

HOUSE BILL 552

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Daniel R. Foley

AN ACT

RELATING TO MINIMUM WAGES; AMENDING THE MINIMUM WAGE ACT TO PROHIBIT LOCAL GOVERNMENTS FROM REQUIRING A MINIMUM WAGE THAT EXCEEDS THE FEDERAL MINIMUM WAGE.

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

Section 1. Section 50-4-22 NMSA 1978 (being Laws 1955, Chapter 200, Section 3, as amended by Laws 2005, Chapter 302, Section 1 and by Laws 2005, Chapter 306, Section 1) is amended to read:

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

A. An employer, except as provided in Section 50-4-21 NMSA 1978, shall pay the minimum wage rate of five dollars fifteen cents (\$5.15) an hour, except that an employer furnishing food, utilities, supplies or housing to an employee who is engaged in agriculture may deduct the reasonable value

.160337.1

underscoring material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 of such furnished items from any wages due to the employee.

2 B. An employee subject to Subsection A of this  
3 section who customarily and regularly receives more than thirty  
4 dollars (\$30.00) a month in tips shall be paid a minimum hourly  
5 wage of two dollars thirteen cents (\$2.13). The employer may  
6 consider tips as part of wages, but the tips combined with the  
7 employer's cash wage shall not equal less than five dollars  
8 sixty cents (\$5.60) per hour. All tips received by such  
9 employees shall be retained by the employee, except that  
10 nothing in this section shall prohibit the pooling of tips  
11 among employees.

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

25 D. No political subdivision, including a home rule

.160337.1

underscored material = new  
[bracketed material] = delete

1 municipality or H class county chartered under the provisions  
2 of Article 10, Section 6 of the constitution of New Mexico,  
3 shall enact an ordinance requiring a minimum wage that exceeds  
4 the federal minimum wage prescribed in 29 USCA 206."

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25