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FISCAL IMPACT REPORT

ORIGINAL DATE 1/21/19
LAST UPDATED 3/04/19

SPONSOR Garcia, MP/Ferrary **HB** 31/aHFL#1/aSPAC

SHORT TITLE Phased-In Minimum Wage Increase **SB** _____

ANALYST Klundt/Clark/Liu

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$100.0	\$104.0	\$204.0	Recurring	General Fund, WSD OpBud
		\$2,774.9	\$1,665.7	\$4,440.6	Recurring	General Fund, Federal Funds, Other Revenues, Personnel Expenditures State Agencies OpBuds
		Significant, greater than \$1,000.0	Significant, greater than \$1,000.0	Significant, greater than \$2,000.0	Recurring	General Fund, HSD Medicaid, DOH DD Waiver
		\$169.6 - \$3,391.3	\$110.3 - \$3,741.9	\$6,417.7	Recurring	Public Schools
		\$1,369.0	\$1,761.0	\$3,130.0	Recurring	General Fund, Jury Witness Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
	Unquantifiable, likely positive	Unquantifiable, likely positive	Recurring	Personal Income Taxes
	Unquantifiable, possibly negative	Unquantifiable, possibly negative	Recurring	Corporate Income Taxes
	Unquantifiable, likely positive	Unquantifiable, likely positive	Recurring	Gross Receipts Taxes

(Parenthesis () Indicate Revenue Decreases)

Relates to HB 46 and SB 85

SOURCES OF INFORMATION

LFC Files

Legislative Education Study Committee (LESC) Files

Responses Received From

Workforce Solutions Department (WSD)

Human Services Department (HSD)

Children, Youth and Families Department (CYFD)

Educational Retirement Board (ERB)

Administrative Office of the Courts (AOC)

Developmental Disabilities Planning Council (DDPC)

National Conference of State Legislatures (NCSL)

U.S. Department of Labor (DOL)

Department of Health (DOH)

Responses Not Received From

State Personnel Office (SPO)

Public Employee Retirement Association (PERA)

Public Education Department (PED)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee (SPAC) amendment to House Bill 31 (HB 31) strikes all items of House Floor Amendment number 1. The House Floor amendment provided for a phased-in statewide minimum wage rate for employees who customarily and regularly receive more than \$30 a month in tips. The SPAC amendment provides that tipped employees would be paid a minimum hourly wage that is 30 percent of the prevailing minimum hourly wage in addition to tips received.

Synopsis of HFL#1 Amendment

The House Floor amendment to House Bill 31 (HB 31) delays the elimination of the separate minimum wage that applies to “tipped employees.” Whereas the original version of the bill eliminates the separate minimum wage for tipped employees immediately upon the effective date of the bill (July 1, 2019), the amendment would phase it out incrementally. Thus, as of July 1, 2019 the minimum wage rate for tipped employees would be \$5 per hour; as of July 1, 2020, it would be \$7.50 per hour; and as of July 1, 2021 it would be \$10 per hour. As of July 1, 2022, the separate minimum wage rate for tipped employees go away completely. They would be entitled to the full minimum wage that other workers are entitled to, including cost-of-living increases. Employers could not consider tips as part of the employees’ wages. Any tips received by such employees shall be retained by the employees. Employers wanting to pay the lower minimum wage during the phase-out period could only do so if they can establish that for each week an employee works, the sum of the employee’s tips combined with the employer’s cash wage is not less than the minimum wage in effect at the time.

Synopsis of Original Bill

House Bill 31 amends New Mexico's Minimum Wage Act establishing a series of scheduled increases to the statewide minimum wage rate starting July 1, 2019. As of July 1, 2019, the minimum wage will increase from \$7.50 an hour to \$10 an hour; by July 1, 2020, it will increase to \$11 an hour; and by July 1, 2021, it will increase to \$12 an hour. Thereafter, yearly cost-of-living increases will go into effect every July 1 starting July 1, 2022. These increases are based on increases in the consumer price index for all urban consumers (CPI-U), published monthly by the U.S. Department of Labor. HB 31 does not authorize any type of cap to these yearly increases, nor does it allow decreases to the minimum wage if there are decreases in the cost of living. HB 31 eliminates the minimum-wage exception for tipped employees that exists under current law, so tipped employees will be entitled to the full statewide minimum wage regardless of any tips they receive. HB 31 requires the Workforce Solutions Department (WSD) to publish by May 1 of each year the adjusted minimum wage rates that will take effect the following July 1.

FISCAL IMPLICATIONS

WSD reported the Labor Relations Program (LRD) would be impacted in that it would have to update its website information, Wage and Hour employer/employee presentations and all WSD publications, which have a published minimum wage rate each January 1. Additionally, LRD would assume the task of publishing New Mexico's adjusted minimum wage rate by May 1 of each year. The agency estimated the impact to the programs operating budget close to \$100 thousand annually.

Unquantifiable but positive impacts to personal income taxes (PIT) would likely result from raising the minimum wage. Any positive increases may partially be 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, one person making \$25 thousand annually will contribute more than double the PIT revenues than two people each making \$12.5 thousand would contribute. However, this likely overall increase may also be mitigated to some extent by decreased profitability for businesses filing through PIT returns if the minimum wage increase reduces income after expenses. In FY18, PIT contributed \$1.5 billion, or 22 percent of recurring revenues, to the general fund.

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. In FY18, CIT contributed \$106.6 million, or 1.6 percent of recurring revenues, to the general fund.

Unquantifiable impacts to gross receipts tax (GRT) revenues would also occur and most likely would be positive due to the increased spending power of lower-income workers receiving increases in pay that could be significant. Lower-income households tend to spend a greater share of their income within the local economy, and this increased spending should increase GRT revenues. In FY18, GRT contributed \$2.4 billion, or 35 percent of recurring revenues, to the general fund.

Statewide, over a thousand FTE for the state have hourly rates less than \$12.00 (see below table).

The total estimated cost to increase FTE to \$12.00 an hour may be near \$6.8 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			
≤ Hourly	\$ 12.00	\$ 11.00	\$ 10.00
Number of FTE	1050	734	535
Cost to Increase Salary	\$ 5,344,429	\$ 3,506,531	\$ 2,191,195
Cost to Increase Benefits	\$ 1,423,756	\$ 934,140	\$ 583,734
Total Cost	\$ 6,768,185	\$ 4,440,670	\$ 2,774,929

Source: LFC Files

In addition to state agency personnel, school districts will also experience increased personnel expenditures. Currently, reported average statewide salaries for school personnel are estimated by PED to be above \$10.00 per hour for most job classes, with the exception of preschool instructional assistants. As such, the estimated incremental costs to achieve a statewide average \$10.00 per hour wage rate for all school personnel would cost approximately \$169.6 thousand in FY20. However, given variation in wage rates across the states, this estimate may not reflect actual costs of bringing all individual school employees below \$10.00 per hour to the required wage level. In such cases, the additional costs of complying with this provision would fall upon school districts and charter schools.

The executive FY20 budget recommendation includes \$121.7 million to provide a 6 percent salary increase for all school personnel and \$6 million to raise the minimum wage for all school personnel to \$12.00 per hour. This estimate provides funding to bring the weighted average wage rate of preschool instructional assistants and custodial staff to \$12.00 per hour.

The LFC FY20 budget recommendation includes \$104.3 million to provide a 5.5 percent increase for teachers, 7.5 percent increase for teachers, and a 4 percent salary increase for all other school personnel. The LFC recommendation does not include funding to raise the minimum wage rate.

LESC estimates the cost to establish a minimum wage of \$10 per hour for school personnel could be \$3.2 million and identifies additional staff categories that show below-average salaries. LFC analysis of FY18 salary data in school districts suggests the cost of bringing all school personnel to the minimum wage of \$10 per hour could be up to \$3.4 million after factoring in fringe benefits of 23 percent. The LFC estimate assumes school personnel designated as either business office, custodial, human resources, security, information technology, data coordinator, or maintenance staff work on an 8-hour, 260-day (2,080 hour) contract and all other staff work on a 7-hour, 184-day (1,288 hour) contract. This estimate assumes the 2 percent adjustment for salary increases in FY19 was applied to all school personnel evenly and staffing patterns remained the same.

If the FY20 LFC recommendation for a 4 percent salary increase is applied to all other school personnel evenly, the estimated additional operating budget impact would fall to \$2.5 million. Approximately 1,058 school personnel were identified in the LFC analysis as potentially working under a wage rate of \$10.00 per hour. The estimated incremental costs to achieve a statewide average of \$11.00 per hour for all school personnel would cost \$110.3 thousand in

FY21; however, the estimated costs to raise individual wages to \$11.00 per hour could cost up to \$3.7 million based on variations in individual employee wage rates. Likewise, the estimated incremental costs to achieve a statewide average of \$12.00 per hour for all school personnel would cost \$5.7 million in FY22 and the estimated costs to raise individual wages to \$12.00 per hour could cost up to \$6.4 million.

Fiscal Impact of HB31, FY20-FY23

	FY20	FY21	FY22	
Minimum Wage	\$10.00	\$11.00	\$12.00	Recurring
Cost to public schools, including benefits (in thousands)	\$169.6 - \$3,391.3	\$110.3 - \$3,741.9	\$5,670.6 - \$6,356.2	

Source: PED OBMS, LFC Files

The Human Services Department reported the minimum wage increase would affect all employees, including those in the field of healthcare, an impact to the Medicaid budget would be expected as increased expenses that would need general fund support. HB31 could have a cost impact on select Medicaid providers who may have to adjust salaries and wages. Some of the narrow margin providers would likely an increase in their reimbursement rates.

The Department of Health (DOH) reported there will be a general fund impact on the developmental disabilities waiver program (DD Waiver) and other state general fund programs. In addition, the agency reported any minimum wage rate increase would require the state to increase the rates paid for services under the waivers and require an amendment and approval by Centers for Medicare and Medicaid Services (CMS). DOH also stated the amendment process would take some time and possibly would put the state in violation of the state law if this bill went into effect July 1, 2019. The impact for DD Waiver would be approximately 30 percent general fund and 70 percent Medicaid federal match rate. The agency reported cost is difficult to estimate, because DOH does not track what provider agency Direct Service Professionals are paid. However, DOH believes Direct Service Professionals may be paid anywhere between \$9.50 and \$11.00 per hour. The agency proposed doing a survey of the provider agencies to better understand compensation, however, responses to such a survey may not be timely.

DOH also noted the current reimbursement rate for SGF Respite is \$13.25 per hour. If the provider has to pay the respite providers \$12.00 per hour, DOH is, concerned the reimbursement rate will not be sufficient to cover overhead. Without additional general fund, DOH believes the agency would have to increase the contracts or decrease the amount of service that is available. Like HSD and DOH, service providers contracted through the Children, Youth and Families Department (CYFD) may experience increased expenses commensurate with wage increases.

The Administrative Office of the Courts (AOC) reported the jury and witness fund would be affected by HB 31. In order to meet statutory obligation AOC believes the fund would need an additional \$1.4 million in FY20 and \$1.8 million in FY21.

SIGNIFICANT ISSUES

The current minimum wage rate in New Mexico is \$7.50 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. In addition, there are five “local minimum wage” rates in effect in New Mexico. The city of Albuquerque’s local minimum wage rate is \$9.20 per hour for jobs with no benefits or benefits under \$2,500 and \$8.20 per hour for jobs with benefits over \$2,500. Bernalillo County’s minimum wage rate for jobs with no benefits or benefits under \$2,500 is \$9.05 per hour. The city of Las Cruces has a minimum wage of \$10.10 per hour. The city of Santa Fe has a minimum wage rate of \$11.40 per hour. Santa Fe County’s minimum wage rate is also \$11.40 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.

Colorado’s statewide minimum wage rate is \$11.10 per hour; this rate will increase annually on a set schedule through 2020; thereafter, it will be adjusted annually based on a set formula. Similarly, Arizona’s current minimum wage of \$11 per hour will increase annually on a set schedule through 2020, after which it be adjusted annually based upon a set formula.

According to the National Conference of State Legislatures (NCSL), in 2019 eighteen states began the new year with higher minimum wages. Eight states (Alaska, Florida, Minnesota, Montana, New Jersey, Ohio, South Dakota, and Vermont) automatically increased their rates based on the cost of living, while ten states (Arizona, Arkansas, California, Colorado, Maine, Massachusetts, Missouri, New York, Rhode Island and Washington) increased their rates due to previously approved legislation or ballot initiatives. Other states that will see rate increases during the 2019 calendar year include: D.C., Delaware, Michigan, and Oregon.

HB 31 calls for a change in how minimum wage rates are applied in New Mexico. Currently, the statewide minimum wage and all of the local minimum wage rates have exemptions for “tipped employees,” such as restaurant servers. This exemption allows employers to pay tipped employees a separate lower minimum wage than the statewide or local minimum wage. Under HB 31, this exemption would go away and tipped employees would be entitled to the full statewide minimum wage regardless of tips received.

WSD also reported to the U.S. Bureau of Labor Statistics, there were 14 thousand workers in New Mexico in 2017 received wages at or below the federal minimum wage of \$7.25 an hour. Using the national percent distribution by usual hours worked per week on a primary job, and assuming 50 weeks are worked per year, the annualized wage cost to bring these employees to \$10 an hour would be an additional \$52 million in wages. Each time the minimum wage is increased by \$1.00 an hour, annualized wage costs for these workers would increase an additional \$19 million. Per person and on an annual average, wages would increase by \$3,730 if the minimum wage was increased to \$10; \$5,080 if the minimum wage was increased to \$11; and \$6,440 if the minimum wage was increased to \$12. Since 2009 the CPI-U August year over year change has ranged from -1.5 percent (from 2008 – 2009) to a high of 3.8 percent (from 2010 – 2011). The ten year average was 1.7 percent.

DDPC reported, for people with disabilities, HB 31 has no impact on 501(c)3 subminimum wage employment. However, indirectly, through an increase in wages, it will indirectly lead to slight increases in wages for those in 501(c)3 employment, since the formula for calculating 501(c)3 wages is tied to local community wages.

For minimum wage increase bills previously introduced, SPO reported by providing salary

increases only to employees who earn salaries below the new annual minimum wage, the State's pay systems may experience pay compression. Pay compression exists when there is very little difference in pay rates for new employees versus experienced employees who are performing the same job duties. It also exists when employees who perform small sized jobs are paid the same as employees who perform larger jobs. The agency believed noticeable differences in pay rates should exist between jobs that are distinctly different based on job related criteria, such as education, experience, and/or tenure.

OTHER SUBSTANTIVE ISSUES

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.

CYFD reported an increase to \$10.00 minimum wage would bring a two-person household with a single full-time minimum wage income from 96 percent of FPL up to 126 percent. Currently, the eligible FPL maximum for childcare subsidy through CYFD is 200 percent, and federal cost sharing is available up to 191 percent of FPL.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 46 amends the state's Minimum Wage Act so as to increase the statewide minimum wage to \$15 per hour effective January 1, 2020. Then, starting January 1, 2021 and continuing January 1 of each succeeding year, there would be yearly cost-of-living increases based on USDOL's CPI. Unlike HB 31, HB 46 caps these increases at four percent in any given year. Like HB 31, HB 46 does not authorize decreases in the minimum wage based on decreases in the cost of living. Like HB 31, HB 46 eliminates the exemption from the minimum wage for tipped employees, who would be entitled to the new statewide minimum wage of \$15 per hour regardless of tips received. HB 46 requires WSD to publish by November 1 of each year the adjusted minimum wage rate that will take effect the following January 1.

Senate Bill 85 (SB 85) amends NMSA 1978, § 50-4-1 and § 50-4-21 by removing exemptions that apply to individuals employed in "domestic service" and "domestic labor" in or about private homes. Currently, such workers are not covered by state laws that require timely payment of wages, protect workers from unauthorized or unlawful payroll deductions and require employers to maintain accurate time and pay records. Such workers are also not covered by New Mexico's minimum wage law. SB 85 does away with the domestic labor/service exemptions, thereby affording such workers the same protections under these laws that other workers enjoy.

OTHER SUBSTANTIVE ISSUES

Greater than federal Minimum Wage	Equals federal Minimum Wage of \$7.25	Less than federal Minimum Wage	No Minimum Wage Required
AK \$9.89	GA	CNMI \$7.05	AL
AR \$9.25	IA		LA
AZ \$11.00	ID		MS
CA \$11.00	IN		SC
CO \$11.10	KS		TN
CT \$10.10	KY		
DC \$13.25	NC		
DE \$8.75	ND		
FL \$8.46	NH		
HI \$10.10	OK		
IL \$8.25	PA		
MA \$12.00	TX		
MD \$10.10	UT		
ME \$11.00	VA		
MI \$9.25	WI		
MN \$9.86	WY		
MO \$8.60	PR		
MT \$8.50			
NE \$9.00			

NJ \$8.85			
NM \$7.50			
NV \$8.25			
NY \$11.10			
OH \$8.55			
OR \$10.75			
RI \$10.50			
SD \$9.10			
VT \$10.78			
WA \$12.00			
WV \$8.75			
VI \$10.50			
GU \$8.25			

U.S. DOL

Note: Like the federal wage and hour law, State law often exempts particular occupations or industries from the minimum labor standard generally applied to covered employment. Some states also set subminimum rates for minors and/or students or exempt them from coverage, or have a training wage for new hires. Additionally, some local governments set minimum wage rates higher than their respective state minimum wage. Such differential provisions are not identified in this table. Users are encouraged to consult the laws of particular States in determining whether the State's minimum wage applies to a particular employment. This information often may be found at the websites maintained by State labor departments. Links to these websites are available at www.dol.gov/whd/contacts/state_of.htm.

KK/al/gb