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HOUSE BILL 212

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Jim R. Trujillo

AN ACT

RELATING TO EMPLOYMENT; AMENDING A SECTION OF CHAPTER 50,  
ARTICLE 4 NMSA 1978 TO PROVIDE FOR PAYMENT OF WAGES BY PAYROLL  
CARDS.

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

**SECTION 1.** Section 50-4-2 NMSA 1978 (being Laws 1937,  
Chapter 109, Section 2, as amended) is amended to read:

"50-4-2. SEMIMONTHLY AND MONTHLY PAY DAYS.--

A. An employer in this state shall designate  
regular pay days, not more than sixteen days apart, as days  
fixed for the payment of wages to all employees paid in this  
state. The employer shall pay for services rendered from the  
first to the fifteenth days, inclusive, of any calendar month  
by the twenty-fifth day of the month during which services are  
rendered, and for all services rendered from the sixteenth to

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1 the last day of the month, inclusive, of any calendar month by  
2 the tenth day of the succeeding month. Where computation of  
3 earnings and of amounts due, preparation of payrolls and  
4 issuance of paychecks are at a central location outside New  
5 Mexico, the employer shall pay for services rendered from the  
6 first to the fifteenth days, inclusive, of any calendar month  
7 by the last of the month during which services are rendered,  
8 and for all services rendered from the sixteenth to the last  
9 day of the month, inclusive, of any calendar month by the  
10 fifteenth day of the succeeding month.

11 B. Except as provided by rules of the department of  
12 finance and administration for payment of salaries and wages to  
13 state employees, other than employees of institutions of higher  
14 education, promulgated pursuant to Section 10-7-2 NMSA 1978, an  
15 employer shall pay wages in full, less lawful deductions and  
16 less payroll deductions authorized by the employer and  
17 employee, or specifically stated in a written contract entered  
18 into at the time of hiring.

19 C. Wages shall be paid using one or more of the  
20 following methods:

- 21 (1) in lawful money of the United States [~~or~~];  
22 (2) in checks, payroll vouchers or drafts on  
23 banks, convertible into cash on demand at full face value [~~or~~];  
24 (3) with the voluntary authorization of the  
25 employer, employee and financial institution, by deposit to the

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1 account of the employee in any bank, savings and loan  
2 association, credit union or other financial institution  
3 authorized by the United States or one of the several states to  
4 receive deposits in the United States [~~without any reduction or~~  
5 ~~deduction, except as may be specifically stated in a written~~  
6 ~~contract of hiring entered into at the time of hiring~~]; or  
7 (4) on a payroll card pursuant to the  
8 requirements of Subsection D of this section.

9 D. An employer may use payroll cards to deliver  
10 wages or salaries to its employees; provided that:

11 (1) except as provided in Paragraph (2) of  
12 this subsection, employees are able to make at least one  
13 withdrawal or transfer each pay period without charge for any  
14 amount up to and including the full amount of the employee's  
15 wages for the period;

16 (2) if wages are paid more frequently than  
17 weekly, employees are able to make at least one withdrawal or  
18 transfer each week without charge for any amount up to and  
19 including the full amount of the employee's wages for that  
20 week;

21 (3) employees are provided information  
22 regarding the terms and conditions of the payroll card program,  
23 including any fees that may be assessed; and

24 (4) employees are provided the option of  
25 receiving their wages by direct deposit into a personal account

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1 at a financial institution of their choice pursuant to  
2 Subsection C of this section.

3 E. An employer shall provide an employee with a  
4 written receipt that identifies the employer and sets forth the  
5 employee's gross pay, the number of hours worked by the  
6 employee, the total wages and benefits earned by the employee  
7 and an itemized listing of all deductions withheld from the  
8 employee's gross pay. Nothing contained in Sections 50-4-1  
9 through 50-4-12 NMSA 1978 shall in any way limit or prohibit  
10 the payment of wages or compensation at more frequent intervals  
11 than those set forth in this section. Where the labor or  
12 service to be rendered to an employer is recompensed on a task,  
13 piece or commission basis or other method of calculating the  
14 amount of wages to be paid, other than a definite and fixed  
15 amount in cash, the employer and the employee may agree in  
16 writing at the time of hiring that the wages shall be paid on a  
17 monthly basis, on or before the tenth day of the succeeding  
18 calendar month.

19 [~~G.~~] F. Notwithstanding the provisions of  
20 Subsection A of this section, an employer may pay  
21 professional, administrative or executive employees or  
22 employees employed in the capacity of outside salesman, as  
23 those terms are defined under the federal Fair Labor  
24 Standards Act, one time per month, excluding those employees  
25 whose wages are subject to provisions of collective

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1 bargaining agreements.

2 G. As used in this section, "payroll card" means  
3 a stored value card or other device used by an employee to  
4 access wages from a payroll card account that is directly or  
5 indirectly established through an employer and to which  
6 electronic fund transfers of the employee's wages, salary or  
7 other compensation are made."

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