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FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/17
SPONSOR Caballero **LAST UPDATED** _____ **HB** 27

SHORT TITLE Increase Minimum Wage **SB** _____

ANALYST Klundt/Clark

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	\$5.0	\$5.0	\$5.0	\$15.0	Recurring, Workforce Solutions Department	General Fund
		\$12,025.8	\$25,530.3	\$37,556.1	Recurring	General and Various Fund
		\$397.1	\$794.1	\$1,191.2	Recurring	General and Various Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
	Unquantifiable	Unquantifiable	Recurring	Personal Income Taxes
	Unquantifiable	Unquantifiable	Recurring	Corporate Income Taxes

(Parenthesis () Indicate Revenue Decreases)

Relates to HB 20, SB 36, HB 134, HB 67, SB 109, SB 143

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Workforce Solutions Department (WSD)
- State Personnel Office (SPO)
- U.S. Department of Labor (DOL)
- National Conference of State Legislatures (NCSL)
- Department of Transportation (NMDOT)

SUMMARY

House Bill 27 proposes to raise the New Mexico base minimum wage to fifteen dollars (\$15) per hour as of January 1, 2018. Starting January 1, 2019 and each succeeding year, House Bill 27 proposes annual cost-of-living increases to the minimum wage based on the Consumer Price Index (CPI) to reflect inflation. House Bill 27 eliminates the separate minimum wage for tipped employees. House Bill 27 requires the New Mexico Department of Workforce Solutions (NMDWS) to publish the adjusted minimum wage rate for the upcoming calendar year no later than November 1 of the current year. The increases in the minimum wage are limited to no more than four percent annually. The minimum wage will not be adjusted downward as a result of a decrease in the cost of living.

FISCAL IMPLICATIONS

The Workforce Solutions Department (WSD) reported the Labor Relations Division (LRD) would be impacted in that it would have to update its website information, Wage and Hour employer/employee presentations and all WSD publications, which have a published minimum wage rate each January 1. Additionally, LRD would assume the task of publishing New Mexico's adjusted minimum wage rate by November 1 of each year. WSD estimated this would cost \$5 thousand each fiscal year.

SPO reported 3,534 state employees across all salary plans fall below \$15.00 per hour. The annualized salary cost (excluding benefits) to bring these employees to \$15.00 per hour would be \$18,992,168 (based on 2,080 hour year). The annualized cost with benefits would be $\$18,992,168 \times 1.2664 = \$24,051,681$. The cost to the State from July 1, 2017 until December 31, 2017 would be \$12,025,840.

Using the average CPI-U over the past 10 years of 1.92 percent, the state minimum wage would increase from \$15.00 per hour to \$15.30 per hour effective January 1, 2019 (rounded to the nearest \$0.05). This hypothetical cost of living increase would result in a total of 3,836 employees across all salary plans falling below the \$15.30 per hour minimum wage.

The annualized cost to bring 3,836 employees up to \$15.30 per hour is \$2,335,516 in wages. The annualized cost including benefits is $\$2,335,516 \times 1.2664 = \$2,957,317$. The half fiscal year costs for FY19 are \$1,167,608 in wages and \$1,478,658 with benefits. Added to the recurring fiscal impact, the total cost for FY19 is $\$24,051,681 + \$1,478,658 = \$25,530,340$.

NMDOT reported NMDOT's payroll expenses for any employee who will not already be making an hourly \$15.00 or greater on January 1, 2018. The FY18 cost would be \$397,066.04, the FY19 cost would be \$794,132.09, and the FY20 cost would be \$794,132.09. The total estimated cost for FY18, FY19 and FY20 is \$1,985,330.21. Additionally, Employees would see an increase to their benefits costs on a gradual basis, since costs are determined as a percentage of the employee's pay.

NM DOT also stated as the minimum wage rate continues to increase from year to year, the number of employees whose salaries and benefits need to be adjusted upward to meet the new increased minimum wage thresholds and the cost to NMDOT would also increase. The additional salary costs, as a consequence, would decrease the amount of dollars available for maintenance and construction activities for the roadways.

In addition to the direct impact on NMDOT operational costs, there is also a likely indeterminate effect on NMDOT's operational costs, that being contractual and other costs encumbered by NMDOT for its various maintenance and construction activities as contractors and vendors will also be required to pay the minimum wage and may likely pass the additional cost onto the state.

Previous analysis stated unquantifiable but positive impacts to personal income taxes (PIT) may result from raising the minimum wage. 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 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 that two people each making \$12.5 thousand would contribute. In FY16, PIT contributed \$1.3 billion, or 23.2 percent of recurring revenues, to the general fund.

Unquantifiable impacts to corporate income taxes (CIT) may also result from raising the minimum wage. In FY16, CIT contributed \$118.5 million, or 2.1 percent, to the general fund.

SIGNIFICANT ISSUES

The federal minimum wage has remained at \$7.25 an hour since 2009, however many states have adopted higher minimum wage laws. According to the National Conference of State Legislatures (NCSL) in 2017, 19 states began the New Year with higher minimum wages. Seven states (AK, FL, MO, MT, NJ, OH, SD) automatically increased their rates based on the cost of living, five states (AZ, AR, CO, ME, WA) increased their rates through ballot initiatives previously approved by voters, and seven states (CA, CT, HI, MA, MI, NY, VT) did so as a result of legislation passed in prior sessions. Washington D.C., Maryland and Oregon are scheduled to raise their respective minimum wages on July 1, 2017 due to previously enacted legislation.

Currently, 29 states and D.C. have minimum wages above the federal minimum wage of \$7.25 per hour.

Five states have not adopted a state minimum wage: Alabama, Louisiana, Mississippi, South Carolina and Tennessee. New Hampshire repealed their state minimum wage in 2011 but adopted the federal minimum wage by reference.

The current minimum wage rate in New Mexico is \$7.50, which is higher than the federal minimum wage. State minimum wage rates are controlled by the respective legislatures within the individual states. The Fair Labor Standards Act (FLSA) sets a federal minimum hourly rate (\$7.25 per hour since 2009) for non-exempt employees, but states may enforce higher pay rates. If an employee is subject to both the state and federal minimum wage laws, the employee is entitled to the higher of the two minimum wages. The LRD's Wage and Hour Bureau enforces the Minimum Wage Act. The Bureau investigates and gathers data on wage issues to enforce compliance with the Act.

WSD reported this bill's impact on the Unemployment Insurance (UI) program administered by the agency could be significant. The maximum and minimum weekly UI benefit amounts are computed from total covered payrolls each year and an increase in the minimum wage would increase an employer's total covered payroll. An increase will result in an increase to the average

weekly covered wage which can increase the maximum and minimum weekly benefit amounts. Since a contributory employer’s total covered payroll is used to calculate their unemployment tax rate, this change has the potential to impact the employer’s rate.

SPO stated 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 can lead to morale issues and retention issues. This practice conflicts 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 HB 27 likely conflict with the State Personnel Act.

SPO also stated HB27 prohibits the minimum wage rate from being adjusted downward if the CPI-U is negative for a 12-month period ending in August. Should a conflict occur between the State minimum wage and the Federal minimum wage, the higher of the two will apply.

RELATIONSHIP

Bill Number	Short Title
House Bill 20	Public Works Prevailing Wage and Projects
Senate Bill 36	Increase Minimum Wage
House Bill 134	School Personnel Minimum Salaries
House Bill 67	Raise Minimum Wage
Senate Bill 109	Workforce Solutions Gender-Neutral Language
Senate Bill 143	NM Infrastructure Investment Act

House Bill 67 amends Section 50-4-22 NMSA 1978 regarding “Minimum Wages.” The bill proposes to phase in a minimum wage increase from \$7.50 to \$10.10 over three calendar years, starting on January 1, 2018. Tipped employees shall be paid a minimum hourly wage that is equal to forty percent of the minimum wage proposed in HB 67 Subsection A. In addition, the bill proposes to index increases to increases in the regional cost-of-living index. The cost-of-living adjustment is measured as the year-over-year August increase of the consumer price index (CPI-U), as published by the United States Department of Labor. The proposed legislation would require the Workforce Solutions Department (WSD) to calculate changes to the minimum wage and notify employers by November of each year any increases that will become effective on the next January 1. The minimum wage may not be adjusted upward by more than four percent in any one year as a result of an increase in the CPI.

Senate Bill 36 (SB 36) proposes raising the minimum wage rate applicable to employers with more than ten (10) employees to \$8.45 per hour effective July 1, 2017, while the minimum wage rate applicable to employers with 10 or fewer employees would remain at \$7.50 per hour. However, as of January 1, 2018 and on January 1 of each subsequent year, the minimum wage rate applicable to both classes of employers would be subject to annual adjustments based on increases, if any, to the cost of living as determined by the United States consumer price index (CPI) for all urban consumers. SB 36 would require the Department of Workforce Solutions (DWS) to calculate and publish annually the adjusted minimum wage rates applicable for the upcoming calendar year. SB 36 would permit employers with ten (10) or more employees to pay trainee employees \$7.50 per hour for up to six months, after which the trainee employee must be

paid at the non-trainee minimum wage rate. The trainee minimum wage rate would also be subject to cost-of-living adjustment annually. SB 36 would also increase the minimum wage for employees who customarily and regularly receive more than \$30 a month in tips to \$2.65 per hour and this rate would also be subject to annual adjustment based on cost of living in the same manner as the aforementioned minimum wage rates. SB 36 would not prohibit counties and cities from setting minimum wage rates higher than the minimum wage rates provided for in SB 36.

OTHER SUBSTANTIVE ISSUES

SPO stated state budget requests are due September 1 of each year. Since the new hourly minimum wage rate would not be published until November 1, and CPI-U data would not be available until after September 1, State budget requests would not include information necessary to reflect a minimum wage salary increase and associated benefit cost increases. Without accurate State budget submissions, the Legislature may not have sufficient time to provide increased funding to public agencies to pay for mandated minimum wage increases.

States with Minimum Wages Higher than the \$7.25/hr Federal	
D.C.	\$ 11.50
Massachusetts	\$ 11.00
Washington	\$ 11.00
California	\$ 10.50
Connecticut	\$ 10.10
Arizona	\$ 10.00
Vermont	\$ 10.00
Alaska	\$ 9.80
Oregon	\$ 9.75
New York	\$ 9.70
Rhode Island	\$ 9.60
Minnesota	\$ 9.50
Colorado	\$ 9.30
Hawaii	\$ 9.25
Maine	\$ 9.00
Nebraska	\$ 9.00
Michigan	\$ 8.90
Maryland	\$ 8.75
West Virginia	\$ 8.75
South Dakota	\$ 8.65
Arkansas	\$ 8.50
New Jersey	\$ 8.44
Delaware	\$ 8.25
Illinois	\$ 8.25
Nevada	\$ 8.25
Montana	\$ 8.15
Ohio	\$ 8.15
Florida	\$ 8.05
Missouri	\$ 7.65
New Mexico	\$ 7.50

Source: USDOL/PEW Charitable Trust

Tipped employees are those who regularly receive more than \$30 per month in tips. Tips are the property of the employee. The employer is prohibited from using an employee’s tips for any reason other than as a credit against its minimum wage obligation to the employee or in furtherance of a valid tip pool. Since House Bill 27 eliminates the separate minimum wage for employees who regularly receive tips. The question remains as to whether tipped employees will continue to receive tips and whether such tips will be credited against the minimum wage requirement proposed at \$15.00/hour. Additionally, the United States Department of Labor has published a fact sheet that provides general information concerning the application of the Fair Labor Standards Act (FLSA) to employees who receive tips. <http://www.dol.gov/whd/regs/compliance/whdfs15.htm>

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For further analysis regarding minimum wages for tipped employees, see the United States Department of Labor Wage and Hour Division state by state table of minimum hourly wages for tipped employees. <http://www.dol.gov/whd/state/tipped.htm>

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