

1 HOUSE BILL 138

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Miguel P. Garcia

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10 AN ACT

11 RELATING TO LABOR; INCREASING THE MINIMUM WAGE; REVISING THE
12 MINIMUM WAGE FOR TIPPED EMPLOYEES; PROVIDING FOR AN ANNUAL
13 COST-OF-LIVING INCREASE IN THE STATE MINIMUM WAGE RATE;
14 PROVIDING LIMITATIONS.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 50-4-22 NMSA 1978 (being Laws 1955,
18 Chapter 200, Section 3, as amended) is amended to read:

19 "50-4-22. MINIMUM WAGES.--

20 A. An employer shall pay an employee the minimum
21 wage rate of [~~six dollars fifty cents (\$6.50) an hour. As of~~
22 ~~January 1, 2009, an employer shall pay the minimum wage rate~~
23 ~~of] seven dollars fifty cents (\$7.50) an hour. As of January
24 1, 2016 and through December 31, 2016, an employer shall pay
25 the minimum wage rate of eight dollars forty cents (\$8.40) an~~

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1 hour. As of January 1, 2017 and through December 31, 2017, an
2 employer shall pay the minimum wage rate of nine dollars twenty
3 cents (\$9.20) an hour. As of January 1, 2018, an employer
4 shall pay the minimum wage rate of ten dollars ten cents
5 (\$10.10) an hour. As of January 1, 2016 and on January 1 of
6 each successive year, the minimum wage rate shall be increased
7 for cost of living as provided in Subsection E of this section.

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

12 C. As of January 1, 2016, an employee who
13 customarily and regularly receives more than thirty dollars
14 (\$30.00) a month in tips shall be paid a minimum hourly wage
15 [of two dollars thirteen cents (\$2.13)] that is equal to forty
16 percent of the minimum wage provided in Subsection A of this
17 section. The employer may consider tips as part of wages, but
18 the tips combined with the employer's cash wage shall not equal
19 less than the minimum wage rate as provided in Subsection A of
20 this section. All tips received by such employees shall be
21 retained by the employee, except that nothing in this section
22 shall prohibit the pooling of tips among employees.

23 D. An employee shall not be required to work more
24 than forty hours in any week of seven days, unless the employee
25 is paid one and one-half times the employee's regular hourly

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

10 E. On January 1, 2016 and on January 1 of each
11 successive year, the minimum wage rate shall be increased by
12 the increase in the cost of living. The increase in the cost
13 of living shall be measured by the percentage increase as of
14 August of the immediately preceding year over the level as of
15 August of the previous year of the consumer price index for all
16 urban consumers, United States city average for all items, or
17 its successor index, as published by the United States
18 department of labor or its successor agency, with the amount of
19 the minimum wage increase rounded to the nearest multiple of
20 five cents (\$.05). The workforce solutions department shall
21 publish by November 1 of each year the adjusted minimum wage
22 rates that shall take effect the following January 1. The
23 minimum wage shall not be adjusted downward as a result of a
24 decrease in the cost of living and shall not be adjusted upward
25 by more than four percent in any one year as a result of an

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1 increase in the cost of living."

2 SECTION 2. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2015.

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