

1 HOUSE BILL 442

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Debbie A. Rodella and Brian Egolf and Carl Trujillo  
5 and Patricio Ruiloba and Miguel P. Garcia  
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10 AN ACT

11 RELATING TO LABOR; RAISING THE MINIMUM WAGE; PROHIBITING  
12 CERTAIN WAGE-RELATED CONDUCT; MAINTAINING LOCAL GOVERNMENT  
13 MINIMUM WAGE ENACTMENTS; PREEMPTING LOCAL LAWS, POLICIES AND  
14 RESOLUTIONS FROM REGULATING CERTAIN TERMS OF PRIVATE-SECTOR  
15 EMPLOYMENT.  
16

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

18 SECTION 1. Section 50-4-22 NMSA 1978 (being Laws 1955,  
19 Chapter 200, Section 3, as amended) is amended to read:

20 "50-4-22. MINIMUM WAGES.--

21 A. Until January 1, 2018, an employer shall pay an  
22 employee [the] a minimum wage rate of [~~six dollars fifty cents~~  
23 ~~(\$6.50) an hour. As of January 1, 2009, an employer shall pay~~  
24 ~~the minimum wage rate of]~~ seven dollars fifty cents (\$7.50) an  
25 hour. On and after January 1, 2018, an employer shall pay an

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1 employee a minimum wage rate of nine dollars twenty-five cents  
2 (\$9.25) an hour.

3 B. An employer shall not lower the hourly wage rate  
4 of an employee because the employee is paid an hourly wage rate  
5 greater than the minimum wage rate as provided in Subsection A  
6 of this section.

7 C. This section does not replace or preempt an  
8 enactment of the governing body of a municipality, home rule  
9 municipality, county or home rule county that sets a minimum  
10 wage rate higher than the minimum wage rates prescribed in this  
11 section.

12 [~~B-~~] D. An employer furnishing food, utilities,  
13 supplies or housing to an employee who is engaged in  
14 agriculture may deduct the reasonable value of such furnished  
15 items from any wages due to the employee.

16 [~~G-~~] E. An employee who customarily and regularly  
17 receives more than thirty dollars (\$30.00) a month in tips  
18 shall be paid a minimum hourly wage of two dollars thirteen  
19 cents (\$2.13) until on and after January 1, 2018, when that  
20 rate shall equal forty percent of the minimum wage rate in  
21 Subsection A of this section. The employer may consider tips  
22 as part of wages, but the tips combined with the employer's  
23 cash wage shall not equal less than the minimum wage rate as  
24 provided in Subsection A of this section. All tips received by  
25 such employees shall be retained by the employee, except that

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1 nothing in this section shall prohibit the pooling of tips  
2 among employees.

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

15 **SECTION 2.** [NEW MATERIAL] STATE PREEMPTION--EMPLOYMENT  
16 REGULATION.--A political subdivision of the state, including a  
17 home rule municipality or home rule county, or an institution  
18 of the state shall not adopt or continue in effect a law,  
19 policy or resolution that regulates or attempts to regulate the  
20 schedule of work hours that a private-sector employer provides  
21 to its employees.

22 **SECTION 3.** EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2017.