

**FORTY-SEVENTH LEGISLATURE  
SECOND SESSION**

February 16, 2006

Mr. Speaker:

Your **CONFERENCE COMMITTEE**, to whom has been referred

**SENATE BILL 449, as amended**

has had it under consideration and reports same with the following recommendation:

1. The following senate finance committee amendments be APPROVED:

Nos. 6, 8 and 10.

2. The following senate finance committee amendments be DISAPPROVED:

Nos. 1, 2, 3, 4, 5, 7, 9, 11 and 12.

3. Senate Floor Amendment 1 be DISAPPROVED.

4. The following house labor and human resources committee amendments be APPROVED:

Nos. 9, 11 and 12.

5. The following house labor and human resources committee amendments be DISAPPROVED:

Nos. 1, 2, 3, 4, 5, 6, 7, 8, 10, 13 and 14.

and that the bill be amended further as follows:

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6. On page 1, lines 11 and 12, strike "IN THREE PHASES" and insert in lieu thereof "; EXPANDING EXEMPTIONS; PROVIDING FOR A TRAINING WAGE".

7. On page 1, line 12, strike "FIVE" and insert in lieu thereof "SEVEN".

8. On page 1, between lines 16 and 17, insert the following new section:

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

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

A. "employ" includes suffer or permit to work;

B. "employer" includes any individual, partnership, association, corporation, business trust, legal representative or any organized group of persons employing one or more employees at any one time, acting directly or indirectly in the interest of an employer in relation to any employee, but shall not include the United States [~~the state or any political subdivision thereof~~]; and

C. "employee" includes any individual employed by any employer, but shall not include:

(1) any individual employed in domestic service in or about a private home;

(2) any individual employed in a bona fide executive, administrative or professional capacity and foremen, superintendents and supervisors;

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(3) any individual employed by the United States  
~~[or by the state or any political subdivision thereof];~~

(4) any individual engaged in the activities of an educational, charitable, religious or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to such organizations are on a voluntary basis. The employer-employee relationship shall not be deemed to exist with respect to any individual being served for purposes of rehabilitation by a charitable or nonprofit organization, notwithstanding the payment to the individual of a stipend based upon the value of the work performed by the individual;

(5) salesmen or employees compensated upon piecework, flat rate schedules or commission basis;

(6) students regularly enrolled in primary or secondary schools working after school hours or on vacation;

(7) registered apprentices and learners otherwise provided by law;

(8) persons eighteen years of age or under who are not students in a primary, secondary, vocational or training school;

(9) persons eighteen years of age or under who are not graduates of a secondary school;

(10) persons employed by ambulance services;

(11) G.I. bill trainees while under training;

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(12) seasonal employees of any employer obtaining and holding a valid certificate issued annually by the [~~state labor commissioner~~] director of the labor and industrial division of the labor department. The certificate shall state the job designations and total number of employees to be exempted. In approving or disapproving an application for a certificate of exemption, the [~~commissioner~~] director shall consider the following:

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

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

(c) that the individual will be furnished [~~his~~] room and board in connection with such employment, or if the camp or retreat is a day camp or retreat, the individual will be furnished board in connection with such employment;

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

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

(f) any other factors that the [~~commissioner~~] director deems necessary to consider;

(13) any employee employed in agriculture:

~~[(a) if such employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred man-days of~~

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~~agricultural labor;~~

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

~~(e)~~ (b) if such employee: 1) is employed as a hand-harvest laborer and is paid on a piece-rate basis in an operation ~~which~~ that has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment; 2) commutes daily from ~~his~~ the employee's permanent residence to the farm on which ~~he~~ the employee is so employed; and 3) has been employed in agriculture less than thirteen weeks during the preceding calendar year;

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

~~(e)~~ (d) if such employee is principally engaged in the range production of livestock or in milk production; ~~(f)~~

(14) an employee engaged in the handling, drying, packing, packaging, processing, freezing or canning of any agricultural or horticultural commodity in its unmanufactured

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state; or

[~~(14)~~] (15) employees of charitable, religious or nonprofit organizations who reside on the premises of group homes operated by such charitable, religious or nonprofit organizations [~~for mentally retarded or emotionally or developmentally disabled persons~~].".

9. On page 3, line 8, strike the quotation mark and insert in lieu thereof the following new subsection:

"D. On January 1, 2010 and on January 1 of each successive year, the minimum wage rate shall be increased by the increase in the cost of living. The increase in the cost of living shall be measured by the lesser of three percent or the percentage increase as of August of the immediately preceding year over the level as of August of the previous year of the consumer price index for all urban consumers, United States city average for all items, or its successor index as published by the United States department of labor or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of five cents (\$.05). The labor and industrial division of the labor department shall publish by November 1 of each year the adjusted minimum wage rates that shall take effect the following January 1."".

10. On page 3, line 17, strike "on" and insert in lieu thereof "after".

11. On page 3, line 18, strike "2011" and insert in lieu thereof "2013".

12. Renumber all sections to correspond with these amendments.

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Respectfully submitted,

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Miguel P. Garcia

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Jeanette O. Wallace

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Debbie A. Rodella

Adopted \_\_\_\_\_  
(Chief Clerk)

Not Adopted \_\_\_\_\_  
(Chief Clerk)

Date \_\_\_\_\_