

HOUSE BILL 31

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

INTRODUCED BY

Miguel P. Garcia and Joanne J. Ferrary

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO LABOR; INCREASING THE MINIMUM WAGE IN PHASES;

HCPAC → ~~REMOVING THE MINIMUM WAGE EXCEPTION FOR TIPPED~~

~~EMPLOYEES;~~ ← HCPAC PROVIDING FOR AN ANNUAL COST-OF-LIVING

INCREASE IN THE STATE MINIMUM WAGE RATE BEGINNING IN 2022.

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. HCPAC → An ← HCPAC HCPAC → Except as otherwise

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provided in this section, an←HCPAC 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)] ten dollars (\$10.00) an hour. As of July 1, 2020 and through June 30, 2021, an employer shall pay the minimum wage rate of eleven dollars (\$11.00) an hour. As of July 1, 2021 and through June 30, 2022, an employer shall pay the minimum wage rate of twelve dollars (\$12.00) an hour. As of July 1, 2022 and on July 1 of each successive year, the minimum wage rate shall be increased for the cost of living as provided in Subsection HCPAC→Hf1→D F←Hf1 E←HCPAC of this section.~~

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

~~[C. An employee who customarily and regularly receives more than thirty dollars (\$30.00) a month in tips shall be paid a minimum hourly wage of two dollars thirteen cents (\$2.13). The employer may consider tips as part of wages, but the tips combined with the employer's cash wage shall not equal less than the minimum wage rate as provided in Subsection A of this section. All tips received by such employees shall be retained by the employee, except that nothing in this section shall prohibit the pooling of tips~~

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~~among employees.~~

HCPAC → ~~Hfl → C. From the effective date of this 2019 act until July 1, 2022, an employer may pay a lower cash minimum wage rate pursuant to Subsection D of this section only if the employer can establish that for each week that an employee who customarily and regularly receives more than thirty dollars (\$30.00) a month in tips works, the sum of the employee's tips combined with the employer's cash wage is not less than the minimum wage rate as provided in Subsection A of this section.~~

~~D. If an employer satisfies the requirements set forth in Subsection C of this section, for an employee who customarily and regularly receives more than thirty dollars (\$30.00) a month in tips, the employer shall pay the employee at least a minimum hourly wage of five dollars (\$5.00) less than the minimum wage rate set forth in Subsection A of this section from the effective date of this act until June 30, 2020. From July 1, 2020 through June 30, 2021, the employer shall pay the employee at least a minimum hourly wage of three dollars fifty cents (\$3.50) less than the minimum wage rate set forth in Subsection A of this section. From July 1, 2021 through June 30, 2022, the employer shall pay the employee at least a minimum hourly wage of two dollars (\$2.00) less than the minimum wage rate set forth in Subsection A of this~~

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~~section. On or after July 1, 2022, the employee shall not be paid less than the minimum wage rate set forth in Subsection A of this section and the employer shall not consider tips as part of wages. All tips received by such employees shall be retained by the employee, except that nothing in this section shall prohibit the pooling of tips among employees.~~←Hfl←HCPAC

HCPAC→C. An employee who customarily and regularly receives more than thirty dollars (\$30.00) a month in tips shall be paid a minimum hourly wage that is thirty percent of the prevailing minimum hourly wage at the time the hours were worked in addition to tips received. All tips received by such employees shall be retained by the employee, except that nothing in this section shall prohibit the pooling of tips among wait staff.←HCPAC

D.] HCPAC→Hfl→C. E.←Hfl D.←HCPAC An employee shall not be required to work more than forty hours in any week of seven days, unless the employee is paid one and one-half times the employee's regular hourly rate of pay for all hours worked in excess of forty hours. For an employee who is paid a fixed salary for fluctuating hours and who is employed by an employer a majority of whose business in New Mexico consists of providing investigative services to the federal government, the hourly rate may be calculated in accordance with the provisions of the federal Fair Labor Standards Act of 1938 and the regulations pursuant to that act; provided that in no case

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shall the hourly rate be less than the federal minimum wage.

HCPAC → ~~Hfl~~ → ~~D. F.~~ ← ~~Hfl~~ **E.** ← HCPAC On July 1, 2022 and on July 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 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); however, the minimum wage shall not be adjusted downward as a result of a decrease in the cost of living. The workforce solutions department shall publish by May 1 of each year the adjusted minimum wage rates that shall take effect the following July 1."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.