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HOUSE BILL 487

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

TERRY T. MARQUARDT

AN ACT

RELATING TO MINIMUM WAGES; AMENDING SECTION 50-4-22 NMSA 1978  
(BEING LAWS 1955, CHAPTER 200, SECTION 3, AS AMENDED).

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. Every employer, except as provided in Section  
50-4-21 NMSA 1978, shall pay ~~[the minimum wage rate of \$4.25 an  
hour, excepting]~~ an employee a wage at the same rate as the  
current federal minimum wage except that an employer furnishing  
food, utilities, supplies or housing to an employee ~~[who is  
engaged in agriculture]~~ may deduct the reasonable value of  
~~[such]~~ the furnished items from any wages due to the employee.

B. All employees covered by Subsection A of this

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1 section who customarily and regularly receive more than thirty  
2 dollars (\$30.00) a month in tips shall be paid a minimum hourly  
3 wage of two dollars twelve and one-half cents (\$2.125). The  
4 employer may consider tips as part of wages, but [~~such a wage~~]  
5 the wages credit [~~shall not exceed fifty percent of the~~]  
6 combined with the employer's cash wage shall equal the current  
7 federal minimum wage. All tips received by such employees shall  
8 be retained by the employee, except that nothing [~~herein~~] in  
9 this section shall prohibit the pooling of tips among employees.

10 C. No employee covered by the provisions of  
11 Subsection A of this section shall be required to work more than  
12 forty hours in any week of seven days, unless he is paid one and  
13 one-half times his regular hourly rate of pay for all hours  
14 worked in excess of forty hours.

15 D. Any employer may, in lieu of the minimum wage  
16 prescribed by this section, pay an eligible employee, during the  
17 first ninety consecutive calendar days after the employee is  
18 initially hired by the employer, a wage that is not less than  
19 four dollars twenty-five cents (\$4.25) an hour. An eligible  
20 employee means an individual who:

21 (1) is not a migrant agricultural worker or a  
22 seasonal agricultural worker as defined in Paragraphs (8) and  
23 (10) of Section 3 of the Migrant and Seasonal Agricultural  
24 Worker Protection Act (29 U.S.C.A. 1802(8) and (10)) without  
25 regard to Subparagraph (B) of those paragraphs and is not a non-

1 immigrant described in Section 101(a)(15)(H)(ii)(a) of the  
2 Immigration and Nationality Act (8 U.S.C.A. 1101(a)(15)(H)  
3 (ii)(a)); and

4 (2) has not attained the age of twenty years.

5 E. An employer shall not take action to displace  
6 employees, including partial displacement, such as reduction in  
7 hours, wages or employment benefits, for purposes of hiring  
8 individuals at the wage authorized in Subsection D of this  
9 section."

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HOUSE LABOR AND HUMAN RESOURCES COMMITTEE SUBSTITUTE FOR  
HOUSE BILLS 487 & 695

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

AN ACT

RELATING TO LABOR LAW; AMENDING SECTION 50-4-22 NMSA 1978 (BEING LAWS 1955, CHAPTER 200, SECTION 3, AS AMENDED) TO SET THE STATE MINIMUM WAGE AT A LEVEL PROPORTIONAL TO THE CURRENT FEDERAL MINIMUM WAGE.

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. Every employer, except as provided in Section 50-4-21 NMSA 1978, shall pay ~~[the minimum wage rate of \$4.25 an hour, excepting that an employer furnishing food, utilities, supplies or housing to an employee who is engaged in agriculture may deduct the reasonable value of such furnished items from any wages due to the employee]~~ an employee a wage at the same rate

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as the current federal minimum wage.

B. All employees covered by Subsection A of this section who customarily and regularly receive more than thirty dollars (\$30.00) a month in tips shall be paid [~~a minimum hourly wage of two dollars twelve and one-half cents (\$2.125)] fifty percent of the current federal minimum wage. The employer may consider tips as part of wages, but [~~such a wage]~~ the tip credit [shall not exceed fifty percent of the minimum wage] combined with the employer's cash wage shall equal the current federal minimum wage. All tips received by such employees shall be retained by the employee, except that nothing [~~herein]~~ in this section shall prohibit the pooling of tips among employees.~~

C. No employee covered by the provisions of Subsection A of this section shall be required to work more than forty hours in any week of seven days, unless he is paid one and one-half times his regular hourly rate of pay for all hours worked in excess of forty hours.

D. No municipality, including any home rule charter municipality, shall enact an ordinance that authorizes a higher minimum wage than that provided for in Subsection A of this section."

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**State of New Mexico  
House of Representatives**

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

**March 6, 1997**

Mr. Speaker:

Your BUSINESS AND INDUSTRY COMMITTEE, to whom has  
been referred

HOUSE LABOR AND HUMAN RESOURCES COMMITTEE SUBSTITUTE  
FOR HOUSE BILLS 487 AND 695

has had it under consideration and reports same with  
recommendation that it DO PASS.

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HBI C/HB 487 & 695

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Respectfully submitted,

\_\_\_\_\_  
Fred Luna, Chairman

Adopted \_\_\_\_\_  
(Chief Clerk)

Not Adopted \_\_\_\_\_  
(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 1 Against

Yes: 7

No: Lutz

Excused: Getty, Gubbels, Kissner, Olguin, Varela

Absent: None

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HLC/HB 695 & 487

**FORTY-THIRD LEGISLATURE  
FIRST SESSION**

March 10, 1997

HOUSE FLOOR AMENDMENT number 1 to HOUSE LABOR AND HUMAN RESOURCES  
COMMITTEE SUBSTITUTE FOR HOUSE BILLS 487 & 695

Amendment sponsored by Representative Ben Lujan

1. On page 2, line 1, after the period insert "When applicable, the provisions of the federal Fair Labor Standards Act shall apply."

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FORTY-THIRD LEGISLATURE  
FIRST SESSION

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HF/HB 487 & 695

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Ben Lujan

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

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