

FORTY-SEVENTH LEGISLATURE
SECOND SESSION, 2006

SB 449/a

February 13, 2006

Madam President:

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

SENATE BILL 449, as amended

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, lines 11 and 12, strike "IN THREE PHASES" and insert in lieu thereof "; PROVIDING FOR INCREASES IN THE MINIMUM WAGE FOR EMPLOYEES WHO ARE CONTINUOUSLY EMPLOYED WITH THE SAME EMPLOYER; EXPANDING EXEMPTIONS".

2. On page 1, line 12, strike "FOR FIVE YEARS".

3. On page 1, lines 13 and 14, strike "ON FEBRUARY 1, 2006" and insert in lieu thereof "UP TO A CERTAIN AMOUNT".

4. 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:

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(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;

(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;

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

(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 agricultural labor;~~

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~~(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; ~~(e)~~

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

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persons.".

5. Renumber the succeeding sections accordingly.

6. On page 1, line 23, after "pay" insert "an employee".

7. On page 1, line 23, strike "five" and strike lines 24 and 25 in their entirety and on page 2, strike lines 1 through 5 in their entirety and insert in lieu thereof:

"six dollars (\$6.00) an hour. As of January 1, 2008, if an employee is continuously employed by the same employer for twelve consecutive months from the date of hire, the employee shall be paid no less than six dollars seventy-five cents (\$6.75) an hour. As of January 1, 2009, if an employee is continuously employed by the same employer for twenty-four consecutive months from the date of hire, the employee shall be paid no less than seven dollars fifty cents (\$7.50) an hour.".

8. On page 2, lines 21 and 22, strike "subject to the provisions of Subsection A of this section".

9. On page 3, line 11, strike "TEMPORARY".

10. On page 3, line 13, strike "Cities" and insert in lieu thereof "Except as provided in Subsection B of this section, cities".

11. On page 3, strike line 17 after the period and strike line 18 in its entirety.

12. On page 3, lines 21 and 22, strike "continue in full force and effect until repealed" and insert in lieu thereof "not allow for a minimum wage rate higher than nine dollars fifty cents (\$9.50) an hour".

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Respectfully submitted,

Joseph A. Fidel, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 4 Against
Yes: 5
No: Beffort, Carraro, Leavell, Rawson
Excused: Rodriguez
Absent: None

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