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FISCAL IMPACT REPORT

ORIGINAL DATE 3/7/19
 SPONSOR SCORC LAST UPDATED 3/13/19 HB _____
 SHORT TITLE Raise Minimum Wage & Create Separate One SB 437/SCORCS/
aHLVMA
 ANALYST Klundt/Clark

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
	Unquantifiable, likely positive	Unquantifiable, likely positive	Recurring	Personal Income Taxes
	Unquantifiable, possibly negative	Unquantifiable, possibly negative	Recurring	Corporate Income Taxes
	Unquantifiable, likely positive	Unquantifiable, likely positive	Recurring	Gross Receipts Taxes

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		≥\$462.1	≥\$677.8	≥\$1,139.9	Recurring	Jury Witness Fund
		\$100.0	\$104.0	\$204.0	Recurring	General Fund, WSD OpBud
		≥\$2,774.9	≥\$2,774.9	≥\$5,549.8	Recurring	General Fund, Agency OpBuds
		Significant, greater than \$1,000.0	Significant, greater than \$1,000.0	Significant, greater than \$2,000.0	Recurring	General Fund, HSD Medicaid, DOH DD Waiver
		\$1,109.6	\$4,285.8	\$5,395.4	Recurring	Public Schools

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of HLVMAC Amendment

The House Labor, Veterans & Military Affairs Committee Amendment to Senate Corporations

and Transportation Committee Substitute for Senate Bill 437 reinstates the exemption for students regularly enrolled in primary and secondary schools. The amendment also raises the minimum wage as follows:

"A. Except as provided in Subsection B or C of this section, an employer shall pay to an employee a minimum wage rate of: (1) prior to January 1, 2020, at least seven dollars fifty cents (\$7.50) an hour; (2) beginning January 1, 2020 and prior to January 1, 2021, at least ten dollars (\$10.00) an hour; (3) beginning January 1, 2021 and prior to January 1, 2022, at least eleven dollars (\$11.00) an hour; and (4) on and after January 1, 2022, at least twelve dollars (\$12.00) an hour. B. Beginning January 1, 2023 and on January 1 of each successive year, the minimum wage rate provided in Subsection A of this section shall be increased by the lesser of three percent or the increase in the cost of living. The increase in the cost of living shall 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 rate increase rounded to the nearest multiple of five cents (\$.05); however, the minimum wage rate shall not be adjusted downward as a result of a decrease in the cost of living. The workforce solutions department shall publish by October 1 of each year the adjusted minimum wage rates that shall take effect the following January 1."

Finally, the amendment changes rates for tipped employees to, "that is thirty percent of the minimum hourly wage rate provided in Subsection A of this section at the time the hours were worked in addition to tips received."

Synopsis of Original Bill

Senate Corporations and Transportation Committee substitute for Senate Bill 437 proposes changes to New Mexico's Minimum Wage Act, NMSA 1978, §§ 50-4-19 through 50-4-31. First, removes existing exemption from the minimum wage for students regularly enrolled in primary and secondary schools. Currently, such students are not entitled to the statewide minimum wage. Next, SB 437 raises the statewide minimum wage to \$9.25 per hour by April 1, 2020, to \$10 per hour by April 1, 2020, to \$10.50 per hour by January 1, 2021, and then to \$11 per hour by January 1, 2022. These rates, however, would not apply to students regularly enrolled in secondary school (high school). Instead, a separate "student minimum wage" of \$8.50 per hour would apply to high school students. Finally, SB 437 raises the minimum wage for tipped employees from \$2.13 per hour to \$2.38 per hour by October 1, 2019 and then to \$2.50 per hour by April 1, 2020. These separate minimum wage rates for tipped employees apply to both non-students and students alike. There are no provisions for annual cost-of-living increases in this bill.

FISCAL IMPLICATIONS

SB437 does not contain an appropriation. If enacted without an appropriation to cover salary increases, SB437 would require school districts and charter schools to fund salary increases using existing operational funding. The House Appropriations and Finance Committee Substitute for House Bill 2 (HB2/HAFCS) includes \$196.6 thousand to increase the minimum wage for school personnel to \$10 per hour, but based on LESC analysis, this will not fully cover the cost of the bill.

Fiscal Impact of SB437/SCORCS/aHLVMC, FY20 to FY23 and Subsequent Fiscal Years

	FY20	FY21	FY22	FY23	
Consumer Price Index Forecast (Global Insight)				2.3%	Recurring or Nonrecurring
Minimum Wage	\$7.50/\$10.00	\$10.00/\$11.00	\$11.00/\$12.00	\$12.00/\$12.30	
New Cost to School Districts and Charter Schools (in thousands)	(\$1,109.63)	(\$3,176.18)	(\$3,868.31)	(\$4,404.91)	Recurring
Cumulative Cost to Public Schools compared with FY19	(\$1,109.63)	(\$4,285.80)	(\$8,154.11)	(\$12,559.02)	

Source: LESC
Analysis of PED
Data

The Administrative Office of the Courts (AOC) noted in a previous analyses a fiscal implication for the Judiciary will be incurred by the Jury and Witness Fund which is administered by AOC. This fund received a FY19 General Fund appropriation of \$2,262,595 and projected Jury Demand Fees of approximately \$1,805,500. The fees are collected from parties requesting civil juries, except for jury demand fees as set forth in Section 35-6-1 NMSA 1978. Monies from the jury and witness fee fund may be expended, in part, to pay the costs of jurors and prospective jurors. Jurors are paid at the minimum wage rate and as the rate increases, so will the expenses of the jury and witness fund.

The increased costs for FY21 to be \$677,764; and for FY22 to be \$677,764, based on actual FY19 jury costs to date. These projected additional expenses are not sustainable with the jury and witness fund’s current revenue structure of a flat general appropriation and declining fees.

WSD reported the Labor Relations Program (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 May 1 of each year. The agency estimated the impact to the programs operating budget close to \$100 thousand annually.

Statewide, over 500 FTE for the state have hourly rates less than \$10.00. The total estimated cost to increase FTE to \$10.00 an hour may be near \$2.8 million including benefits. Some state agencies may have to adjust vacancy rates for compensation increases if additional general fund is not provided.

The Human Services Department reported the minimum wage increase would affect all employees, including those in the field of healthcare, an impact to the Medicaid budget would be expected as increased expenses that would need general fund support. SB 437 could have a cost impact on select Medicaid providers who may have to adjust salaries and wages. Some of the narrow margin providers would likely an increase in their reimbursement rates.

On another bill proposing to increase the minimum wage, Department of Health (DOH) reported there could be a general fund impact on the developmental disabilities waiver program (DD Waiver) and other state general fund programs. In addition, the agency reported any minimum wage rate increase would require the state to increase the rates paid for services under the waivers and require an amendment and approval by Centers for Medicare and Medicaid Services

(CMS). DOH also stated the amendment process would take some time and possibly would put the state in violation of the state law if this bill went into effect July 1, 2019. The impact for DD Waiver would be approximately 30 percent general fund and 70 percent Medicaid federal match rate. The agency reported cost is difficult to estimate, because DOH does not track what provider agency Direct Service Professionals are paid. However, DOH believes Direct Service Professionals may be paid anywhere between \$9.50 and \$11.00 per hour. The agency proposed doing a survey of the provider agencies to better understand compensation, however, responses to such a survey may not be timely.

DOH also noted the current reimbursement rate for SGF Respite is \$13.25 per hour. If the provider has to pay the respite providers an increased wage, DOH is, concerned the reimbursement rate will not be sufficient to cover overhead. Without additional general fund, DOH believes the agency would have to increase the contracts or decrease the amount of service that is available. Like HSD and DOH, service providers contracted through the Children, Youth and Families Department (CYFD) may experience increased expenses commensurate with wage increases.

Unquantifiable but positive impacts to personal income taxes (PIT) would likely 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 a 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 than two people each making \$12.5 thousand would contribute. However, this likely overall increase may also be mitigated to some extent by decreased profitability for businesses filing through PIT returns if the minimum wage increase reduces income after expenses. In FY18, PIT contributed \$1.5 billion, or 22 percent of recurring revenues, to the general fund.

Unquantifiable impacts to corporate income taxes (CIT) may also result from raising the minimum wage, but revenues could decrease if the increase in minimum wage payments reduces corporate profitability. In FY18, CIT contributed \$106.6 million, or 1.6 percent of recurring revenues, to the general fund.

Unquantifiable impacts to gross receipts tax (GRT) revenues would also occur and most likely would be positive due to the increased spending power of lower-income workers receiving increases in pay that could be significant. Lower-income households tend to spend a greater share of their income within the local economy, and this increased spending should increase GRT revenues. In FY18, GRT contributed \$2.4 billion, or 35 percent of recurring revenues, to the general fund.

The substitute increases minimum wage to \$11 by January 1, 2022 possibly increasing out year state expenditures.

SIGNIFICANT ISSUES

The current minimum wage rate in New Mexico is \$7.50 per hour, which is higher than the federal minimum wage of \$7.25 an hour. 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. In addition, there are five “local minimum wage” rates in effect in New Mexico. The city of Albuquerque’s local minimum wage rate is \$9.20 per hour for jobs with no benefits or benefits under \$2,500 and \$8.20 per hour for jobs with benefits over \$2,500. Bernalillo County’s minimum wage rate for jobs with no benefits or benefits under \$2,500 is \$9.05 per hour. The city of Las Cruces has a minimum wage of \$10.10 per hour. The city of Santa Fe has a minimum wage rate of \$11.40 per hour. Santa Fe County’s minimum wage rate is also \$11.40 per hour. If an employee is subject to the state, local, and federal minimum wage rates, the employee is entitled to the highest applicable minimum-wage.

Colorado’s statewide minimum wage rate is \$11.10 per hour; this rate will increase annually on a set schedule through 2020; thereafter, it will be adjusted annually based on a set formula. Similarly, Arizona’s current minimum wage of \$11 per hour will increase annually on a set schedule through 2020, after which it be adjusted annually based upon a set formula.

According to the National Conference of State Legislatures (NCSL), in 2019 eighteen states began the new year with higher minimum wages. Eight states (Alaska, Florida, Minnesota, Montana, New Jersey, Ohio, South Dakota, and Vermont) automatically increased their rates based on the cost of living, while ten states (Arizona, Arkansas, California, Colorado, Maine, Massachusetts, Missouri, New York, Rhode Island and Washington) increased their rates due to previously approved legislation or ballot initiatives. Other states that will see rate increases during the 2019 calendar year include: D.C., Delaware, Michigan, and Oregon.

The student minimum wage rate of \$8.50 called for by SB 437 only applies to workers “regularly enrolled in secondary school,” not those enrolled in primary school. At the same time, SB 437 removes the exemption from the statewide minimum wage rate that currently applies to primary school students. Thus, primary school students would be entitled to the full statewide minimum wage (\$9.25 per hour by October 1, 2019 and \$10 per hour by April 1, 2020) while secondary school students would only be entitled to the student minimum wage of \$8.50 per hour. The reasons for this different treatment of primary school and secondary school students are not apparent.

Notably, the bill preserves protections for workers aged 14 through 16 that currently exist under the state’s Child Labor Act, including requirements that such workers can only work after school hours or when school is not in session.

According to the U.S. Bureau of Labor Statistics, there were 14,000 workers in New Mexico in 2017 that received wages at or below the federal minimum wage of \$7.25 an hour.¹ Using the national percent distribution by usual hours worked per week on a primary job, and assuming 50 weeks worked per year, the annualized wage cost to bring these employees to \$10 an hour would be an additional \$52 million in wages, for an average of \$3,730 per person.

Nationally, approximately 21.3 percent of all workers who received wages at or below the federal minimum wage of \$7.25 an hour were between the ages of 16 to 19 years. It is unknown whether these workers are enrolled – were school.²

¹ *Characteristics of minimum wage workers, 2017*, U.S. Bureau of Labor Statistics, March 2018 <<https://www.bls.gov/opub/reports/minimum-wage/2017/pdf/home.pdf> (January 9, 2019).

² This information is not available for New Mexico.

Unlike other minimum wage bills introduced this Session, SB 437 preserves a separate minimum wage rate for “tipped employees,” but increases it from \$2.13 per hour to \$2.38 per hour by October 1, 2019 and to \$3 per hour by April 1, 2020. These tipped employee rates apply to both non-student and student workers alike.

The impact of SB 437 to the Unemployment Insurance Program administered by the NMDWS is likely to be substantial. The maximum and minimum weekly benefit amounts are computed from total covered payrolls each year and an increase in either the minimum wage or in the number of individuals covered by it — or both, as SB 437 requires — would increase an employer’s total covered payroll. Such increases will, in turn, increase the average weekly covered wage, which can then increase the maximum and minimum weekly benefit amounts. Since a contributing employer’s total covered payroll is used to calculate the employer’s unemployment tax rate, this change has the potential to impact the employer’s contribution or unemployment tax rate.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The House Floor amendment to House Bill 31 delays the elimination of the separate minimum wage that applies to “tipped employees.” Whereas the original version of the bill eliminates the separate minimum wage for tipped employees immediately upon the effective date of the bill (July 1, 2019), the amendment would phase it out incrementally. Thus, as of July 1, 2019 the minimum wage rate for tipped employees would be \$5 per hour; as of July 1, 2020, it would be \$7.50 per hour; and as of July 1, 2021 it would be \$10 per hour. As of July 1, 2022, the separate minimum wage rate for tipped employees go away completely. They would be entitled to the full minimum wage that other workers are entitled to, including cost-of-living increases. Employers could not consider tips as part of the employees’ wages. Any tips received by such employees shall be retained by the employees. Employers wanting to pay the lower minimum wage during the phase-out period could only do so if they can establish that for each week an employee works, the sum of the employee’s tips combined with the employer’s cash wage is not less than the minimum wage in effect at the time.

Senate Bill 85 amends NMSA 1978, Sections 50-4-1 and 50-4-21 by removing exemptions that apply to employers of “domestic labor” in private homes and individuals employed in “domestic service” in or about private homes. Currently, those employers and individuals are not covered by state laws that require timely payment of wages, protect workers from unauthorized or unlawful payroll deductions and require employers to maintain accurate time and pay records. See NMSA 1978, §§ 50-4-1 to -12. Individuals employed in domestic service also are not covered by New Mexico’s Minimum Wage Act, NMSA 1978, §§ 50-4-19 to -30. SB 85 does away with the domestic labor/service exemptions, and affords domestic service workers the same protections under these laws that other workers enjoy.

House Bill 46 amends the state’s Minimum Wage Act to increase the statewide minimum wage to \$15 per hour effective January 1, 2020. Then, starting January 1, 2021 and continuing January 1 of each succeeding year, there would be yearly cost-of-living increases based on the U.S. Department of Labor’s Consumer Price Index (CPI). HB 46 caps these yearly increases at four percent in any given year. HB 46 does not authorize decreases in the minimum wage if there are decreases in the cost of living. HB 46 eliminates the separate minimum wage for tipped employees, who will be entitled to the new statewide minimum wage of \$15 per hour regardless of tips received. HB 46 requires the workforce solutions department (WSD) to publish by November 1 of each year the adjusted minimum wage rate that will take effect the following January 1.

OTHER SUBSTANTIVE ISSUES

Financial eligibility for the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), General Assistance for Disabled Adults and Unrelated Children (GA), Low Income Home Energy Assistance Program (LIHEAP) and Medical Assistance is based on the Federal Poverty Limits (FPL). Raising the State minimum wage will increase the gross income of applicants and recipients and as a result decrease the number of individuals who are eligible for these and other income-based programs.

CYFD reported an increase to \$10.00 minimum wage would bring a two-person household with a single full-time minimum wage income from 96 percent of FPL up to 126 percent. Currently, the eligible FPL maximum for childcare subsidy through CYFD is 200 percent, and federal cost sharing is available up to 191 percent of FPL.

WSD also noted 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. 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>

Greater than federal Minimum Wage	Equals federal Minimum Wage of \$7.25	Less than federal Minimum Wage	No Minimum Wage Required
AK \$9.89	GA	CNMI \$7.05	AL
AR \$9.25	IA		LA
AZ \$11.00	ID		MS
CA \$11.00	IN		SC
CO \$11.10	KS		TN
CT \$10.10	KY		
DC \$13.25	NC		
DE \$8.75	ND		
FL \$8.46	NH		
HI \$10.10	OK		
IL \$8.25	PA		
MA \$12.00	TX		

MD \$10.10	UT		
ME \$11.00	VA		
MI \$9.25	WI		
MN \$9.86	WY		
MO \$8.60	PR		
MT \$8.50			
NE \$9.00			
NJ \$8.85			
NM \$7.50			
NV \$8.25			
NY \$11.10			
OH \$8.55			
OR \$10.75			
RI \$10.50			
SD \$9.10			
VT \$10.78			
WA \$12.00			
WV \$8.75			
VI \$10.50			
GU \$8.25			

U.S. DOL

Note: Like the federal wage and hour law, State law often exempts particular occupations or industries from the minimum labor standard generally applied to covered employment. Some states also set subminimum rates for minors and/or students or exempt them from coverage, or have a training wage for new hires. Additionally, some local governments set minimum wage rates higher than their respective state minimum wage. Such differential provisions are not identified in this table. Users are encouraged to consult the laws of particular States in determining whether the State's minimum wage applies to a particular employment. This information often may be found at the websites maintained by State labor departments. Links to these websites are available at www.dol.gov/whd/contacts/state_of.htm.

KK/sb/al