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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/16  
 SPONSOR Soules LAST UPDATED 02/16/16 HB \_\_\_\_\_  
 SHORT TITLE State Minimum Wage, CA SB SJR 18  
 ANALYST Alejandro

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18	FY19	FY20		
\$0	\$0	Positive, But Unquantifiable	Positive, But Unquantifiable	Positive, But Unquantifiable	Recurring	Personal Income Taxes
\$0	\$0	Unquantifiable	Unquantifiable	Unquantifiable	Recurring	Corporate Income Taxes

(Parenthesis ( ) Indicate Expenditure Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		\$361.0	\$361.0	Recurring	Various
	\$104.0			Nonrecurring	Secretary of State

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files  
 US Department of Labor, Bureau of Labor Statistics (BLS)  
 National Conference of State Legislatures (NCSL)

### Responses Received From

Workforce Solutions Department (WSD)  
 Administrative Office of the Courts (AOC)  
 State Personnel Office (SPO)  
 Secretary of State (SOS)

## **SUMMARY**

Senate Joint Resolution 18 proposes an amendment to the New Mexico Constitution, Article 20 by establishing an initial cost-of-living increase to the state minimum wage rate (currently \$7.50 per hour) effective July 1, 2017 as well as subsequent cost-of-living increases effective January 1 every year thereafter. Both the initial and subsequent increases will equal the percentage increase in the Consumer Price Index<sup>1</sup> (CPI), except that the annual increases after the initial increase are capped at four percent. SJR 18 prohibits decreasing the minimum wage based on decreases to the CPI.

Senate Joint Resolution 18 permits employers of tipped employees to pay up to 50 percent of the applicable minimum wage, but only if they can show that the amount of wages and tips received by such employees are equal to or greater than the minimum wage for all hours worked.

The proposed amendment would be submitted to the people for their approval or rejection at the next special or general election.

## **FISCAL IMPLICATIONS**

Inflation has increased 8.9 percent since January 2009. If the provisions of SJR 18 were effective today, the minimum wage rate would increase from \$7.50 to \$8.20. The following state agencies have reported estimated costs of implementing SJR 18:

- State Personnel Office (SPO) estimates the cost of the increase (including benefits) for all classified state employees to be \$101 thousand in FY18, and \$146 thousand in FY19 assuming an additional 2.8 percent wage increase for that year;
- Administrative Office of the Courts (AOC) reports that the jury and witness fund will require \$255 thousand in FY18, and an additional \$73 thousand in FY19;
- Secretary of State (SOS) estimates that the cost of printing voter guides for a single constitutional amendment to be \$104 thousand; and
- Department of Workforce Solutions (DWS) indicates a \$5 thousand annual administrative cost associated with updating and maintaining information related to minimum wage.

It is possible that unquantifiable, positive impacts to personal income taxes (PIT) and corporate income taxes (CIT) may result from raising the minimum wage. Any positive increases may be offset by lower employment levels due to fewer minimum wage jobs.

According to the SPO, there will be a significant indeterminate additional fiscal impact to both public sector organizations and private sector companies if SJR18 is approved, as many organizations pay workers less than \$8.20 per hour.

## **SIGNIFICANT ISSUES**

Economists are divided on the economic effects of the minimum wage. In New Mexico's case, the previous minimum wage increases have not produced significant effects on employment or

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<sup>1</sup> The CPI to be used would be the CPI for all urban consumers, United States city average for all items, or its successor index, as published by the United States Department of Labor (USDOL) or its successor agency.

corporate earnings. In states that have indexed increases in their minimum wages to increases in the cost-of-living, consumer prices have not deviated significantly from the national average.

According to the National Conference of State Legislatures (NCSL), New Mexico is among 29 other states with a current minimum wage rate above the federal rate of \$7.25 an hour. In Santa Fe, Albuquerque, and Las Cruces, the minimum wage rates are above the state minimum of \$7.50. Specifically, as of January 1, 2016 those rates were \$10.84, \$7.75-\$8.75, and \$8.40 per hour, respectively.

The SPO offered the following analysis of SJR 18:

SJR18 places a mandatory requirement to automatically increase the State's minimum wage annually, even if there is an undue financial burden to employers.

By simply raising the minimum wage annually, and providing salary increases only to employees who earn salaries below the new annual minimum wage, the State's pay systems will experience significant 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. 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.

Adjusting the salaries for only minimum wage workers, without adjusting the salaries for all other employees in the State's pay systems, will increase the systems' compression, which leads to morale issues and retention issues. This practice will conflict with the purpose of the State Personnel Act, NMSA 1978, §10-9-2, which is to establish a system of personnel administration based solely on *qualification* and *ability*, in order to provide greater economy and efficiency in the management of state affairs. Thus, without differentiating pay for noticeably different job sizes, employee performance, and employee contribution levels based on qualification and ability, the provisions of SJR18 may conflict with the State Personnel Act.

### **ADMINISTRATIVE IMPLICATIONS**

The Classified Service salary structure would need to be reviewed, and adjusted upward as appropriate, if the new minimum wage was higher than the minimum of the lowest pay range. This could be designed to only affect the lowest pay range, or all pay ranges based on policy decisions.

The Legislature would be required to amend the Minimum Wage Act, NMSA 1978, § 50-4-20 through 27, and all other New Mexico Statutes relating to state minimum wage annually, or remove these sections of law completely.

### **TECHNICAL ISSUES**

The SPO indicates that SJR18 does not repeal the Minimum Wage Act, nor does it provide for any enforcement mechanisms, exemptions, and the other administrative provisions contained in the Minimum Wage Act. Because of the need for enforcement mechanisms, and the types of administrative provisions already contained in the Minimum Wage Act, this proposal seems better suited as a statutory amendment, as opposed to a Constitutional Amendment.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

There are multiple bills that conflict with SJR 18:

- House Bill 125 increases the statewide minimum wage to \$10.10 per hour by January 1, 2019 through a series of annual increases proscribed in the bill. Additionally, starting January 1, 2017, there will be added increases every year that are over and above those specifically set forth in HB 125. These added increases are linked to a consumer price index or CPI. Finally, employees who regularly receive more than \$30 a month in tips will be paid a minimum wage equal to 40 percent of the minimum wage in effect for non-tipped employees.
- House Bill 154 increases the minimum wage to \$15 per hour by January 1, 2017, with successive annual increases beginning January 1, 2018 that are linked to a CPI. HB 154 eliminates the current separate method for calculating the minimum wage applicable to tipped employees.
- House Bill 211 seeks to preempt municipalities from setting their own minimum wages that are higher than the state minimum wage. SJR 18 contains language that permits municipalities to have higher minimum wage laws than the state.
- Senate Bill 237 raises the minimum wage to \$10.10 per hour for all state employees, every person employed under state contracts valued at \$50,000 or more, and employees at a state educational institution named in Article 12, Section 11 of the Constitution (except student employees as defined by the Higher Education Department). SB 237 provides for a cost of living increase on July 1, 2017 and each succeeding July 1 based on the Consumer Price Index. The bill also provides that contractors, who have contracts with state agencies that take effect on or after July 16, 2016 and are valued at more than \$50,000, are required to pay employees \$10.10 per hour.

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