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SENATE BILL 746

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

INTRODUCED BY

Stuart Ingle

AN ACT

RELATING TO EMPLOYER EXPENSES; INCREASING THE MINIMUM WAGE IN
FOUR PHASES; PROVIDING FOR A TRAINING WAGE; PREEMPTING LOCAL
INCREASES; PRESERVING LOCAL INCREASES IN EFFECT UP TO A CERTAIN
AMOUNT; PROVIDING FOR INCOME TAX AND CORPORATE INCOME TAX
CREDITS FOR EMPLOYER-SPONSORED HEALTH INSURANCE.

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 an employee the minimum wage rate
of five dollars fifteen cents (\$5.15) an hour [~~except that~~]

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1 through December 31, 2006. As of January 1, 2007, an employer
2 shall pay the minimum wage rate of six dollars (\$6.00) an hour.
3 As of January 1, 2008, an employer shall pay the minimum wage
4 rate of six dollars fifty cents (\$6.50) an hour. As of January
5 1, 2009, an employer shall pay the minimum wage rate of seven
6 dollars (\$7.00) an hour. As of January 1, 2010, an employer
7 shall pay the minimum wage rate of seven dollars fifty cents
8 (\$7.50) an hour.

9 B. An employer may pay a training wage to a new
10 employee in the first six months of employment. As of January
11 1, 2007, an employer may pay a training wage of five dollars
12 fifteen cents (\$5.15) an hour. As of January 1, 2008, an
13 employer may pay a training wage of six dollars (\$6.00) an
14 hour. As of January 1, 2009, an employer may pay a training
15 wage of six dollars fifty cents (\$6.50) an hour. As of January
16 1, 2010, an employer may pay a training wage of seven dollars
17 (\$7.00) an hour.

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

22 ~~[B.]~~ D. An employee ~~[subject to Subsection A of~~
23 ~~this section]~~ who customarily and regularly receives more than
24 thirty dollars (\$30.00) a month in tips shall be paid a minimum
25 hourly wage of two dollars thirteen cents (\$2.13). The

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1 employer may consider tips as part of wages, but the tips
2 combined with the employer's cash wage shall not equal less
3 than [~~five dollars sixty cents (\$5.60) per hour~~] the minimum
4 wage rate as provided in Subsection A of this section. All
5 tips received by such employees shall be retained by the
6 employee, except that nothing in this section shall prohibit
7 the pooling of tips among employees.

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

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

23 "[NEW MATERIAL] STATE PREEMPTION--SAVING CLAUSE.--

24 A. Cities, counties, home rule municipalities and
25 other political subdivisions of the state are prohibited from

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1 adopting or continuing in effect any law or ordinance that
2 would increase the minimum wage rates set forth in the Minimum
3 Wage Act.

4 B. A local law or ordinance in effect on February
5 1, 2006 that provides for a higher minimum wage rate than that
6 set forth in the Minimum Wage Act shall not allow for a minimum
7 wage rate higher than nine dollars fifty cents (\$9.50) an
8 hour."

9 Section 3. A new section of the Income Tax Act is enacted
10 to read:

11 "[NEW MATERIAL] INCOME TAX--CREDIT FOR COSTS OF PROVIDING
12 EMPLOYER-SPONSORED HEALTH INSURANCE.--

13 A. A taxpayer who files an individual New Mexico
14 income tax return may claim, and the department may allow, a
15 tax credit in an amount not to exceed fifty percent of the cost
16 of employer-sponsored health insurance provided to the
17 taxpayer's employees employed in New Mexico or their dependents
18 during the taxable year for which the credit is claimed if a
19 credit for providing employer-sponsored health insurance to
20 those employees or their dependents is not claimed pursuant to
21 the Corporate Income and Franchise Tax Act.

22 B. A taxpayer who otherwise qualifies and claims a
23 credit pursuant to this section and who is a member of a
24 partnership, S corporation or business association that is the
25 employer paying the employee health insurance premiums may

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1 claim a credit only in proportion to the taxpayer's interest in
2 the partnership, S corporation or business association.

3 C. A husband and wife who file separate returns for
4 a taxable year in which they could have filed a joint return
5 may each claim only one-half of the credit that would have been
6 allowed on a joint return.

7 D. A credit provided in this section may only be
8 deducted from the taxpayer's income tax liability for the
9 taxable year for which the credit is claimed.

10 E. For the purposes of this section, "employer-
11 sponsored health insurance" means health insurance for which an
12 employer completely or partially pays the costs of that
13 insurance for its employees or their dependents."

14 Section 4. A new section of the Corporate Income and
15 Franchise Tax Act is enacted to read:

16 "[NEW MATERIAL] CORPORATE INCOME TAX--CREDIT FOR COSTS OF
17 PROVIDING EMPLOYER-SPONSORED HEALTH INSURANCE.--

18 A. A taxpayer that files a corporate income tax
19 return may claim, and the department may allow, a tax credit in
20 an amount not to exceed fifty percent of the cost of employer-
21 sponsored health insurance provided to the taxpayer's employees
22 employed in New Mexico or their dependents during the taxable
23 year for which the credit is claimed if a credit for providing
24 employer-sponsored health insurance to those employees or their
25 dependents is not claimed pursuant to the Income Tax Act.

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1 B. A taxpayer that otherwise qualifies and claims a
2 credit pursuant to this section and that is a member of a
3 partnership, limited liability corporation or business
4 association that is the employer paying the employee health
5 insurance premiums may claim a credit only in proportion to the
6 taxpayer's interest in the partnership, limited liability
7 corporation or business association.

8 C. A credit provided in this section may only be
9 deducted from the taxpayer's corporate income tax liability for
10 the taxable year for which the credit is claimed.

11 D. For the purposes of this section, "employer-
12 sponsored health insurance" means health insurance for which an
13 employer completely or partially pays the costs of that
14 insurance for its employees or their dependents."

15 Section 5. APPLICABILITY.--The provisions of Sections 3
16 and 4 this act apply to taxable years beginning on or after
17 January 1, 2007.

18 Section 6. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is January 1, 2007.