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FISCAL IMPACT REPORT

ORIGINAL DATE 02/20/13

SPONSOR Archuleta LAST UPDATED _____ HB 550

SHORT TITLE Raise Minimum Wage for Tipped Employees SB _____

ANALYST Aledo-Sandoval

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$1.0		\$1.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 416 and HJR 6

SOURCES OF INFORMATION

LFC Files

Responses Received From

State Personnel Office (SPO)

Attorney General's Office (AGO)

Economic Development Department (EDD)

Workforce Solutions Department (WSD)

SUMMARY

Synopsis of Bill

House Bill 550 (HB 550) increases the minimum hourly wage for employees who receive more than \$30 a month in tips from \$2.13 to \$3.25. The bill also changes the requirement to be considered an employee who customarily and regularly receives tips from a minimum of \$30 a month to a minimum \$30 a week.

FISCAL IMPLICATIONS

According to the Workforce Solutions Department (WSD), passage of this bill would require the Labor and Industrial Bureau to spend time updating wage claim forms and the website to reflect the new minimum wage. The WSD estimates this to cost the agency \$1 thousand.

The State Personnel Office (SPO) added that there would not be a fiscal impact to the state's personnel system because the state does not currently have tipped workers.

SIGNIFICANT ISSUES

The WSD notes that if the minimum wage is increased to \$3.25 for an employee that receives more than \$30.00 a week in tips, this would reflect approximately a 53 percent increase.

The Economic Development Department (EDD) contends that the proposed increase in wages could negatively impact the cost of doing business, which in turn could affect employment levels, and the cost of consumer goods and services.

According to the EDD, changing the definition of eligible tips from \$30.00 per month to \$30.00 per week reduces the number of employees who qualify for the increase. The EDD further adds that as a result, those employees who receive less of their income from tips will remain at the \$2.13 per hour wage rate. The LFC staff disagrees with this interpretation, under HB 550 if an employee makes less than \$30 in tips a week they then would qualify for the standard minimum wage of \$7.50.

The U.S. Department of Labor’s Wage and Hour Division indicates that 32 states and the District of Columbia have hourly minimum wages greater than \$2.13 for tipped employees.

According to the SPO, employees who “customarily and regularly” receive tips are generally food service and hospitality workers. The SPO further asserts that the bill would not affect tip pooling by employees, the ability of the employee to retain all tips received, or the length of a standard work week. The employer may still consider tips as part of the employee’s wage, as long as the sum of the two is greater than \$7.50 per hour.

The SPO adds that by changing the minimum tip requirement from \$30 a month to \$30 a week, state law would differ from federal law which currently applies to tipped employees receiving more than \$30 a month.

ADMINISTRATIVE IMPLICATIONS

The WSD notes that the Labor Relations Department may be asked to conduct additional employer/employee presentations regarding wage and hour laws. This task is within the job responsibilities outlined for Labor Law Administrators and would not require additional FTE’s.

RELATIONSHIP

Senate Bill 416 proposes to raise the minimum wage in New Mexico to \$8.50 per hour.

House Joint Resolution 6 proposes to provide a constitutional amendment for annual cost-of-living increases to the state minimum wage rate.

TECHNICAL ISSUES

The Attorney General’s Office suggests deleting the first sentence in subsection 50-4-22(A).

MAS/svb