00

The Administrative Office of the Courts (AOC) previously reported fiscal implications for the Judiciary will be incurred by the Jury and Witness Fund which is administered by AOC. This fund received a FY19 General Fund appropriation of \$2.3 million and projected Jury Demand Fees of approximately \$1.8 million. The fees are collected from parties requesting civil juries, except for jury demand fees as set forth in Section 35-6-1 NMSA 1978. Monies from the jury and witness fee fund may be expended, in part, to pay the costs of jurors and prospective jurors. Jurors are paid at the minimum wage rate and as the rate increases, so will the expenses of the jury and witness fund. Previous AOC analysis highlighted the estimated increased costs for FY22 to be \$2.1 million, based on actual FY19 jury costs. The AOC believed these projected additional expenses are not sustainable with the funds current revenue structure of a flat general appropriation and declining fees.

According to the Department of Health (DOH), HB110 has two potential fiscal impacts to DOH. The first is with the phased minimum wage. The phased in minimum wage increases would affect reimbursement rates for some HCBS services. The fee for service increases would require fiscal impact analysis and the annual base appropriation would need to be adjusted upwards according to the state’s projected utilization of affected services across the waivers. Additionally, a comprehensive rate study would need to occur to determine a revised “range of rates” for participant-directed (self-directed) services offered in the Mi Via, Medically Fragile, and Supports Waivers and state general funded service, to account for the increase in minimum wage requirements, using the new timelines and increases. The second is for the subminimum wage. Fiscal impact to NMDOH is difficult to project in relation to repealing subminimum wage. As it relates to state general fund match, the impact could be decreased services or cause movement to other services. However, DOH was unable to determine an expected fiscal impact amount.

SIGNIFICANT ISSUES

The current minimum wage rate in New Mexico is \$10.50 per hour, which is higher than the federal minimum wage of \$7.25 an hour. State minimum wage rates are controlled by the respective legislatures within the individual states. The Fair Labor Standards Act (FLSA) sets a federal minimum hourly rate (\$7.25 per hour since 2009) for non-exempt employees, but states may enforce higher pay rates. The city and county of Santa Fe have a minimum wage rate of \$12.10 per hour. If an employee is subject to the state, local, and federal minimum wage rates, the employee is entitled to the highest applicable minimum-wage.

According to the National Conference of State Legislatures (NCSL), in 2021, 29 states and D.C. have minimum wages above the federal minimum wage. In 2020, seven states (Alaska, Florida, Minnesota, Montana, Ohio, South Dakota, and Vermont) automatically increased their rates based on the cost of living. Sixteen states including New Mexico (Arizona, Arkansas, California, Colorado, Connecticut, Illinois, Maine, Maryland, Massachusetts, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington) have a minimum wage at or above \$10.50 per hour. Furthermore, seven states (California, Connecticut, Illinois, Maryland,

Massachusetts, New Jersey, New York) will have a \$15 minimum wage by 2025, while D.C. currently has a minimum wage of \$15 per hour.

In 2019, The Congressional Budget Office (CBO) released a report highlighting the impact of raising the minimum wage to \$15 per hour. It found nationally 27 million workers would receive raises, however 1.3 million, or 0.8 percent, fewer workers on a given week may be in the workforce. The CBO estimates a two thirds chance there would be between a zero to 2.27 percent reduction in the number of employed workers due to increasing the minimum wage to \$15/hour.

According to the Workforce Solutions Department:

HB 110 does away with several key provisions of the current Minimum Wage Act (MWA), including the separate minimum wage rates for secondary students and tipped workers as well as exemptions that exist for executive, administrative or professional employees, agricultural employees, seasonal employees, certain employees of charitable, religious or nonprofit organizations, sales persons and employees compensated on a piecework, flat rate or commission basis, and registered apprentices and learners. Essentially, everyone would be entitled to the statewide hourly minimum wage, except for G.I. bill trainees and individuals to whom a higher municipal or county rate would apply.

Passage of HB 110 would take segments of the workforce currently excluded from MWA coverage and make them eligible for the same protections that covered workers enjoy.¹ Not unexpectedly, this could drive more wage complaints being filed with the LRD. LRD would be statutorily obligated to pursue such claims all the way through suing noncompliant employers in court to collect back wages. This could necessitate more resources to investigate and litigate cases than LRD has currently.

Converting compensation for work done on a piecework, flat rate or commission basis into hourly compensation could be problematic. Some of these workers are conceivably able to make more money by not being hourly workers, in which case switching them to hourly could hurt them. Similarly, servers and other tipped workers who typically make more in tips than they would under the minimum wage might be disadvantaged as customers would stop tipping. Of course, this is speculative. A review of other jurisdictions where this has been tried might be informative with regard to possible impacts of converting to a straight hourly wage.

Next, HB110's second major feature is its reformulation of the scheduled stepped increases to the minimum wage that were adopted by the Legislature in 2019 and which went into effect January 1, 2020. As enacted, these increases are set to raise the base and the tipped minimum wage rates incrementally through January 1, 2023, when they would reach \$12 and \$13 an hour, respectively. However, HB110, accelerates and exceeds the base-rate increases, raising it to \$12 an hour by January 1, 2022 and \$15 an hour by January 1, 2024. The scheduled tipped-rate increases would disappear entirely, as there would no longer be a separate tipped rate.

The effects of HB110's changes would be felt most acutely by employers, with LRD/WSD

¹ It is not known exactly how many workers this might include, and perhaps further study of the potential number of affected workers would be helpful.

experiencing secondary effects via increased caseload. Employers would be subject not only to the higher minimum wage rates but also a greater number of employees who potentially qualify for the higher rates. These impacts on employers who are already devastated by the Covid-19 pandemic might stall economic recovery.

Finally, HB110 adjusts the minimum wage upward (but never downward) every year starting January 1, 2025 based on increases to the cost of living as measured by the United States Department of Labor's consumer price index for all urban areas. The bill is not specific for the consumer price index if it will use seasonally adjusted or not seasonally adjusted. This can be confusing because seasonally adjusted will not offer an annual average.

According to the Governor's Council on Disability:

In a report issued in September 2020, the U.S. Commission on Civil Rights found that section 14(c) of the Fair Labor Standards Act of 1938, which allows employers to employ people with disabilities below the federal minimum wage, actually limits people with disabilities from realizing their full potential and allows employers to profit from their labor.

RELATIONSHIP

This Bill relates to Senate Bill 35, which would eliminate the separate lower minimum wage rate of \$8.50 an hour for secondary school students. Like SB35, this bill also eliminates the separate rate for students but goes beyond that by eliminating several other minimum wage provisions and exclusions.

SD/al