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# **NORTH CAROLINA GENERAL ASSEMBLY**

# Session 2019

# **Legislative Fiscal Note**

**Short Title:** Economic Security Act of 2019. **Bill Number:** House Bill 46 (First Edition)

**Sponsor(s):** Representatives Fisher and Harrison

# **SUMMARY TABLE**

# FISCAL IMPACT OF H.B. 46, V.1 (\$ in millions)

		•	-		
	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
State Impact					
General Fund Revenue	-	-	-	-	-
Income Tax on Increased Wages	2	14	45	122	140
New Income Tax Credits	(65)	(184)	(69)	(71)	(73)
Less Expenditures					
NCDOL	1	1	1	1	1
Temporary State Ees	0	4	7	18	22
State -Funded Local Ees				37	44
General Fund Impact	(64)	(175) [	(33)	(4)	0
Special Fund Revenues	-	-	-	-	-
Less Expenditures	1	6	11	27	33
Special Fund Impact	(1)	(6)	(11)	(27)	(33)
NET STATE IMPACT	(\$65)	(\$181)	(\$44)	(\$31)	(\$33)
Local Impact					
Local Revenue	-	-	-	-	-
Less Local Expenditures		2	13	48	55
NET LOCAL IMPACT	-	(\$2)	(\$13)	(\$48)	(\$55)
STATE POSITIONS	6.00	6.00	6.00	6.00	6.00

#### FISCAL IMPACT SUMMARY

Section 1.1 changes the State minimum wage to \$8.00 per hour, effective September 2, 2019 and increases the minimum wage over the next 5 years until it reaches \$15.00 per hour in September 2024. Section 4.1 reduces the amount of tips that may be counted as wages of tipped employees to \$5.00 per hour for calendar year 2020, and subsequently requires that no tips be counted as wages. The direct impact of these two sections is an increase in wages, which would result in an increase in income tax collections.

Following Fiscal Research's convention, this analysis does not consider the indirect impacts of an increase in the minimum wage that could affect revenue collections, including, but not limited to:

- Increased consumption by employees who receive wage increases
- Lower overall employment (if employers choose to hold costs steady)
- Lower business investment (if employers' payrolls increase)
- Increased prices as firms pass-through labor costs

Sections 8 and 9 enact tax credits that reduce income tax collections.

Sections 1.1 through 5.1 expand the provisions of law currently enforced by the Wage and Hour Bureau and the Employment Discrimination Bureau of the Department of Labor (NCDOL). NCDOL estimates the need for six additional staff to implement H.B. 46. The total cost is \$460,548 in fiscal year 2019-20. A detailed explanation is provided in the Fiscal Analysis below.

The minimum wage provision in section 1.1 would have a State and local government impact due to increasing wage rates provided to temporary State employees, State-funded local employees, and locally-funded local employees.

#### FISCAL ANALYSIS

#### Revenue

The minimum wage in North Carolina is currently \$7.25 an hour. For "tipped employees", an employer may pay a wage of as little as \$2.13 an hour as long as each employee receives enough in tips to make up the difference between the wages paid and the minimum wage (\$7.25). The changes to the minimum wage proposed in this bill are shown below.

Effective Date	Minimum Wage	Tipped Employee Minimum Wage
Current Law	\$7.25	\$2.13
September 2019	\$8.00	\$2.13
January 2020	\$8.00	\$5.00
September 2020	\$9.50	\$5.00
January 2021	\$9.50	\$9.50

September 2021	\$11.00	\$11.00
September 2022	\$13.00	\$13.00
September 2024	\$15.00	\$15.00

Fiscal Research estimated the impact of increasing the minimum wage on individual income tax collections using a model based on a sample of data from the 2016-2018 Current Population Survey – Outgoing Rotation Group (CPS-ORG). The sample included North Carolina residents who reported wages at or above the current minimum wage and were not self-employed. Wage estimates pertain to a worker's main job. When respondents did not report an hourly wage, their hourly wages were calculated as their usual earnings per week divided by their usual hours worked per week. Because calculated wages are subject to error, FRD adjusted those wages to be the average of a worker's calculated wages and the average wage of workers with similar characteristics. Hourly workers in certain occupations where tips are customary (such as waiters and bartenders) and who reported that their compensation depends heavily on overtime pay, tips, or commissions were assumed to be tipped employees. The table below shows the count of workers in each wage bracket.

Hourly Wage (excluding tips)	2016	2017	2018
\$2.13-\$4.99	35,515	31,240	29,013
\$5.00-\$7.99	135,775	108,395	81,369
\$8.00-\$9.49	356,683	272,843	214,821
\$9.50-\$10.99	413,800	366,969	346,020
\$11.00-\$12.99	350,037	444,166	468,868
\$13.00-\$14.99	393,621	318,912	393,099

Because there is no consensus about the impact of a large increase in the minimum wage on overall employment, this analysis assumes that total employment and hours worked does not change as a result of the increases to the minimum wage. FRD applied forecasts of employment and wage growth to the hourly wages calculated for 2016-2018. Overall, FRD projected that employment would grow at an average annual rate of 1.2 percent and nominal wages of low-wage workers would grow at an average annual rate of 2.9 percent under current law.

To estimate the total additional wage income due to increases in the minimum wage, FRD identified workers with modeled wages below the proposed minimum wage and applied raises to bring these modeled wages up to the proposed minimum wage. We did not make additional adjustments for the "ripple effect" of minimum wage increases on workers earning above the new thresholds. Weeks worked per year was estimated based on responses the Current Population Survey – Annual Social and Economic Supplement.

State income tax parameters were applied based on marital status, number of children, family income and wages.

These estimates are subject to significant uncertainty. The range estimates shown below account for sampling error arising from the use of CPS-ORG data.

# Range of Estimates of Income Tax Revenue Due to Increase in Wages (\$ millions)

	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Low Estimate	1	9	35	101	114
High Estimate	3	19	57	150	171

#### Tax Credits

# Sections 8 and 9

The estimated impact is derived from historical data on the credits as they previously existed prior to repeal. Those numbers are then adjusted to account for any changes to the credit calculation and for growth in the economy since the credits were repealed.

	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24
Earned					
Income Tax	0	-117	0	0	0
Credit					
Tax Credit for					
Child Care and					
Certain	-65	-67	-69	-71	-73
Employment	-05	-67	-09	-/1	-/3
Related					
Expenses					
Total	-65	-184	-69	-71	-73

# **Expenditures**

# Section 1.1, Living Wage

# Department of Labor

This section amends the Wage and Hour Act. The Wage and Hour Bureau (Bureau) enforces the Act and investigates complaints. The Bureau has jurisdiction over businesses that have both gross annual sales less than \$500,000 and no interstate commerce. In fiscal year 2016-17, the Bureau investigated 3,216 cases, of which less than 1% were based on minimum wage complaints. The number of complaints may increase as a result of this bill because a larger number of employees would be paid at or near the minimum. NCDOL estimates that the increased workload will require an additional Wage and Hour Investigator with a midlevel salary of \$50,450. Fiscal Research traditionally recommends starting level salaries for new positions. However, the Bureau has experienced a high turnover rate with its investigators and has recently experienced difficulty hiring quality candidates at the entry-level rate of \$36,677, in Wake County where this position

would be located. Also, the Bureau has expressed a need for bilingual investigators, and anticipates that need would grow as a result of implementing Section 1.1. Therefore, it is reasonable to request a midpoint starting salary. The cost for one investigator is \$50,450, plus \$3,859 for social security, \$9,358 for retirement, and \$6,104 for health benefits, for a total of \$69,772. Each new position at NCDOL requires \$3,000 nonrecurring for furniture, plus \$100 in recurring funds for travel, \$800 for communications and software licenses, \$1,250 for data processing, and \$100 for registration fees for training conferences, for a total of \$5,250. The total cost to implement this section would be \$75,022 for fiscal year 2019-20.

# State and Locally Funded Compensation

Effective July 1, 2019, the minimum salary for permanent State government employees is the equivalent of \$15 per hour pursuant to S.L. 2018-5, so this section would not impact permanent State employees. However, this section would have an impact on temporary State employees and State-funded local employees (e.g. school bus drivers, school custodians, etc.). Temporary employment with State government is generally due to seasonal demand needs (e.g. State Fair) or due to additional efforts that are not typical for the agency (e.g. new federal grant). Note that the nominal cost estimates for temporary State employees and State-funded local employees do not incorporate any assumption of wage growth that may occur between now and the effective date of the minimum wage increases specified in the bill. These estimates also assume that employment remains constant over the evaluation period and employers do not choose to reduce employment to offset the higher employment costs.

# Temporary State Employees

Based on the most recent biannual report from the Office of State Human Resources (OSHR), there were approximately 4,700 temporary employees that worked in state agencies from July 1, 2017 through March 31, 2018. Based on 2019 information obtained through the Office of State Controller's (OSC) Integrated HR/Payroll System, approximately 1,500 of the active temporary employees received hourly wages that did not exceed \$15/hour. Note that the information obtained from OSC's database would contain employees directly hired by the agency or through OSHR's Temporary Solutions, but does not capture temporary employees that are employed by an external firm. Based on the OSHR report, approximately 1,250 employees were employed through an external firm by the Department of Agriculture and 73 by the Department of Public Safety over the measured period. In addition, the University of North Carolina (UNC) indicates that there are an additional 2,700 temporary employees across the UNC system that received hourly wages of less than \$15/hour.

Based on data obtained through OSC's database, this analysis will assume that approximately 46% of the temporary employees in the State currently receive an hourly wage of less than \$15/hour. The percentages of total temporary employees by wage range specified in this section are as follows:

Hourly Wage Range and Percentage of Temporary Employee Population							
\$7.25 - \$8	\$7.25 - \$8 \$8.01 - \$9.5 \$9.51 - \$11 \$11.01 - \$13 \$13.01 - \$15						
2.1% 7.3% 9.3% 15.1% 12.1%							

Information from the North Carolina Accounting System indicates that approximately \$150 million in temporary wages were paid in FY 2017-18 across all state agencies and universities from General Fund, special revenue, enterprise, trust, and internal service funds. Based on the aggregate amount of temporary wages paid in FY 2017-18 and estimated number of temporary employees receiving wages that would be impacted by the bill, this analysis assumes the total temporary wage compensation is proportionately weighted across the temporary employee population. Therefore, the estimated additional annualized State impact is as follows for temporary State employees:

Minimum	Total Annualized		
Hourly Rate	Impact	Fund Impact	Impact
\$8	\$1.25 million	\$0.5 million	\$0.7 million
\$9.5	\$11.4 million	\$4.5 million	\$6.9 million
\$11	\$22.6 million	\$8.9 million	\$13.7 million
\$13	\$54.5 million	\$21.6 million	\$33 million
\$15	\$74.1 million	\$29.3 million	\$44.8 million

# State-Funded Local Employees

There are two groups of State-funded local employees that would be impacted by the bill:

- Local school employees (noncertified personnel)
- Community college employees

There is not sufficient data to estimate the impact of the increased minimum wage on community college employees, but any impact is expected to be significantly smaller than that of local school employees due to differing workforces (i.e. bus drivers, teaching assistants, etc.). The minimum monthly salary for noncertified personnel of local schools paid from State funds is \$2,021.361, which equates to approximately \$11.66/hour. According to the Department of Public Instruction, there are approximately 39,700 State-funded positions in local schools that have average annual salaries that equate to less than \$15/hour. While the existing data quality does not allow for precise estimates of fiscal impact, analyses conducted by the Fiscal Research Division and the Department of Public Instruction to increase noncertified personnel pay to a minimum of \$15/hour yield a State impact ranging from approximately \$76 million to \$200 million, trending toward \$110 million. Therefore, if the General Assembly provided sufficient funding to local governments to offset the impact of the minimum wages established in the bill, there will be an estimated State impact of \$110 million in addition to the temporary employees listed above. Further, this analysis assumes that no impact would be realized until the \$13/hour threshold is reached, and the impact would be prorated based on the difference between the new minimum wage and revised minimum wage:

- \$13/hour \$44.1 million
- \$15/hour additional \$65.9 million

# **Local Government Employees**

<sup>&</sup>lt;sup>1</sup> http://www.ncpublicschools.org/docs/fbs/finance/salary/schedules/2018-19schedules.pdf

Fiscal Research estimated the impact of increasing the minimum wage on local government employees using a model based on a sample of data from the 2016-2018 Current Population Survey – Outgoing Rotation Group (CPS-ORG). The sample included North Carolina residents who reported wages at or above the current minimum wage and were employed in the public sector. Wage estimates pertain to a worker's main job. When respondents did not report an hourly wage, their hourly wages were calculated as their usual earnings per week divided by their usual hours worked per week. Because calculated wages are subject to error, FRD adjusted those wages to be the average of a worker's calculated wages and the average wage of workers with similar characteristics.

This analysis assumes that total employment and hours worked does not change as a result of the increases to the minimum wage. FRD applied forecasts of employment and wage growth to the hourly wages calculated for 2016-2018. Overall, FRD projected that nominal wages of low-wage public sector workers would grow at an average annual rate of 1.8 percent under current law.

FRD used the model to estimate the share of public sector workers with modeled wages below the proposed minimum wage and the average raise necessary to bring these modeled wages up to the proposed minimum wage. We did not make additional adjustments for the "ripple effect" of minimum wage increases on workers earning above the new thresholds. Weeks worked per year was estimated based on responses from the Current Population Survey – Annual Social and Economic Supplement.

To estimate the total additional wage expenditure for local governments due to increases in the minimum wage, FRD used an estimate of the total number of local government employees, excluding schools and hospitals from the Occupational Employment Statistics program. Local government employment was assumed to grow at the projected rate of population growth. FRD multiplied the share of public sector workers affected and the average raise by the total number of workers.

These estimates are subject to significant uncertainty. The range estimates shown below account for sampling error arising from the use of CPS-ORG data.

# Range of Estimates for Increase in Local Government Wage Expenditures (\$ millions)

	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Low Estimate	0	1	8	33	39
High Estimate	1	4	19	68	78

# Section 2.1, Equal Pay

This section would create a new Article in Chapter 95 requiring employers to offer equivalent pay regardless of gender. This new Article would likely be enforced by the Wage and Hour Bureau which does not currently accept complaints of this nature. This bill would require the Bureau to open investigations into any substantiated complaints. Considering the extensive list of proposed exceptions under G.S. 95-25.27(b), NCDOL estimates that few of these complaints could actually be

substantiated sufficiently to warrant opening an investigation and would not require an additional position.

This section would allow for filing a civil action for the recovery of wages owed, costs, and attorney's fees. Employees are not required to exhaust administrative remedies before filing the civil action. The option to bypass administrative remedies, combined with the ability to collect court costs and attorney's fees, may make filing a civil action the more desirable remedy. The Administrative Office of the Courts (AOC) cannot predict the number of new cases that will be filed based on this new cause of action. Civil court venue is often decided based on the monetary amount in dispute. If any new cases related to this section are heard in superior court, the workload impact on court personnel would have an estimated average cost of \$1,759 per case. Any new cases heard in district court would have a workload impact on the courts with an estimated average cost of \$667 per case. Because of the complexity of these cases, AOC estimates that any case heard by a magistrate in small claims court would have a cost on the court system of \$248 per case.

# Section 3.1, Paid Sick and Family Medical Leave

Section 3.1(a) would create a new Article in Chapter 95 requiring employers to offer paid sick and family medical leave. Currently, the Wage and Hour Bureau receives and investigates complaints about accrual of vacation pay that are usually prompted at the time of payout during an employee's separation. The proposed new Article does not allow for payout at separation of employment and it is unclear what would prompt an employee to submit a complaint. As a result, NCDOL does not project a change in the number of complaints arising from this section.

Section 3.1(b) would prevent any retaliatory action against an employee who files a claim regarding paid sick and family medical leave. The Employment Discrimination Bureau (EDB) would enforce this provision. Currently, wage and hour-related complaints make up about 30% of EDB's total caseload. NCDOL estimates two additional EDB Investigators would be required to handle the increased caseload resulting from this change. The cost for one EDB Investigator is \$39,611, plus \$3,030 for social security, \$7,348 for retirement, and \$6,104 for health benefits, for a total of \$56,093. Each new position at NCDOL requires \$3,000 nonrecurring for furniture, plus \$100 in recurring funds for travel, \$800 for communications and software licenses, \$1,250 for data processing, and \$100 for registration fees for training conferences, for a total of \$5,250. The total cost for two EDB investigators to implement this section would be \$122,686 for fiscal year 2019-20.

This section would allow for filing a civil action for the recovery of unpaid sick time, interest, liquidated damages, court costs, and attorney's fees. As in Section 2.1, employees are not required to exhaust administrative remedies before filing the civil action. The option to bypass administrative remedies, combined with the ability to collect interest, liquidated damages, court costs and attorney's fees, may make filing a civil action the more desirable remedy. However, AOC cannot estimate the number of cases that may be filed as a result of this legislation. As in Section 2.1, cases related to this section that are filed in superior court would have an estimated cost of \$1,759 per case to the court system. Cases filed in district court would have an estimated cost of

\$667 per case to the court system. Cases heard in small claims court would have an estimated cost of \$248 per case to the court system.

# Section 4.1, Increase Tipped Minimum Wage

This section would amend the Wage and Hour Act by phasing out the portion of an employee's tips that may be counted as wages. The Wage and Hour Bureau would be responsible for enforcing this section. This change would lead to an increase in complaints because more employees would be paid at or near the minimum wage. NCDOL estimates at least one additional Wage and Hour Investigator at a midlevel salary will be needed to accommodate the significant increase in cases. Fiscal Research traditionally recommends starting level salaries for new positions. However, the Bureau has experienced a high turnover rate with its investigators and has recently experienced difficulty hiring quality candidates at the entry-level rate of \$36,677 in Wake County, where this position would be located. Also, the Bureau has expressed a need for bilingual investigators, and anticipates that need would grow as a result of implementing Section 4.1. Therefore, it is reasonable to request a midpoint starting salary. The cost for one investigator is \$50,450, plus \$3,859 for social security, \$9,358 for retirement, and \$6,104 for health benefits, for a total of \$69,772. Each new position at NCDOL requires \$3,000 nonrecurring for furniture, plus \$100 in recurring funds for travel, \$800 for communications and software licenses, \$1,250 for data processing, and \$100 for registration fees for training conferences, for a total of \$5,250. The total cost to implement this section would be \$75,022 for fiscal year 2019-20.

# Section 5.1, Wage Theft

This section would amend the Wage and Hour Act to require the Commissioner of Labor to file liens on behalf of complainants if the employee or representative has not already done so. This would increase the workload of the Wage and Hour Bureau through both an increase in complaints and the cost of filing liens. NCDOL would incur the costs of filing and enforcing the liens, at least initially. These costs include:

- **Claim of Lien:** Each lien costs an average of \$6.75. In 2018, the Bureau closed approximately 2,400 wage payment cases. Assuming the same number of cases, the estimated cost is \$16,200.
- Lawsuit to Enforce the Lien per Article 2 of G.S. 44A: All claims of lien require a lawsuit to enforce, or perfect, the claim. These lawsuits are filed with the Clerk of Superior Court for a processing fee of \$230. Assuming the same number of cases as 2018, the estimated cost is \$552,000.
- Lis Pendens to Accompany the Lawsuit per Article 11 of G.S. 1: Lis Pendens may be filed with the Register of Deeds to document any liens on a property. Typically, a *lis pendens* is filed in cases with large monetary impacts. It is reasonable to assume that the majority of the claims brought to NCDOL will not require a *lis pendens*. A few cases may benefit from filing a *lis pendens* which costs \$150, plus a percentage of the fair market value of the property to which the lien would be attached. No estimate is available for the cost of *lis pendens*.

Section 5.1 allows NCDOL to recover a portion of the costs incurred if the action to foreclose the lien is successful. However, NCDOL must pay the lien costs upfront. The estimated cost of filing and enforcing liens is \$568,200. Though this estimate does not account for the additional payment of potential *lis pendens*, this estimate will allow NCDOL to pay upfront costs before recovering funds which could then be used for future cases or the additional costs of any necessary *lis pendens*.

It is NCDOL policy that the Commissioner does not file a lien for a claim that has not been investigated. Because of this policy, NCDOL estimates that implementing Section 5.1 would require at least two additional positions to investigate, search for employers, and file liens: a Wage and Hour Investigator, and an attorney. Fiscal Research traditionally recommends starting level salaries for new positions. However, the Bureau has experienced a high turnover rate with its investigators and has recently experienced difficulty hiring quality candidates at the entry-level rate of \$36,677 in Wake County, where this position would be located. Also, the Bureau has expressed a need for bilingual investigators, and anticipates that need would grow as a result of implementing Section 5.1. Therefore, it is reasonable to request a midpoint starting salary. The cost for one Wage and Hour Investigator is \$50,450, plus \$3,859 for social security, \$9,358 for retirement, and \$6,104 for health benefits, for a total of \$69,772. The cost for one Attornev I at a starting salary is \$67,545, plus \$5,167 for social security, \$12,530 for retirement, and \$6,104 for health benefits, for a total of \$91,346. Each new position at NCDOL requires \$3,000 nonrecurring for furniture, plus \$100 in recurring funds for travel, \$800 for communications and software licenses, \$1,250 for data processing, and \$100 for registration fees for training conferences, for a total of \$5,250. The total cost to implement this section would be \$739,818 for fiscal year 2019-20.

NCDOL Positions Needed to Implement H.B. 46, V. 1 FY 2019-20							
Title	Salary	Social Security	Retirement	Health	Total Salary & Benefits	FTE	Total Requirements
Wage & Hour Investigator	\$50,450	\$3,859	\$9,358	\$6,104	\$69,772	3.00	\$209,316
Employment Discrimination Investigator	\$39,611	\$3,030	\$7,348	\$6,104	\$56,093	2.00	\$112,186
Attorney I	\$67,545	\$5,167	\$12,530	\$6,104	\$91,346	1.00	\$91,346
TOTAL						\$412,848	

NCDOL Position Operating Costs for H.B. 46, V. 1 FY 2019-20					
Item	Cost Per FTE	FTE	Total Requirements		
Communications	\$800	6.00	\$4,800		
Data Processing	\$1,250	6.00	\$7,500		
Equipment (Computer, Office Furniture)	\$3,000	6.00	\$18,000		
Training & Registration Fees	\$100	6.00	\$600		
Travel	\$100	6.00	\$600		
TOTAL	\$5,250		\$31,500		

Although the penalty for a violation is assessed by the Commissioner, Section 5.1(d) of this bill would allow for an appeal to the courts. Because there is no historical data available, AOC cannot predict the number of appeals that would be filed as a result of the changes in this section. Section 5.1(e) would allow for an employee, the Commissioner, or an employee representative to file a claim of lien against an employer who owes the employee wages. Because there is no historical data available, AOC cannot predict any potential increase in court filings as a result of the changes in this section. Fiscal Research cannot estimate the fiscal impact of this section. Cases related to this section that are filed in superior court would have an estimated cost of \$1,759 per case to the court system. Cases filed in district court would have an estimated cost of \$667 per case to the court system. Cases heard in small claims court would have an estimated cost of \$248 per case to the court system.

# **TECHNICAL CONSIDERATIONS**

N/A.

# **DATA SOURCES**

The Administrative Office of the Courts, NC Department of Revenue, Moody's, U.S. Census Bureau, U.S. Bureau of Labor Statistics

#### LEGISLATIVE FISCAL NOTE - PURPOSE AND LIMITATIONS

This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.

#### CONTACT INFORMATION

Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

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#### ESTIMATE APPROVED BY

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