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FISCAL IMPACT REPORT

SPONSOR Soules **ORIGINAL DATE** 1/25/17
LAST UPDATED 1/30/17 **HB** _____

SHORT TITLE Increase Minimum Wage **SB** 36a/SPAC

ANALYST Klundt/Clark

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY17 | FY18 | FY19 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------|---------|---------|-------------------|---|---------------------|
| Total | \$5.0 | \$5.0 | \$5.0 | \$15.0 | Recurring, Workforce Solutions Department | General |
| | | \$565.6 | \$671.1 | \$1,236.7 | Recurring, State Personnel Office | General and various |

(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, HB 27, 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
 National Conference of State Legislatures

SUMMARY

SPAC amendment

The Public Affairs Committee's amendments to Senate Bill 36 removes two provisions from the original bill. First, the Amendment does away with the provision allowing employers with 10 or fewer employees to pay a minimum wage rate of \$7.50 an hour rather than \$8.45 an hour as employers with more than 10 employees would be required to pay. Second, it cuts the provision allowing employers with 10 or more employees to pay a training minimum wage of \$7.50 per hour for up to six months from the date of hire. The amendments eliminates these two provisions by deleting Subsections "A" and "B" of the bill, which set forth these provisions. The amendment requires the re-lettering of the bill to reflect the deletion of Subsections "A" and "B."

Original Bill Summary

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.

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.

The State Personnel Office (SPO) reported 232 state employees across all salary plans fall below \$8.45 per hour. The annualized salary cost (excluding benefits) to bring these employees to \$8.45 per hour would be \$408,928 (based on 2,080 hour year). The annualized cost with benefits would be $\$408,928 \times 1.2664 = \$517,866$. The cost to the State from July 1, 2017 until December 30, 2017 would be \$258,933.

Using the average CPI-U over the past 10 years of 1.92 percent, the state minimum wage would

increase from \$8.45 per hour to \$8.60 per hour effective January 1, 2018 (rounded to the nearest \$0.05). This hypothetical cost of living increase would result in a total of 246 employees across all salary plans falling below the \$8.60 per hour minimum wage.

The annualized cost to bring 246 employees up to \$8.60 per hour is \$75,400 in wages. The annualized cost including benefits is $\$75,400 \times 1.2664 = \$95,487$. The half fiscal year costs for FY18 are \$37,700 in wages and \$47,743 with benefits. Added to the recurring fiscal impact, the total cost for FY18 is $\$517,866 + \$47,743 = \$565,610$.

Effective January 1, 2019, the state minimum wage would increase from \$8.60 per hour to \$8.75 per hour (rounded to the nearest \$0.05), based on an average CPI-U of 1.92 percent. This hypothetical cost of living increase would result in a total of 294 employees across all salary plans falling below the \$8.75 per hour minimum wage.

The annualized cost to bring 294 employees up to \$8.75 per hour is \$91,208 in wages. The annualized cost including benefits is $\$91,208 \times 1.2664 = \$115,506$. The half fiscal year costs for FY19 are \$45,604 in wages and \$57,753 with benefits. Added to the recurring fiscal impact, the total cost for FY19 is $\$565,610 + \$47,743 + \$57,753 = \$671,106$.

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 its 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.

Because SB 36 allows counties and cities to set their own minimum wage rates above the state rate, WSD believes this bill could result in a “patchwork effect” or lack of consistency in minimum wage rates based on geography.

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 reported by providing salary increases only to employees who earn salaries below the new annual minimum wage, the State’s pay systems may experience 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. The agency believes 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.

SPO also believes this bill 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.

SB36 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 |
| House Bill 27 | 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.

House Bill 27 raises New Mexico's base minimum wage rate for all employees to \$15 an hour beginning January 1, 2018. As of January 1, 2019 and each succeeding January 1 thereafter, the base minimum wage would be subject to annual CPI-based cost-of-living increases. HB 27 eliminates the separate minimum wage for tipped employees. HB 27 requires the WSD to publish the adjusted minimum wage rate for each upcoming calendar year no later than November 1 of the current year. All annual increases required by HB 27 would be capped at four percent. The minimum wage rate will not be subject to downward adjustment due to decreases in the cost of living.

OTHER SUBSTANTIVE ISSUES

| 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

KK/al/jle