

1 HOUSE BILL 522

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Miguel P. García

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10 AN ACT

11 RELATING TO LABOR; PROVIDING AN ANNUAL COST-OF-LIVING INCREASE
12 TO THE STATE MINIMUM WAGE RATE BEGINNING IN 2026; PROVIDING
13 THAT CERTAIN TIPPED EMPLOYEES RECEIVE AN HOURLY RATE THAT IS
14 TWENTY-FIVE PERCENT OF THE PREVAILING HOURLY MINIMUM WAGE RATE
15 PLUS TIPS; REQUIRING THAT PUBLIC CONTRACTS PROVIDE FOR
16 INCREASED CONTRACTOR AND SUBCONTRACTOR REIMBURSEMENT AND WORKER
17 WAGE INCREASES IN ACCORDANCE WITH AND CONCURRENT WITH STATE
18 MINIMUM WAGE INCREASES; ADDING A DEFINITION OF "CONSUMER PRICE
19 INDEX" TO THE MINIMUM WAGE ACT.
20

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

22 SECTION 1. A new section of the Minimum Wage Act is
23 enacted to read:

24 "[NEW MATERIAL] PUBLIC CONTRACTS--SERVICES--MINIMUM WAGE
25 INCREASES.--

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1 A. Beginning July 1, 2025, a state agency that
2 contracts for services shall include in the terms of that
3 contract:

4 (1) a provision for increasing reimbursement
5 so the contractor and any subcontractor to that contract are
6 held harmless for any wage increase resulting from an increase
7 in the state minimum wage; and

8 (2) a requirement that individuals employed
9 pursuant to that contract or a subcontract of that contract who
10 are paid the state minimum wage shall receive wage increases in
11 accordance with and concurrent with increases in the state
12 minimum wage.

13 B. As used in this section:

14 (1) "contract" means any agreement for the
15 procurement of services;

16 (2) "services" means the furnishing of labor,
17 time or effort by a contractor or subcontractor not involving
18 the delivery of a specific end product other than reports and
19 other materials that are merely incidental to the required
20 performance; and

21 (3) "subcontract" means a contract subordinate
22 to another superordinate contract, which subcontract is to
23 procure in whole or in part services to be procured under the
24 terms of the superordinate contract."

25 SECTION 2. Section 50-4-21 NMSA 1978 (being Laws 1955,
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1 Chapter 200, Section 2, as amended) is amended to read:

2 "50-4-21. DEFINITIONS.--As used in the Minimum Wage Act:

3 A. "consumer price index" means the consumer price
4 index, not seasonally adjusted, for all urban consumers, United
5 States city average for all items or its successor index, as
6 published by the United States department of labor for a
7 twelve-month period ending on September 30;

8 ~~[A.]~~ B. "employ" includes suffer or permit to work;

9 ~~[B.]~~ C. "employer" includes any individual,
10 partnership, association, corporation, business trust, legal
11 representative or organized group of persons employing one or
12 more employees at any one time, acting directly or indirectly
13 in the interest of an employer in relation to an employee, but
14 shall not include the United States, the state or any political
15 subdivision of the state; provided, however, that for the
16 purposes of Subsection A of Section 50-4-22 NMSA 1978,
17 "employer" includes the state or any political subdivision of
18 the state; and

19 ~~[C.]~~ D. "employee" includes an individual employed
20 by an employer, but shall not include:

21 (1) an individual employed in a bona fide
22 executive, administrative or professional capacity and
23 forepersons, superintendents and supervisors;

24 (2) an individual employed by the United
25 States, the state or any political subdivision of the state;

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1 provided, however, that for the purposes of Subsection A of
2 Section 50-4-22 NMSA 1978, "employee" includes an individual
3 employed by the state or any political subdivision of the
4 state;

5 (3) an individual engaged in the activities of
6 an educational, charitable, religious or nonprofit organization
7 where the employer-employee relationship does not, in fact,
8 exist or where the services rendered to such organizations are
9 on a voluntary basis. The employer-employee relationship shall
10 not be deemed to exist with respect to an individual being
11 served for purposes of rehabilitation by a charitable or
12 nonprofit organization, notwithstanding the payment to the
13 individual of a stipend based upon the value of the work
14 performed by the individual;

15 (4) salespersons or employees compensated upon
16 piecework, flat rate schedules or commission basis;

17 (5) registered apprentices and learners
18 otherwise provided by law;

19 (6) G.I. bill trainees while under training;

20 (7) seasonal employees of an employer
21 obtaining and holding a valid certificate issued annually by
22 the director of the labor relations division of the workforce
23 solutions department. The certificate shall state the job
24 designations and total number of employees to be exempted. In
25 approving or disapproving an application for a certificate of

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1 exemption, the director shall consider the following:

2 (a) whether such employment shall be at
3 an educational, charitable or religious youth camp or retreat;

4 (b) that such employment will be of a
5 temporary nature;

6 (c) that the individual will be
7 furnished room and board in connection with such employment, or
8 if the camp or retreat is a day camp or retreat, the individual
9 will be furnished board in connection with such employment;

10 (d) the purposes for which the camp or
11 retreat is operated;

12 (e) the job classifications for the
13 positions to be exempted; and

14 (f) any other factors that the director
15 deems necessary to consider;

16 (8) any employee employed in agriculture:

17 (a) if the employee is employed by an
18 employer who did not, during any calendar quarter during the
19 preceding calendar year, use more than five hundred person-days
20 of agricultural labor;

21 (b) if the employee is the parent,
22 spouse, child or other member of the employer's immediate
23 family; for the purpose of this subsection, the employer shall
24 include the principal stockholder of a family corporation;

25 (c) if the employee: 1) is employed as

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1 a hand-harvest laborer and is paid on a piece-rate basis in an
2 operation that has been, and is customarily and generally
3 recognized as having been, paid on a piece-rate basis in the
4 region of employment; 2) commutes daily from the employee's
5 permanent residence to the farm on which the employee is so
6 employed; and 3) has been employed in agriculture less than
7 thirteen weeks during the preceding calendar year;

8 (d) if the employee, other than an
9 employee described in Subparagraph (c) of this paragraph: 1)
10 is sixteen years of age or under and is employed as a hand-
11 harvest laborer, is paid on a piece-rate basis in an operation
12 that has been, and is generally recognized as having been, paid
13 on a piece-rate basis in the region of employment; 2) is
14 employed on the same farm as the employee's parent or person
15 standing in the place of the parent; and 3) is paid at the same
16 piece-rate as employees over age sixteen are paid on the same
17 farm; or

18 (e) if the employee is principally
19 engaged in the range production of livestock or in milk
20 production;

21 (9) an employee engaged in the handling,
22 drying, packing, packaging, processing, freezing or canning of
23 any agricultural or horticultural commodity in its
24 unmanufactured state; or

25 (10) employees of charitable, religious or

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1 nonprofit organizations who reside on the premises of group
2 homes operated by such charitable, religious or nonprofit
3 organizations for persons who have a mental, emotional or
4 developmental disability."

5 SECTION 3. Section 50-4-22 NMSA 1978 (being Laws 1955,
6 Chapter 200, Section 3, as amended) is amended to read:

7 "50-4-22. MINIMUM WAGES.--

8 A. Except as provided in Subsection C of this
9 section, an employer shall pay to an employee a minimum wage
10 rate of

11 [~~(1) prior to January 1, 2020, at least seven~~
12 ~~dollars fifty cents (\$7.50) an hour;~~

13 ~~(2) beginning January 1, 2020 and prior to~~
14 ~~January 1, 2021, at least nine dollars (\$9.00) an hour;~~

15 ~~(3) beginning January 1, 2021 and prior to~~
16 ~~January 1, 2022, at least ten dollars fifty cents (\$10.50) an~~
17 ~~hour;~~

18 ~~(4) beginning January 1, 2022 and prior to~~
19 ~~January 1, 2023, at least eleven dollars fifty cents (\$11.50)~~
20 ~~an hour; and~~

21 ~~(5) on and after January 1, 2023]~~ at least
22 twelve dollars (\$12.00) an hour. As of January 1, 2026 and on
23 January 1 of each successive year, the minimum wage rate shall
24 be increased by the increase in the cost of living as provided
25 in Subsection E of this section.

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1 B. An employer furnishing food, utilities, supplies
2 or housing to an employee who is engaged in agriculture may
3 deduct the reasonable value of such furnished items from any
4 wages due to the employee.

5 C. An employee who customarily and regularly
6 receives more than thirty dollars (\$30.00) a month in tips
7 shall be paid a minimum hourly wage ~~[as follows:~~

8 ~~(1) prior to January 1, 2020, at least two~~
9 ~~dollars thirteen cents (\$2.13) an hour;~~

10 ~~(2) beginning January 1, 2020 and prior to~~
11 ~~January 1, 2021, at least two dollars thirty-five cents (\$2.35)~~
12 ~~an hour;~~

13 ~~(3) beginning January 1, 2021 and prior to~~
14 ~~January 1, 2022, at least two dollars fifty-five cents (\$2.55)~~
15 ~~an hour;~~

16 ~~(4) beginning January 1, 2022 and prior to~~
17 ~~January 1, 2023, at least two dollars eighty cents (\$2.80) an~~
18 ~~hour;~~

19 ~~(5) on and after January 1, 2023, at least~~
20 ~~three dollars (\$3.00) an hour; and~~

21 ~~(6) the employer may consider tips as part of~~
22 ~~wages, but the tips combined with the employer's cash wage~~
23 ~~shall not equal less than the minimum wage rate as provided in~~
24 ~~Subsection A of this section] that is twenty-five percent of~~
25 ~~the prevailing hourly minimum wage rate at the time the hours~~

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1 were worked; provided that the employer may consider tips as
2 part of wages, but the tips combined with the employer's cash
3 wage shall not equal less than the minimum wage rate as
4 provided in Subsection A of this section. All tips received by
5 such employees shall be retained by the employee, except that
6 nothing in this section shall prohibit the pooling of tips
7 among wait staff.

8 D. An employee shall not be required to work more
9 than forty hours in any week of seven days, unless the employee
10 is paid one and one-half times the employee's regular hourly
11 rate of pay for all hours worked in excess of forty hours. For
12 an employee who is paid a fixed salary for fluctuating hours
13 and who is employed by an employer a majority of whose business
14 in New Mexico consists of providing investigative services to
15 the federal government, the hourly rate may be calculated in
16 accordance with the provisions of the federal Fair Labor
17 Standards Act of 1938 and the regulations pursuant to that act;
18 provided that in no case shall the hourly rate be less than the
19 federal minimum wage.

20 E. On January 1, 2026 and on January 1 of each
21 successive year, the minimum wage rate shall be increased by
22 the increase in the cost of living. The increase in the cost
23 of living shall be adjusted by multiplying the minimum wage as
24 of January 1, 2025 by a fraction, the numerator of which is the
25 consumer price index ending in September of the previous year

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1 and the denominator of which is the consumer price index ending
2 in September 2024, with the amount of the minimum wage rate
3 increase rounded to the nearest multiple of five cents (\$.05);
4 provided that the minimum wage rate shall not exceed one
5 hundred four percent of the minimum wage in the prior year and
6 shall not decrease from the minimum wage in the prior year. By
7 November 1, 2025 and by November 1 of each successive year, the
8 workforce solutions department shall publish on its website or
9 otherwise notify employers of the minimum wage for the
10 following year."

11 SECTION 4. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2025.