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FISCAL IMPACT REPORT

ORIGINAL DATE 1/27/21

SPONSOR Steinborn LAST UPDATED _____ HB _____

SHORT TITLE Wage Requirements for Secondary School Students SB 35/aHCEDC

ANALYST Bachechi

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	\$46.2	\$46.2	\$92.4	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 110

SOURCES OF INFORMATION

LFC Files

Responses Received From

Workforce Solutions Department (WSD)
 Human Services Department (HSD)
 Children, Youth and Families Department (CYFD)
 Public Education Department (PED)

SUMMARY

Synopsis of HCEDC Amendment

The House Commerce and Economic Development Committee amendment to Senate Bill 35 amends Section 50-4-21 (C.) (6) in the Minimum Wage Act, striking from the exclusions of the definition of “employee” persons 18 years of age or under who are not students in a primary, secondary, vocational or training school. The amendment broadens the bill, eliminating the separate lower minimum wage from secondary students to all individuals 18 years old or under. The amended bill would expand the coverage of the Minimum Wage Act’s provisions for overtime pay and legal recourse to all individuals. Currently, nonstudent workers 18 and under are not protected by these provisions.

Synopsis of Bill

Senate Bill 35 amends Section 50-4-22 NMSA 1978 (being Laws 1955, Chapter 200, Section 3, as amended) by striking section 50-4-22 (B), which provides a lower minimum wage for students

“regularly enrolled in secondary school,” in effect high school students working after school hours or when school is not in session.

In 2019 the Legislature amended the New Mexico Minimum Wage Act (MWA)¹ to provide for a separate minimum wage for secondary school students of \$8.50 an hour, compared with the minimum wage rate for non-students over age 18. As of January 1, 2021, the non-student adult minimum wage rate is \$10.50 an hour, with scheduled annual increases occurring through January 1, 2023 that will bring the non-student adult rate to \$12 an hour. The secondary school rate in section 50-4-22 (B) is \$8.50 an hour and is not scheduled to increase. If this bill is passed, secondary school students would become eligible for the same minimum wage and scheduled increases that non-student adults enjoy.

FISCAL IMPLICATIONS

Passage of SB35 could result in an increase of wage-and-hour complaints filed with the Labor Relations Division (LRD) of the Workforce Solutions Department (WSD). The department contends additional staff may be required to investigate unfair wage claims submitted for secondary school students.

SIGNIFICANT ISSUES

The bill does not eliminate the exemption from the minimum wage for individuals 18 years or under who are not students.² Currently, there is no statewide minimum wage that covers such individuals, although they may be covered by federal, municipal or county minimum wage laws. Currently, the federal minimum wage is \$7.25 an hour.

The 2019 legislative changes did not make the \$8.50 rate apply to all secondary students. Students working jobs that generate at least \$30 a month in tips are eligible to receive the same minimum wage that non-student adults receive.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 110 is a more sweeping minimum wage proposal that would eliminate not only the separate lower minimum wage rate for secondary students but also the separate minimum wage rate for tipped workers, as well as the exemption from the minimum wage for non-students aged 18 years and under. Everyone would be entitled to the statewide minimum wage, other than individuals to whom a higher municipal or county rate would apply. HB110 also reformulates the scheduled increases to minimum wage so that the annual increases continue through January 1, 2024, bringing the statewide minimum wage rate to \$15 an hour. After that, HB110 would adjust the rate upward (but never downward) every year based on the annual cost-of-living index.

The bill references current minimum wages which will need to be updated to align with the proposed increase to the state minimum wage in HB110.

¹ NMSA 1978, § 50-4-19 *et seq.*

² NMSA 1978, § 50-4-21(C)(6).

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The separate rate for secondary students would remain at \$8.50 an hour with no scheduled increases.

CLB/al/rl