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HOUSE BILL 31

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Miguel P. Garcia and Joanne J. Ferrary

AN ACT

RELATING TO LABOR; INCREASING THE MINIMUM WAGE IN PHASES;
REMOVING THE MINIMUM WAGE EXCEPTION FOR TIPPED EMPLOYEES;
PROVIDING FOR AN ANNUAL COST-OF-LIVING INCREASE IN THE STATE
MINIMUM WAGE RATE BEGINNING IN 2022.

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) is amended to read:

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

A. An employer shall pay an employee the minimum
wage rate of ~~[six dollars fifty cents (\$6.50) an hour. As of
January 1, 2009, an employer shall pay the minimum wage rate of
seven dollars fifty cents (\$7.50)]~~ ten dollars (\$10.00) an
hour. As of July 1, 2020 and through June 30, 2021, an
employer shall pay the minimum wage rate of eleven dollars

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1 (\$11.00) an hour. As of July 1, 2021 and through June 30,
2 2022, an employer shall pay the minimum wage rate of twelve
3 dollars (\$12.00) an hour. As of July 1, 2022 and on July 1 of
4 each successive year, the minimum wage rate shall be increased
5 for the cost of living as provided in Subsection D of this
6 section.

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

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

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

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

8 D. On July 1, 2022 and on July 1 of each successive
9 year, the minimum wage rate shall be increased by the increase
10 in the cost of living. The increase in the cost of living
11 shall be measured by the percentage increase as of August of
12 the immediately preceding year over the level as of August of
13 the previous year of the consumer price index for all urban
14 consumers, United States city average for all items, or its
15 successor index, as published by the United States department
16 of labor or its successor agency, with the amount of the
17 minimum wage increase rounded to the nearest multiple of five
18 cents (\$.05); however, the minimum wage shall not be adjusted
19 downward as a result of a decrease in the cost of living. The
20 workforce solutions department shall publish by May 1 of each
21 year the adjusted minimum wage rates that shall take effect the
22 following July 1."

23 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
24 provisions of this act is July 1, 2019.