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FISCAL IMPACT REPORT

ORIGINAL DATE 2/4/09

SPONSOR Keller LAST UPDATED HB

SHORT TITLE State Minimum Wage Cost-of-Living Increase SB 260

ANALYST Peery-Galon

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Minimal to Moderate	Minimal to Moderate	Minimal to Moderate	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Transportation (DOT)
 Higher Education Department (HED)
 Workforce Solutions Department (WSD)
 State Personnel Office (SPO)
 Department of Finance and Administration (DFA)
 Administration Office of the Courts (AOC)
 New Mexico Municipal League

No Response Received From

Association of Counties

SUMMARY

Synopsis of Bill

Senate Bill 260 amends Section 50-4-22 NMSA 1978 regarding “Minimum Wages”. The proposed legislation states that an employer shall pay the minimum wage rate of \$7.50 and hour, which is the current minimum wage rate in New Mexico. Effective January 1, 2010, the minimum wage would be increased by the cost-of-living. The increase in cost-of-living is to be measured by the percentage increase as of August of the immediately preceding year over the level as of August of the previous year of the consumer price index for all urban consumers, United States city average for all items, or its successor index as published by the United States department of labor or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of five cents (\$.05). The proposed legislation would require the WSD to publish by November 1 of each year the wages that are to go into effect the following year.

FISCAL IMPLICATIONS

DOT reported the Department of Labor Consumer Price Index fluctuates from month to month so the true cost of the proposed legislation and the number of employees it might affect on January 1, 2011 cannot be calculated making the budget impact difficult to gauge.

HED reported that New Mexico colleges and universities would be impacted through their work study programs. There are more than 6,000 students participating in the state and federal work study programs. Institutions are required to match 20 percent of the work study funds, the increase would affect both number of students awarded and the institutional dollars required to match the work study programs. With the recent increase to the state minimum wage, there was a large cost differential between the state appropriation and the number of students awarded annually.

WSD noted the department's Labor Relations Division only provides minimum wage materials and posters on the website and no longer prints employer minimum wage poster. This change was due to the lack of funding. If the "Notice" contemplated by the proposed legislation is actual printed posters, the department would need additional funding for this annual printing cost. Otherwise, the department will continue to offer printable posters on the website.

SPO noted that there are currently 30 non-temporary classified state employees earning \$7.50 per hour. There are 62 non-temporary classified state employees earning less than \$7.80 per hour. The estimated additional cost to the general fund for classified agencies would be \$14,800 for FY10, based on a 3.8 percent increase in the consumer price index. SPO reported if the proposed legislation is passed it obligates the legislative branch to appropriate these additional cost-of-living funds on an annual basis, and the executive to approve these appropriations.

DFA reported during any extended period of headline consumer price deflation, such as currently exists, the result of this proposed legislation may be to reduce wages for minimum wage workers, which could trigger spiraling deflation. In long periods of rapid consumer price growth or spiking energy prices, the effect of the proposed legislation would be to protect the purchasing power of minimum wage workers with a six month lag. In times with volatile consumer price changes, such as over the last year, the effect of the proposed legislation could be to lock in a cost-of-living change for a year that could be quite different from the prior year annual average percent change or long-term consumer price index growth rate. DFA reported the 9 year average for consumer price index is 2.7 percent.

AOC stated it does not have any employees that work at the minimum wage level or below, this increase would significantly impact the Jury and Witness Fee Fund. The Jury and Witness Fee Fund currently pays jurors at the prevailing State or Federal minimum wage, whichever is higher. As of January 1, 2009, jurors are paid the State of New Mexico's newest minimum wage rate of \$7.50 per hour. If the proposed legislation is enacted, subsequent years' increases would not take effect until January of each calendar year, and the increase would not be known until its publication no later than November 1st by WSD. As a result, the AOC would not be able to anticipate and request the increase in its annual budget requests. This would further add to the Jury and Witness Fee Fund's usual shortfall each fiscal year. In FY09, AOC anticipates paying approximately 77,028 jurors at an average of 6.3 hours per juror. An average consumer price index increase of 3 percent would increase the Jury and Witness Fee Fund by approximately \$110,004 a year.

NM Municipal League stated passage of the proposed legislation could save the state and political subdivisions of the state substantial sums of money in paying overtime costs by allowing the state and political subdivisions to give compensating time in lieu of overtime.

SIGNIFICANT ISSUES

DOT noted that Section 1(D) of this proposed legislation does not distinguish between Federal Labor Standard Act non-exempt employees, who earn time and a half after working over forty hours in a normal work week, from exempt employees who earn straight time for hours worked over 40 hours in a normal work week. It only addresses Federal Labor Standard Act exempt employees who provide investigative services to federal government.

HED reported that there are only four states in the country that have minimum wage rates higher than New Mexico, they are Massachusetts at \$8.00, Oregon at \$8.40, Vermont at \$8.06 and Washington at \$8.55. Oregon, Washington and Vermont use the consumer price index as a measurement of how to calculate and increase state minimum wage rates.

HED stated that according to the Bureau of Labor Statistics, 5,400 businesses, or 11 percent of all New Mexico businesses would be affected by an increase to the minimum wage rate. Most of the employees affected work full-time, are women and are likely Hispanic.

HED reported that although the majority of industries are service and retail trade related, there will still be an impact on higher education institutions throughout New Mexico in regards to employing state and federally funded work-study students. HED called three institutions to poll the effect of the increase to minimum wage. All three institutions' financial aid offices stated that a minimum wage increase would adversely affect the number of students awarded without an increase to the state and federal work study appropriations.

HED reported that the Consumer Price Index (CPI) is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services used as an economic indicator, as a deflator of other economic series and as means of adjusting dollar values. The CPI is designed to measure inflation for the U.S. urban population and thus may not accurately reflect the experience of people living in rural areas. Also, CPI does not produce official estimates for the rate of inflation experienced by subgroups of the population, such as the elderly or the poor.

WSD reported the “graduated” minimum wage increase is one of the proposals that was set forth by the Governors Committee on Reduction of Poverty as a method to address poverty. Historically, the State along with the federal minimum wage has not increased with the cost-of-living. Therefore, the minimum actually decreases with cost-of-living increases. This increase based on the index would better represent a true increase in minimum wage.

SPO stated the proposed legislation requires automatic changes to the minimum wage that employers must pay. This requires additional future appropriations from the general fund for state agencies. This would affect municipalities and counties as well as small private business owners who would also be required to automatically increase wages paid to their employees.

NM Municipal League stated that prior to the increase in the state minimum wage authorized in 2007, the state and political subdivisions were allowed to grant compensating time in lieu of payment of overtime in accordance with the Fair Labor Standards Act. The 2007 amendments removed that authority. The proposed legislation would return the state and political subdivisions to the status they had prior to January 1, 2008.

PERFORMANCE IMPLICATIONS

AOC reported the agency and courts may be unable to meet the target set for the “timeliness of juror payments” performance measure.

ADMINISTRATIVE IMPLICATIONS

SPO noted all public and private employers would need to stay up-to-date on annual changes. The WSD would be required to notify employers of the change.

AOC reported that the Jury and Witness Fee Fund continues to be under-funded. Each year the AOC must request supplemental funding and, in FY08, had to request an emergency loan from the Board of Finance because the supplemental funding requested was not sufficient to meet the needs of the fund.

OTHER SUBSTANTIVE ISSUES

HED stated that according to the Bureau of Labor Statistics, minimum wage earners tend to be unmarried part-time workers in service industry jobs who are younger than 25 years old and have not completed high school. Nationally, about 60 percent of minimum wage employees work in the leisure and hospitality industry, primarily food and drink establishments.

RPG/mt