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FISCAL IMPACT REPORT

ORIGINAL DATE 03/06/17
SPONSOR SFI **LAST UPDATED** _____ **HB** _____

SHORT TITLE Minimum Wage & Allow Trainee Wage **SB** 386/SFIS

ANALYST Klundt/Daly

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		
	Unquantifiable	Unquantifiable	Recurring	Personal Income Taxes
	Unquantifiable	Unquantifiable	Recurring	Corporate Income Taxes

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$5.0	\$963.3	\$963.3	\$1,931.6	Recurring	General and Various Funds
		\$1,400.0	\$3,500.0	\$4,900.0	Recurring	General, Public Schools

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Workforce Solutions Department (WSD)

State Personnel Office (SPO)

SUMMARY

Senate Floor substitute for Senate Bill 386 raises the statewide minimum wage rate to \$8.25 as of October 1, 2017 and \$9 as of April 1, 2018 but permits employers to pay “training employees” a minimum wage of \$8 per hour for up to 60 days from the date of hire. SB 386 defines a training employee as an employee who is being trained to perform the job for which the employee was hired. SB 386 raises the minimum wage for employees who customarily and regularly receive

more than \$30 per month in tips from \$2.13 to \$2.63 per hour. SB 386 makes no provision for regular cost-of-living increases. SB 386's minimum wage rates would go into effect July 1, 2017.

FISCAL IMPLICATIONS

WSD reported the fiscal impact to the Labor Relations program will include updating website information, Wage and Hour employer/employee presentations and all NMDWS publications which have a published minimum wage rate each January 1. These are estimated at \$5 thousand.

According to the Legislative Study Education Committee (LESC), the statewide projected impact of increasing the minimum wage in school districts and state-chartered charter schools is \$1.4 million in FY18, increasing to \$3.5 million in FY19, and subsequent fiscal years.

SPO first notes that SB386 makes no appropriation to fund the increase of State employee salaries and benefits as a result of a higher minimum wage. It advises that currently, 385 state employees across all salary plans fall below \$9.00 per hour. The annualized salary cost (excluding benefits) to bring these employees to \$9.00 per hour would be \$756,704 (based on 2,080 hour year). The annualized cost with benefits would be $\$756,704 \times 1.2664 = \$958,290$. The cost to the State for FY18 from July 1, 2017 until June 30, 2018 would be \$958,290.

Previously SPO projected the annual cost for FY19 is based on the same methodology used for FY18. The annualized salary cost (excluding benefits) to maintain 385 employees at \$9.00 per hour is \$756,704 (based on 2,080 hour year). The annualized cost with benefits is $\$756,704 \times 1.2664 = \$958,290$. The cost to the State for FY19 from July 1, 2018 until June 30, 2019 would be \$958,290.

Previous analyses 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.

SPO advises that by providing salary increases only to employees who earn salaries below the new annual minimum wage, the State's pay systems will experience pay compression. It explains that 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.

In addition, SPO points out that 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. It comments that 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, it concludes, without differentiating pay the provisions of SB386 likely conflict with the State Personnel Act.

Minimum wage increases could impact the Unemployment Insurance program. The maximum and minimum weekly 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 in the minimum wage for all employees 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.

ADMINISTRATIVE IMPLICATIONS

SPO states the classified service salary structure would need to be reviewed and adjusted if the new minimum wage is higher than the minimum of the lowest pay range. This could be designed to only affect the lowest pay range or all pay ranges.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 321 amends Section 10-7-9 NMSA 1978 to increase the minimum salary for "[e]very state employee and every person regularly employed at a state educational institution," except for

student employees, from \$400 per month to \$8.75 per hour. SB 321 also amends Section 50-4-22 NMSA 1978 to raise the minimum wage paid by “an employer” from \$7.50 to \$8.75 per hour; to raise the base minimum hourly wage of an employee who receives \$30.00 a month in tips from \$2.13 to \$2.50 an hour; and creates a minimum wage for employees with “a valid server permit issued pursuant to the” Liquor Control Act of \$9.75 per hour. SB 321’s rates would go into effect July 1, 2017.

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 cost-of-living increases based on a consumer price index (CPI). 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.

House Bill 67, as amended by the Labor and Economic Development Committee, provides for three consecutive annual increases to the statewide minimum wage rate starting January 1, 2018, when the rate would increase to \$8.40 per hour; by January 1, 2019, it would increase to \$9.40 per hour; and by January 1, 2020 it would increase to \$10.10 per hour. Additionally, HB 67 requires yearly cost-of-living increases tied to a CPI starting January 1, 2021 but caps these increases at four percent in any given year. With respect to tipped employees, HB 67 increases the minimum wage to an amount equal to 40% of the minimum wage rate for non-tipped employees starting January 1, 2018. HB 67 does not authorize decreases in the minimum wage due to CPI-based cost-of-living decreases. HB 67 requires the Workforce Solutions Department (WSD) to publish the adjusted minimum wage rates for each upcoming calendar year no later than November 1 of the current year.

House Bill 134 provides that school districts or charter schools shall pay \$15.00 per hour to cafeteria staff and bus drivers through fiscal year 2019 with the cost of living amount to be adjusted beginning with fiscal year 2020 based on the change in the CPI.

Senate Bill 36, as amended by the Public Affairs Committee, raises the statewide minimum wage rate to \$8.45 an hour beginning July 1, 2017. SB 36 increases the minimum wage rate for tipped employees to \$2.65 an hour. Starting January 1, 2018 and on January 1 of each subsequent year, these rates would be subject to cost-of-living increases tied to a CPI. SB 36 requires the WSD to publish the adjusted minimum wage rates for each upcoming calendar year by November 1 of the current year. SB 36 would not prohibit counties and cities from setting minimum wage rates higher than the minimum wage rates provided for in SB 36.

TECHNICAL ISSUE

Because of the fiscal impact to the State, this bill should be referred to the Senate Finance Committee.

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/MD/jle/sb