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

ORIGINAL DATE 3/2/19
SPONSOR HLVMC **LAST UPDATED** 3/7/19 **HB** 403/HLVMCS

SHORT TITLE Provider Parity Pay **SB**

ANALYST Klundt

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)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		≥$24 million	≥$30 million	≥$54 million	Recurring	General, Federal, HSD
		≥$40 million	≥$40 million	≥$80 million	Recurring	General, CYFD, DOH, ALTSD
		Significant	Significant	See Fiscal Implications	Recurring	Various State Agency Operating Budgets

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to House Bill 31 and House Bill 46

SOURCES OF INFORMATION
LFC Files

Responses Received From
Workforce Solutions Department (WSD)
Human Services Department (HSD)
Children, Youth and Families Department (CYFD)

Department of Health (DOH)
Aging and Long Term Services Department (ALTSD)
Council of University Presidents (CUP)

Responses Not Received From
Department of Health (DOH)

SUMMARY

Synopsis of Bill

The House Labor, Veterans and Military Affairs Committee Substitute for House Bill 403 proposes to increase contractor reimbursement and worker wage in accordance with and concurrent with state minimum wage increases. Beginning July 1, 2019, a state agency or local public body that contracts for services shall include a provision to increase reimbursement to the contractor in direct proportion to any increase in the state minimum wage per the Minimum Wage Act.

FISCAL IMPLICATIONS

The HLVMC substitute for House Bill 403 creates a significant financial liability for state agencies. HSD believes the "held harmless for any wage increase" language is not defined and will create opportunities for contractors to claim new costs associated with the Minimum Wage Act. In addition to costs by contractors for direct increases as a result of the minimum wage increase, contractors could claim costs for indirect impacts of the minimum wage increase.

The proposal to increase contractor reimbursement and worker wage in accordance with and concurrent with state minimum wage increases will impact the HSD Career Link appropriation from the Temporary Assistance for Needy Families (TANF) federal block grant.

The Medical Assistance Division reviewed a study conducted by the University of Leicester (Lemos, 2005) that found that a 10 percent increase in the minimum wage resulted in 0.2 percent to 0.3 percent increase in prices overall. Assuming that this is true for the Medicaid program, there could be a $24 million increase in Medicaid expenditures ($5 million increase in General Fund) in FY20 and an additional $30 million increase in Medicaid expenditures ($10 million increase in General Fund) in both FY21 and FY22.

Unquantifiable but positive impacts to personal income taxes (PIT) would likely result from raising the wages. 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.

The ALTSD reported this bill would impact the agency in the following ways:

> <u>Adult Protective Services:</u>
> Currently between the home care and day care contracted services, we are paying above minimum wage on the contracts that are currently in place. At this time, we are unable to determine whether services may be impacted by additional salary and benefit costs. This could cause a decrease in the number of hours of home health and day care services that could be funded through ALTSD.
>
> <u>Aging Network Contracts for Volunteer Programs and Area Agency on Aging Contracts:</u>
> Meal costs and deliveries will be impacted by additional salary and benefit costs. Delivery services both external and internal will also contribute to the increase in contract dollars in order to meet minimum wage requirements. Thus, causing the increase in operating expenses, which includes gas and maintenance to those providers who must meet the demand of home delivered services. In order to increase contracts our state agency will need additional funding and DFA authority to increase funding above operating budget. The impact to ALTSD will affect contracts beyond increase to wages; it will affect administrative costs (to include taxes, social security & benefits), food prices, transportation rates and delivery services. Year 1: 23% inc, Year 2: 26 percent inc.
>
> <u>Senior Employment Programs:</u>
> In FY20, the minimum wage would increase from $7.50 to $10.00 and hour, a 33.3 percent increase. The budget of this program requires that at least 75 percent of expenditures be for participant wages and fringe benefits, therefore the budget increase is proportional to the minimum wage increase. It would increase by 33.3 percent in FY20. A further increase to $11.00 per hour in FY21 would result in a 46.7 percent increase over the current appropriation.

The largest impact to Council of University President (CUP) institutions would be in construction services contracts. Typically, a construction project is funded based on the wage rate decision determined at the beginning of each project. HB403 would require wage increases for all contractors and subcontractors on in concurrence with state minimum wage increases. This could be particularly problematic when a project lasts several years, prohibiting institutions from knowing the true cost of a construction project until the project is complete.

In addition, there is a federal law called the David Bacon Wage Act that requires higher education institutions to pay much higher wages than we normally would.

The breadth of services this bill would impact across state agencies is unquantifiable at this time but may be extensive. If signed in to law, state agencies in collaboration with the Department of

Finance and Administration would need to re-evaluate many state services to determine increases as provided by this bill.
DOH said that it assessed its General Services Contracts, and Developmental Disabilities Supports Division (DDSD) general fund contracts. Professional Service Contracts were not included in this assessment since they generally cover specialized or professional services that are compensated above minimum wage. DOH has twenty-four (24) General Services Contracts that potentially include staff making minimum wage or lower. The total amount of these contracts is just under $1.4 million, with the majority of the total coming from staffing companies and food service vendors. It is not possible to determine the impact of any minimum wage increase to these contracts because DOH does not have information on how many employees are paid minimum wage or lower, or what employees may be earning per hour.

There are currently twenty-seven DDSD contracted providers who provide general fund services, with a total amount around $6 million. However, DOH does not have information on how many providers pay minimum wage to their employees or the number of employees potentially impacted. DD Waiver general provider agreements with DOH would likely not be impacted they are either zero cost agreements or function as a pass-through for funding from the Human Services Department.

SIGNIFICANT ISSUES

HSD reported HB403cs proposes to increase contractor reimbursement in accordance with state minimum wage increases, which will result in an increase in the gross income of TANF participants in the transitional work program, Career Link, and the subsidized employment program. The New Mexico Works program contractor issues payments to TANF participants in Career Link and the subsidized employment program. This will decrease the number of individuals who are eligible to participate in the Career Link and in the subsidized employment program. In order to participate in the Career Link program, all participants must receive at least $1 of TANF benefit and work at a Career Link site for at least 18 hours a week. In FY2019, about 529 TANF participants were able to participate in the Career Link program at the current state minimum wage, working 18 to 20 hours a week and receive TANF simultaneously.

CYFD provided, "<u>Child Care</u>
If the intent of this bill is to ensure that child care providers are appropriately paid, the fiscal implication relative to HB031 is as follows:

The increase in minimum wage will allow child care workers increase their pay and may support staff retention. However, centers and homes who employ individuals at minimum wage (usually teacher assistants, floaters and substitutes) may incur additional costs not calculated as part of their current operations. Including child care assistance, Child-Adult Care Program reimbursements and any other program support. The costs increase as programs are required to lower ratio and group size for participation in the New Mexico Tiered Quality Rating and Improvement System-FOCUS.

There are currently 738 licensed child care centers in New Mexico and 233 licensed homes. ECS has no specific data on the wages each center or home pays to their staff. The following are averages based on the following data and assumptions to comply with child care regulations in a 12 hour/day schedule with infants, toddlers, preschool and school age children:

- 738 centers averaging 5 classrooms, 5 teachers, 12 assistants (including floaters).
- 738 x 2 = 8,856 assistants. These individuals are mostly paid minimum wage of $7.50.

Based on the above assumptions, each center could have an increase in personnel costs (wages only, this does not include the additional taxes).

The increase in minimum wage for FY 20 would mean for child care programs an increase of $2.50 per hour per staff member x 12 could be a total of $30/hr. and a possible increased cost of $62,000 per year ($45,756,000 for all 738 programs).

Using the same calculation, for FY21 the increase could be an additional $3.50 per hour per staff member x 12 for a total of $42.00/hr. and an increased cost of $87,360 per year ($64,471,680 for all 738 programs).

For FY22 the increase could mean an additional $4.50 per hour per employee for a total of $54/hr. for all 12 employees or $112,320 per year ($82,892,160 for all 738 programs).

Under HB046, the increase in minimum wage would mean for child care programs an increase of $7.50 per hour per staff member x 12 could be a total of $90/hr. and a possible increased cost of $187,200 per year. Or an additional $138,153,600.00 calculated for the 738 programs.

There are about 65,000 children in child care in New Mexico, the calculations above reflect the impact on all child care providers, including those not paid with Child Care Assistance funds. About 26% of children are receiving Child Care Assistance and attending licensed centers. If either HB031 or HB046 are enacted, the implementation impact for the Child Care Assistance Program as related to this Bill would be as follows:

HB031:
FY20 $11,962,560 per year
FY21 $16,747,584 per year
FY22 $21,532,608 per year
HB046: $ 35,919,936.00 per year

Increase in state reimbursement means increase for paying families who may also be low income.

Pre-Kindergarten and Early-Pre-Kindergarten

There are 3,040 children participating in PreK program for four year olds
There are 1,131 children participating in Early PreK program for 3 year olds
There are 87 children participating in the PreK Mixed Aged pilot (3 and 4 year olds)
For a total of 4,528 children participating, services are provided in an average of 228 classrooms. Each classroom with a teacher and one teacher aide.

Minimum wage	$ 7.50	Hourly difference	Yearly	Overall 228 Teacher's Assistants
Projected Y1	$ 10.00	$2.5	$ 5,200.00	$ 1,185,600.00
Projected Y2	$ 11.00	$3.5	$ 7,280.00	$ 1,659,840.00
Projected Y3	$ 12.00	$4.5	$ 9,360.00	$ 2,134,080.00

HB046	$ 15.00	$7.5	$ 15,600.00	$ 3,556,800.00

Other Early Childhood Contracts
Home Visiting, Training, technical Assistance and Consultation, Scholarships, Professional Development, Private Investigators, Information Technology and Other contracts related to the operations of grants, require a professional expertise and are above the Minimum wage threshold for current and upcoming phased-in levels."

Regarding proposed minimum wage increases, 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.

ADMINISTRATIVE IMPLICATIONS

WSD is the department responsible for enforcing the Minimum Wage Act. It is unclear from this bill whether WSD would be the agency responsible to enforce violations of this bill or whether either the General Services Department or Department of Finance Administration would be the enforcement agency, as those agencies currently dictate the language of current procurement contracts. If WSD is the responsible agency, the complaints would be filed through the normal complaint process currently in place for investigation and resolution.

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.

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.

OTHER SUBSTANTIVE ISSUES

Administrative implications are dependent on enacted legislation. Once a minimum wage increase has been passed, CYFD will convene a group of providers and contractors to determine whether rate adjustments are necessary. In the event that a rate adjustment is necessary to ensure that providers and contractors are able to accommodate the minimum wage increase, and assuming no new monies are available, fewer families will subsequently be served.

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