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HOUSE BILL 46

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Patricia Roybal Caballero

AN ACT

RELATING TO THE MINIMUM WAGE; INCREASING THE MINIMUM WAGE;  
PROVIDING FOR AN ANNUAL COST-OF-LIVING INCREASE IN THE STATE  
MINIMUM WAGE RATE; ELIMINATING THE SEPARATE MINIMUM WAGE FOR  
EMPLOYEES WHO REGULARLY RECEIVE TIPS.

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) is amended to read:

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

A. Prior to January 1, 2020, an employer shall pay  
an employee the minimum wage rate of [~~six dollars fifty cents~~  
~~(\$6.50) an hour. As of January 1, 2009, an employer shall pay~~  
~~the minimum wage rate of]~~ seven dollars fifty cents (\$7.50) an  
hour. Beginning:

(1) January 1, 2020, an employer shall pay an

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1 employee the minimum wage rate of fifteen dollars (\$15.00) an  
2 hour; and

3 (2) January 1, 2021 and January 1 of each  
4 successive year, an employer shall pay an employee the prior  
5 year's minimum wage increased by a percentage equal to the  
6 percentage increase in the cost of living pursuant to  
7 Subsection B of this section with the amount of the minimum  
8 wage increase rounded to the nearest multiple of five cents  
9 (\$.05).

10 B. The increase in the cost of living shall be  
11 measured by the percentage increase as of August of the  
12 immediately preceding year over the level as of August of the  
13 next previous year of the consumer price index for all urban  
14 consumers, United States city average for all items, or its  
15 successor index, as published by the United States department  
16 of labor or its successor agency. The workforce solutions  
17 department shall publish by November 1 of each year the  
18 adjusted minimum wage rates that shall take effect the  
19 following January 1. The minimum wage shall not be adjusted  
20 downward as a result of a decrease in the cost of living and  
21 shall not be adjusted upward by more than four percent in any  
22 one year as a result of an increase in the cost of living.

23 ~~[B-]~~ C. An employer furnishing food, utilities,  
24 supplies or housing to an employee who is engaged in  
25 agriculture may deduct the reasonable value of such furnished

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1 items from any wages due to the employee.

2 ~~[G. An employee who customarily and regularly~~  
3 ~~receives more than thirty dollars (\$30.00) a month in tips~~  
4 ~~shall be paid a minimum hourly wage of two dollars thirteen~~  
5 ~~cents (\$2.13). The employer may consider tips as part of~~  
6 ~~wages, but the tips combined with the employer's cash wage~~  
7 ~~shall not equal less than the minimum wage rate as provided in~~  
8 ~~Subsection A of this section. 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 D. An employee shall not be required to work more  
13 than forty hours in any week of seven days, unless the employee  
14 is paid one and one-half times the employee's regular hourly  
15 rate of pay for all hours worked in excess of forty hours. For  
16 an employee who is paid a fixed salary for fluctuating hours  
17 and who is employed by an employer a majority of whose business  
18 in New Mexico consists of providing investigative services to  
19 the federal government, the hourly rate may be calculated in  
20 accordance with the provisions of the federal Fair Labor  
21 Standards Act of 1938 and the regulations pursuant to that act;  
22 provided that in no case shall the hourly rate be less than the  
23 federal minimum wage."