

**LFC Requester:**

**Rachel Mercer-Garcia**

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

**[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)**

***(Analysis must be uploaded as a PDF)***

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared** 2/15/25 *Check all that apply:*  
**Bill Number:** HB0246 Original  Correction   
Amendment  Substitute

**Sponsor:** Patricia Roybal Caballero **Agency Name and Code** Dept. of Workforce Solutions-631  
**Person Writing Analysis:** Sarita Nair  
**Short Title:** Increase Minimum Wage **Phone:** 505-263-3187 **Email:** Evan.Sanchez@dws.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
0	0		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
0	0	0		

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected

<b>Total</b>	0	0	0	0		
--------------	---	---	---	---	--	--

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: House Bill 246 (HB 246) proposes significant changes to the state's Minimum Wage Act (MWA), including:

1. **Minimum Wage Increase** – Beginning January 1, 2026, the minimum wage for employees in New Mexico would be set at **\$17.00 per hour**.
2. **Elimination of Tipped Minimum Wage and Tip Credits** – The prior system allowing lower minimum wages for tipped employees would be eliminated. Employers would instead pay tipped employees at least the new minimum wage, with no reliance on tip credits.
3. **Annual Inflation Adjustments** – Section 2(C) of HB 246 tasks the Workforce Solutions Department (DWS) with calculating and publishing the annual inflation-adjusted minimum wage. Beginning in 2027, DWS would determine the new minimum wage each year using the Consumer Price Index and notify employers by November 1 of the updated wage rate for the following year. Notably, the bill specifies that the wage cannot be adjusted downward even if the cost of living decreases.
4. **Repeal of Certain Exemptions** – The bill would remove several exemptions from the definition of "employee," including those related to federal and state government employees; employees of educational, charitable, religious or nonprofit organizations; registered apprentices; seasonal employees; and certain agricultural workers. **The HVMC amendment deletes what had remained of the agricultural worker exception, including for agricultural workers traditionally paid by the piece harvested.**
5. **Overtime Pay** – The bill would maintain existing overtime provisions, requiring one and one-half times an employee’s regular hourly rate for work exceeding 40 hours per week.
6. **Repeal of Section 50-4-23 NMSA 1978** - This would eliminate DWS’s authority to issue special exemption certificates permitting employers to pay disabled workers less than the minimum wage, subject to certain program requirements.

**FISCAL IMPLICATIONS**

If approved, there will be minimum wage rate increases at a yearly interval. There are minimal operational costs internal to Labor Relations focusing on printed materials with the updated pay rate.

**The amendment does not create any additional fiscal implications.**

## SIGNIFICANT ISSUES

### **The amendment does not create any additional significant issues.**

It is estimated that there are about 32,000 workers in New Mexico receiving the minimum wage of \$12.00 an hour. In the time allotted for analysis, DWS was not able to estimate the number of individuals receiving the tipped minimum wage, the local minimum wage, or a wage subject to the exemptions that this bill would eliminate.

Removal of the exemption for federal employees presents legal and jurisdictional concerns. Under the Supremacy Clause of the U.S. Constitution, states generally cannot impose wage mandates on federal entities. This raises the question of whether New Mexico courts could enforce the Minimum Wage Act against federal employers, particularly since state district courts, where these cases are typically filed, may lack jurisdiction over federal agencies. The enforceability of this provision is highly questionable and could be subject to legal challenge.

Removal of the exemption for employees of the state and its political subdivisions may increase litigation, judgments and settlements involving state employers. Currently, state employers are covered by the minimum-wage provisions of the MWA (Section 50-4-22(A)) but not any other of its provisions, such as the overtime-pay and liquidated damages provisions. Liquidated damages under the MWA are substantial; essentially, these damages can be two times the amount of unpaid or back wages that are owed. If passed, HB 246 would subject state employers to these provisions, potentially expanding its exposure to lawsuits and financial risks. The Risk Management Division of the General Services Department could probably provide estimates of the financial impact to taxpayers if the bill pass.

Section 50-4-29 of the Minimum Wage Act states that any existing minimum wage, maximum hour, or other working condition standards that are more favorable to employees than those under the Act shall remain in full force and effect. The preemption language in Section 50-4-20 might also need to be expanded to align with HB 246's sweeping structural changes.

Programs that permit payment of sub-minimum wages to individuals with disabilities, such as those authorized under Section 14(c) of the federal Fair Labor Standards Act (FLSA) (29 U.S.C. § 214(c)), were originally designed to facilitate employment opportunities for disabled workers by allowing employers to pay wages commensurate with an individual's productivity. The intent was to encourage the hiring of individuals whose disabilities might otherwise make employers hesitant due to perceived lower productivity. However, over time, significant concerns have emerged regarding the implementation and impact of these programs. Critics argue that they often fail to provide the intended rehabilitative benefits and can lead to exploitation. *See* U.S. Dept. of Labor: “US Department of Labor Announces Proposed Rule to Phase Out Certificates Allowing Payment of Less Than Minimum Wage to Workers With Disabilities,” (Dec. 3, 2024), available at [https://www.dol.gov/newsroom/releases/whd/whd20241203?utm\\_source=chatgpt.com](https://www.dol.gov/newsroom/releases/whd/whd20241203?utm_source=chatgpt.com) (last viewed Feb. 5, 2025).

In December 2024, the U.S. Department of Labor proposed a rule to phase out the issuance of new 14(c) certificates and establish a three-year period to transition existing certificate holders to pay at least the federal minimum wage. *Id.* Thus, it appears HB 246's intent to eliminate exemption certificates at the state level may be consistent with similar proposals at the federal level.

## PERFORMANCE IMPLICATIONS

**The amendment does not create any additional performance implications.**

Section 2(C) of HB 246 tasks DWS with calculating and publishing the annual inflation-adjusted minimum wage. Beginning in 2027, DWS must determine the new minimum wage each year using the Consumer Price Index and notify employers by November 1 of the updated wage rate for the following year.

## ADMINISTRATIVE IMPLICATIONS

**The amendment does not create any additional administrative implications.**

The Labor Relations Division Wage & Hour Bureau may see increased claims activity when the Minimum Wage Act is applicable to state employees to the extent state agencies fail to comply, resulting potentially with investigations of wage claims against other state agencies. Exemption requests will no longer be reviewed and approved for nonprofit, seasonal laborers, and religious organizations. In addition, changes of this significance will likely require strong outreach and education for employers and workers. It is not clear whether DWS would be expected to do that work; the Department is not funded to do that work.

Enforcement resources to support this legislation in Labor Relations include updating publication materials, online trainings, and online language relating to the proposed \$17 / hour minimum wage.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

**The amendment does not create any additional issues under this section.**

Any increase in the minimum wage would have a ripple effect on statutes that relate to the minimum wage. For example, an increase in the minimum wage will increase the taxable wage base, thus increasing the amount that employers pay in unemployment insurance taxes. Because wages are higher, unemployment benefits will also increase. If Paid Family & Medical Leave were to pass in the form currently provided in HB 11, the minimum benefit would also increase. Other statutes may have a similar relationship.

## OTHER SUBSTANTIVE ISSUES

**The amendment does not create any additional substantive issues, but the information below has been updated.**

The minimum wages of other states in the country are shown below. Currently, twelve states adjust their minimum wage annually. These are marked below. Source: [Minimum Wage Rates by State 2025](https://www.minimum-wage.org/wage-by-state); <https://www.minimum-wage.org/wage-by-state>

State	Wage	Annually adjusted?
<u>Federal</u>	\$7.25 / hour	
<u>Alabama</u>	\$7.25 / hour	

<u>Georgia</u>	\$7.25 / hour	
<u>Idaho</u>	\$7.25 / hour	
<u>Indiana</u>	\$7.25 / hour	
<u>Iowa</u>	\$7.25 / hour	
<u>Kansas</u>	\$7.25 / hour	
<u>Kentucky</u>	\$7.25 / hour	
<u>Louisiana</u>	\$7.25 / hour	
<u>Mississippi</u>	\$7.25 / hour	
<u>New Hampshire</u>	\$7.25 / hour	
<u>North Carolina</u>	\$7.25 / hour	
<u>North Dakota</u>	\$7.25 / hour	
<u>Oklahoma</u>	\$7.25 / hour	
<u>Pennsylvania</u>	\$7.25 / hour	
<u>South Carolina</u>	\$7.25 / hour	
<u>Tennessee</u>	\$7.25 / hour	
<u>Texas</u>	\$7.25 / hour	
<u>Utah</u>	\$7.25 / hour	
<u>Wisconsin</u>	\$7.25 / hour	
<u>Wyoming</u>	\$7.25 / hour	
<u>West Virginia</u>	\$8.75 / hour	
<u>Puerto Rico</u>	\$9.50 / hour	
<u>Montana</u>	\$10.30 / hour	✓
<u>Michigan</u>	\$10.33 / hour	
<u>Ohio</u>	\$10.45 / hour	✓
<u>Minnesota</u>	\$10.85 / hour	
<u>Arkansas</u>	\$11.00 / hour	
<u>South Dakota</u>	\$11.20 / hour	✓
<u>Alaska</u>	\$11.73 / hour	
<u>Nebraska</u>	\$12.00 / hour	
<u>Nevada</u>	\$12.00 / hour	✓
<u>New Mexico</u>	\$12.00 / hour	
<u>Virginia</u>	\$12.00 / hour	
<u>Missouri</u>	\$12.30 / hour	✓
<u>Florida</u>	\$13.00 / hour	✓
<u>Delaware</u>	\$13.25 / hour	✓
<u>Vermont</u>	\$13.67 / hour	
<u>Hawaii</u>	\$14.00 / hour	
<u>Illinois</u>	\$14.00 / hour	
<u>Rhode Island</u>	\$14.00 / hour	
<u>Maine</u>	\$14.15 / hour	
<u>Oregon</u>	\$14.20 / hour	✓
<u>Arizona</u>	\$14.35 / hour	✓

<u>Colorado</u>	\$14.42 / hour	✓
<u>Maryland</u>	\$15.00 / hour	
<u>Massachusetts</u>	\$15.00 / hour	
<u>New York</u>	\$15.00 / hour	
<u>New Jersey</u>	\$15.13 / hour	✓
<u>Connecticut</u>	\$15.69 / hour	
<u>California</u>	\$16.00 / hour	
<u>Washington</u>	\$16.28 / hour	✓
<u>District of Columbia</u>	\$17.00 / hour	
<b>New Mexico proposed in HB246</b>	<b>\$17.00 / hour</b>	<b>✓</b>

## **ALTERNATIVES**

DWS is not aware of whether other minimum wage legislation has been or will be introduced.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Minimum wage laws will remain as they are now.

## **AMENDMENTS**