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SENATE BILL 449

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Ben D. Altamirano

AN ACT

RELATING TO PAYMENT OF WAGES; INCREASING THE MINIMUM WAGE IN THREE PHASES; PREEMPTING LOCAL INCREASES FOR FIVE YEARS; PRESERVING LOCAL INCREASE ORDINANCES IN EFFECT ON FEBRUARY 1, 2006.

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 by Laws 2005, Chapter 302, Section 1 and by Laws 2005, Chapter 306, Section 1) is amended to read:

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

A. An employer [~~except as provided in Section 50-4-21 NMSA 1978~~] shall pay the minimum wage rate of five dollars fifteen cents (\$5.15) an hour [~~except that~~] through December 31, 2006. As of January 1, 2007, an employer shall

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1 pay the minimum wage rate of six dollars fifty cents (\$6.50) an  
2 hour. As of January 1, 2008, an employer shall pay the minimum  
3 wage rate of seven dollars (\$7.00) an hour. As of January 1,  
4 2009, an employer shall pay the minimum wage rate of seven  
5 dollars fifty cents (\$7.50) an hour.

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

10 ~~[B.]~~ C. An employee ~~[subject to Subsection A of~~  
11 ~~this section]~~ who customarily and regularly receives more than  
12 thirty dollars (\$30.00) a month in tips shall be paid a minimum  
13 hourly wage of two dollars thirteen cents (\$2.13). The  
14 employer may consider tips as part of wages, but the tips  
15 combined with the employer's cash wage shall not equal less  
16 than ~~[five dollars sixty cents (\$5.60) per hour]~~ the minimum  
17 wage rate as provided in Subsection A of this section. All  
18 tips received by such employees shall be retained by the  
19 employee, except that nothing in this section shall prohibit  
20 the pooling of tips among employees.

21 ~~[C.]~~ D. An employee subject to the provisions of  
22 Subsection A of this section shall not be required to work more  
23 than forty hours in any week of seven days, unless the employee  
24 is paid one and one-half times the employee's regular hourly  
25 rate of pay for all hours worked in excess of forty hours. For

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1 an employee who is paid a fixed salary for fluctuating hours  
2 and who is employed by an employer a majority of whose business  
3 in New Mexico consists of providing investigative services to  
4 the federal government, the hourly rate may be calculated in  
5 accordance with the provisions of the federal Fair Labor  
6 Standards Act of 1938 and the regulations pursuant to that act;  
7 provided that in no case shall the hourly rate be less than the  
8 federal minimum wage."

9 Section 2. A new section of the Minimum Wage Act is  
10 enacted to read:

11 "[NEW MATERIAL] TEMPORARY STATE PREEMPTION; SAVING  
12 CLAUSE.--

13 A. Cities, counties, home rule municipalities and  
14 other political subdivisions of the state are prohibited from  
15 adopting or continuing in effect any law or ordinance that  
16 would increase the minimum wage rates set forth in the Minimum  
17 Wage Act. The provisions of this subsection expire on December  
18 31, 2011.

19 B. A local law or ordinance in effect on February  
20 1, 2006 that provides for a higher minimum wage rate than that  
21 set forth in the Minimum Wage Act shall continue in full force  
22 and effect until repealed."

23 Section 3. EFFECTIVE DATE.--The effective date of the  
24 provisions of this act is January 1, 2007.

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