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FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/19

SPONSOR Roybal Caballero LAST UPDATED _____ HB 46

SHORT TITLE Increase Minimum Wage SB _____

ANALYST Klundt

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
		\$7,546.0	\$7,546.0	\$15,092.0	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
		\$24,748.0	\$52,439.6	\$77,187.6	Recurring	Public Schools
		\$1,027.0	\$2,054.0	\$4,108.0	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 31 and SB 85

SOURCES OF INFORMATION

LFC Files

Responses Received From

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Workforce Solutions Department (WSD)
Human Services Department (HSD)
Educational Retirement Board (ERB)
Administrative Office of the Courts (AOC)
Public Employee Retirement Association (PERA)
National Conference of State Legislatures (NCSL)
U.S. Department of Labor (DOL)

Responses Not Received From

State Personnel Office (SPO)
Public Education Department (PED)
Department of Health (DOH)
Children, Youth and Families Department (CYFD)

SUMMARY

House Bill 46 (HB 46) amends the state's Minimum Wage Act 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 the U.S. Department of Labor's Consumer Price Index (CPI). HB 46 caps these yearly increases at four percent in any given year. HB 46 does not authorize decreases in the minimum wage if there are decreases in the cost of living. HB 46 eliminates the separate minimum wage for tipped employees, who will be entitled to the new statewide minimum wage of \$15 per hour regardless of tips received. HB 46 requires the workforce solutions department (WSD) to publish by November 1 of each year the adjusted minimum wage rate that will take effect the following January 1.

FISCAL IMPLICATIONS

The Workforce Solutions Department (WSD) Labor Relations Division (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 November 1 of each year. The agency estimated the impact to the programs operating budget for other minimum wage increase proposed legislation close to \$100 thousand annually. Currently, LRD has a significant backlog of wage claims, increasing the caseload would require additional FTE and general for the agency. In FY19, the average cost per FTE in LRD is \$73.5 thousand.

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 \$15.00 (see below table). The total estimated cost to increase FTE to \$15.00 an hour may be near \$15.1 million including benefits. Some state agencies may have to adjust vacancy rates for compensation increases if additional general fund is not provided. However, since the wage increase begins on January 1, 2020 only half of the funding would be necessary in FY20 state agency operating budgets and the additional funding would be necessary in FY21.

Estimated State Agency FTE Affected by Minimum Wage Increase	
≤ Hourly	\$ 15.00
Number of FTE	1,070
Cost to Increase Salary	\$ 11,917,271
Cost to Increase Benefits	\$ 3,174,761
Total Cost	\$ 15,092,032

In addition to state agency personnel, school districts will also experience increased personnel expenditures. LESC analysis of PED data indicates the following fiscal impact.

Fiscal Impact of HB31, FY20-FY22

	FY20	FY21	FY22	
Consumer Price Index Forecast (Global Insight)		2.2%	2.2%	
Minimum Wage (on January 1 of each year)	\$15.00	\$15.35	\$15.70	Recurring or Nonrecurring
New Cost to School Districts and Charter Schools (in thousands)	\$24,748.0	\$27,691.5	\$6,023.3	Recurring
Cumulative Cost to Public Schools compared with FY19	\$24,748.0	\$52,439.6	\$58,462.8	

Source: LESC Analysis of PED Data

The the Administrative Office of the Courts (AOC) 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.

The increased costs for FY20 (with increase effective January 1, 2020) are projected to be slightly over \$1 million; for FY21 to be \$2.1 million, plus unknown cost of living increase; and

for FY22 to be \$2.1 million, plus unknown cost of living increase, based on actual FY19 jury costs. The AOC believes these projected additional expenses are not sustainable with the funds current revenue structure of a flat general appropriation and declining fees.

Public Employee Retirement Association (PERA) reported there are no anticipated near-term fiscal implications for PERA as the current lowest hourly wage for entry-level PERA employees will meet or exceed the minimum wage thresholds set forth in HB 46 until such time as the minimum wage is first adjusted upward based on the consumer price index.

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 46 eliminates the separate minimum wage for “tipped employees,” such as restaurant servers. Currently, the state and some local minimum wage laws have exemptions for tipped workers that allow employers to pay them a separate lower minimum wage. Under HB 46, this exemption would go away and tipped employees would be entitled to the full statewide minimum wage regardless of tips received.

The impact to the Unemployment Insurance Program administered by the WSD could be substantial. The maximum and minimum weekly benefit amounts are computed from total covered payrolls each year and an increase in the minimum wage would increase an employer’s total covered payroll. An increase will result in an increase to the average weekly covered wage which can increase the maximum and minimum weekly benefit amounts. Since a contributing employer’s total covered payroll is used to calculate their unemployment tax rate, this change has the potential to impact the employer’s rate.

The Human Services Department previously 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. HB46 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) previously 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 \$15.00 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.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

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.

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

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.

WSD reported, “Tipped employees are those who regularly receive more than \$30 per month in tips. Tips are the property of the employee. The employer is prohibited from using an employee’s tips for any reason other than as a credit against its minimum wage obligation to the employee or in furtherance of a valid tip pool. Since HB 46 eliminates the separate minimum wage for employees who regularly receive tips, the question remains as to whether tipped employees will continue to receive tips and whether such tips will be credited against the minimum wage requirement proposed at \$15.00/hour. Additionally, the United States Department of Labor has published a fact sheet that provides general information concerning the application of the Fair Labor Standards Act (FLSA) to employees who receive tips. <http://www.dol.gov/whd/regs/compliance/whdfs15.htm>

For further analysis regarding minimum wages for tipped employees, see the United States Department of Labor Wage and Hour Division state by state table of minimum hourly wages for tipped employees. <http://www.dol.gov/whd/state/tipped.htm>”

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.

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