

SENATE FLOOR SUBSTITUTE FOR  
SENATE BILL 386

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

AN ACT

RELATING TO LABOR; RAISING THE MINIMUM WAGE; PROVIDING FOR A  
TRAINEE EMPLOYEE MINIMUM WAGE.

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. ~~[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.]~~ Except as provided  
in Subsection B of this section, an employer shall pay to an  
employee a minimum wage rate of:

(1) prior to October 1, 2017, seven dollars  
fifty cents (\$7.50) an hour;

.207848.1

underscoring material = new  
[bracketed material] = delete

1                   (2) beginning October 1, 2017 and prior to  
2 April 1, 2018, eight dollars twenty-five cents (\$8.25) an hour;  
3 and

4                   (3) on and after April 1, 2018, nine dollars  
5 (\$9.00) an hour.

6                   B. Beginning October 1, 2017, an employer employing  
7 trainee employees shall pay a trainee employee during the  
8 training period a training minimum wage rate of eight dollars  
9 (\$8.00) an hour. The training period shall not exceed sixty  
10 days from the date of hire. As used in this subsection,  
11 "trainee employee" means an employee who is being trained to  
12 perform the job for which the employee was hired.

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

17                   ~~[C-]~~ D. An employee who customarily and regularly  
18 receives more than thirty dollars (\$30.00) a month in tips  
19 shall be paid a minimum hourly wage ~~[of two dollars thirteen~~  
20 ~~cents (\$2.13). The] as follows:~~

21                   (1) prior to October 1, 2017, two dollars  
22 thirteen cents (\$2.13) an hour;

23                   (2) beginning October 1, 2017 and prior to  
24 April 1, 2018, two dollars thirty-eight cents (\$2.38) an hour;

25                   (3) on and after April 1, 2018, two dollars

1 sixty-three cents (\$2.63) an hour; and

2 (4) the employer may consider tips as part of  
3 wages, but the tips combined with the employer's cash wage  
4 shall not equal less than the minimum wage rate as provided in  
5 Subsection A of this section. All tips received by such  
6 employees shall be retained by the employee, except that  
7 nothing in this section shall prohibit the pooling of tips  
8 among employees.

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

21 - 3 -  
22  
23  
24  
25