

1 SENATE BILL 321

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

3 INTRODUCED BY

4 Pete Campos

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10 AN ACT

11 RELATING TO MINIMUM WAGES; RAISING THE MINIMUM WAGE RATE;
12 INCREASING THE MINIMUM WAGE RATE FOR TIPPED EMPLOYEES AND
13 ADDING A PREMIUM FOR EMPLOYEES WITH A VALID SERVER PERMIT.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 10-7-9 NMSA 1978 (being Laws 1974,
17 Chapter 10, Section 2) is amended to read:

18 "10-7-9. MINIMUM SALARY RATE.--Every state employee and
19 every person regularly employed at a state educational
20 institution named in Article 12, Section 11 of the constitution
21 of New Mexico [~~constitution~~], except student employees as
22 defined by the [~~board of educational finance~~] higher education
23 department, shall receive a salary at a rate equal to at least
24 [~~four hundred dollars (\$400) per month~~] eight dollars seventy-
25 five cents (\$8.75) per hour pursuant to Section 50-4-22 NMSA

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1 1978."

2 SECTION 2. Section 50-4-22 NMSA 1978 (being Laws 1955,
3 Chapter 200, Section 3, as amended) is amended to read:

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

5 A. ~~[An employer shall pay an employee the minimum~~
6 ~~wage rate of six dollars fifty cents (\$6.50) an hour.]~~ As of
7 ~~[January 1, 2009]~~ July 1, 2017, an employer shall pay ~~[the]~~ a
8 minimum wage rate of ~~[seven dollars fifty cents (\$7.50)]~~ eight
9 dollars seventy-five cents (\$8.75) an hour.

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

14 C. An employee who customarily and regularly
15 receives more than thirty dollars (\$30.00) a month in tips
16 shall be paid a minimum hourly wage of ~~[two dollars thirteen~~
17 ~~cents (\$2.13)]~~ two dollars fifty cents (\$2.50). The employer
18 may consider tips as part of wages, but the tips combined with
19 the employer's cash wage shall not equal less than the minimum
20 wage rate as provided in Subsection A of this section; provided
21 that if the employee is required by the employer to have and
22 does have a valid server permit issued pursuant to the Alcohol
23 Server Education Article of the Liquor Control Act, the tips
24 combined with the employer's cash wage shall not equal less
25 than a minimum wage rate of nine dollars seventy-five cents

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1 (\$9.75) an hour. All tips received by such employees shall be
2 retained by the employee, except that nothing in this section
3 shall prohibit the pooling of tips among employees.

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

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