

1 HOUSE BILL 246

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

3 INTRODUCED BY

4 Patricia Roybal Caballero

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10 AN ACT

11 RELATING TO LABOR; INCREASING THE MINIMUM WAGE FOR CERTAIN
12 EMPLOYEES; PROVIDING AN ANNUAL ADJUSTMENT TO THE MINIMUM WAGES
13 BASED ON INFLATIONARY MEASURES; REPEALING A SECTION OF THE
14 MINIMUM WAGE ACT.

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

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

19 "50-4-21. DEFINITIONS.--As used in the Minimum Wage Act:

20 A. "consumer price index" means the consumer price
21 index, not seasonally adjusted, for all urban consumers, United
22 States city average for all items, or a successor index, as
23 published by the United States department of labor for a
24 twelve-month period ending September 30;

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

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

11 ~~[G-]~~ D. "employee" includes an individual employed
12 by an employer, but shall not include:

13 (1) an individual employed in a bona fide
14 executive, administrative or professional capacity and
15 forepersons, superintendents and supervisors;

16 ~~[(2) an individual employed by the United~~
17 ~~States, the state or any political subdivision of the state;~~
18 ~~provided, however, that for the purposes of Subsection A of~~
19 ~~Section 50-4-22 NMSA 1978, "employee" includes an individual~~
20 ~~employed by the state or any political subdivision of the~~
21 ~~state;~~

22 ~~(3) an individual engaged in the activities of~~
23 ~~an educational, charitable, religious or nonprofit organization~~
24 ~~where the employer-employee relationship does not, in fact,~~
25 ~~exist or where the services rendered to such organizations are~~

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1 on a voluntary basis. ~~The employer-employee relationship shall~~
2 ~~not be deemed to exist with respect to an individual being~~
3 ~~served for purposes of rehabilitation by a charitable or~~
4 ~~nonprofit organization, notwithstanding the payment to the~~
5 ~~individual of a stipend based upon the value of the work~~
6 ~~performed by the individual;~~

7 ~~(4)]~~ (2) salespersons or employees compensated
8 upon piecework, flat rate schedules or commission basis;

9 ~~[(5) registered apprentices and learners~~
10 ~~otherwise provided by law;~~

11 ~~(6)]~~ (3) G.I. bill trainees while under
12 training; or

13 ~~[(7) seasonal employees of an employer~~
14 ~~obtaining and holding a valid certificate issued annually by~~
15 ~~the director of the labor relations division of the workforce~~
16 ~~solutions department. The certificate shall state the job~~
17 ~~designations and total number of employees to be exempted. In~~
18 ~~approving or disapproving an application for a certificate of~~
19 ~~exemption, the director shall consider the following:~~

20 ~~(a) whether such employment shall be at~~
21 ~~an educational, charitable or religious youth camp or retreat;~~

22 ~~(b) that such employment will be of a~~
23 ~~temporary nature;~~

24 ~~(c) that the individual will be~~
25 ~~furnished room and board in connection with such employment, or~~

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1 ~~if the camp or retreat is a day camp or retreat, the individual~~
2 ~~will be furnished board in connection with such employment;~~

3 ~~(d) the purposes for which the camp or~~
4 ~~retreat is operated;~~

5 ~~(e) the job classifications for the~~
6 ~~positions to be exempted; and~~

7 ~~(f) any other factors that the director~~
8 ~~deems necessary to consider;~~

9 ~~(8)] (4) any employee employed in agriculture~~
10 ~~[(a) if the employee is employed by an~~
11 ~~employer who did not, during any calendar quarter during the~~
12 ~~preceding calendar year, use more than five hundred person-days~~
13 ~~of agricultural labor;~~

14 ~~(b) if the employee is the parent,~~
15 ~~spouse, child or other member of the employer's immediate~~
16 ~~family; for the purpose of this subsection, the employer shall~~
17 ~~include the principal stockholder of a family corporation;~~

18 ~~(c)] if the employee [†] is employed as~~
19 ~~a hand-harvest laborer and is paid on a piece-rate basis in an~~
20 ~~operation that has been, and is customarily and generally~~
21 ~~recognized as having been, paid on a piece-rate basis in the~~
22 ~~region of employment. [2] commutes daily from the employee's~~
23 ~~permanent residence to the farm on which the employee is so~~
24 ~~employed; and 3) has been employed in agriculture less than~~
25 ~~thirteen weeks during the preceding calendar year;~~

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

11 ~~(e) if the employee is principally~~
12 ~~engaged in the range production of livestock or in milk~~
13 ~~production;~~

14 ~~(9) an employee engaged in the handling,~~
15 ~~drying, packing, packaging, processing, freezing or canning of~~
16 ~~any agricultural or horticultural commodity in its~~
17 ~~unmanufactured state; or~~

18 ~~(10) employees of charitable, religious or~~
19 ~~nonprofit organizations who reside on the premises of group~~
20 ~~homes operated by such charitable, religious or nonprofit~~
21 ~~organizations for persons who have a mental, emotional or~~
22 ~~developmental disability.]"~~

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

25 "50-4-22. MINIMUM WAGES.--

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1 A. ~~[Except as provided in Subsection C of this~~
2 ~~section]~~ On and after January 1, 2026, an employer shall pay to
3 an employee a minimum wage rate of

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

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

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

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

14 ~~(5) on and after January 1, 2023, at least~~
15 ~~twelve dollars (\$12.00) an hour.~~

16 B. ~~An employer furnishing food, utilities, supplies~~
17 ~~or housing to an employee who is engaged in agriculture may~~
18 ~~deduct the reasonable value of such furnished items from any~~
19 ~~wages due to the employee.~~

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

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

25 ~~(2) beginning January 1, 2020 and prior to~~

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1 ~~January 1, 2021, at least two dollars thirty-five cents (\$2.35)~~
2 ~~an hour;~~

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

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

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

11 ~~(6) the employer may consider tips as part of~~
12 ~~wages, but the tips combined with the employer's cash wage~~
13 ~~shall not equal less than the minimum wage rate as provided in~~
14 ~~Subsection A of this section. All tips received by such~~
15 ~~employees shall be retained by the employee, except that~~
16 ~~nothing in this section shall prohibit the pooling of tips~~
17 ~~among wait staff] seventeen dollars (\$17.00) an hour adjusted~~
18 ~~annually pursuant to the provisions of Subsection C of this~~
19 ~~section.~~

20 ~~[D.]~~ B. An employee shall not be required to work
21 more than forty hours in any week of seven days, unless the
22 employee is paid one and one-half times the employee's regular
23 hourly rate of pay for all hours worked in excess of forty
24 hours. For an employee who is paid a fixed salary for
25 fluctuating hours and who is employed by an employer a majority

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1 of whose business in New Mexico consists of providing
2 investigative services to the federal government, the hourly
3 rate may be calculated in accordance with the provisions of the
4 federal Fair Labor Standards Act of 1938 and the regulations
5 pursuant to that act; provided that in no case shall the hourly
6 rate be less than the federal minimum wage.

7 C. On January 1, 2027 and on January 1 of each
8 successive year, the minimum wage rate shall be adjusted by
9 multiplying the minimum wage as of January 1, 2026 by a
10 fraction, the numerator of which is the consumer price index
11 ending in September of the previous year and the denominator of
12 which is the consumer price index ending September 2025;
13 provided that the minimum wage rate shall not be adjusted
14 downward as a result of a decrease in the consumer price index.
15 By November 1, 2026 and by November 1 of each successive year,
16 the workforce solutions department shall post on its website
17 and otherwise notify employers of the minimum wage for the next
18 year."

19 SECTION 3. REPEAL.--Section 50-4-23 NMSA 1978 (being Laws
20 1967, Chapter 242, Section 1, as amended) is repealed.