

IN THE SENATE

APRIL 2, 1987

RECEIVED FROM HOUSE.

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

ON MOTION, RECONSIDER ACTION ON
SB NO. 359. BILL PLACED ON SECOND
READING THIS DAY.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 3, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 *Senate* BILL NO. 359
 2 INTRODUCED BY *Staffy Paulil Gasaleson*
 3 *Donnell J. Brown Keenan Richard E. Manning*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATE
 5 MINIMUM WAGE LAWS TO REQUIRE THE STATE MINIMUM WAGE RATES TO
 6 BE SET IN ACCORDANCE WITH FEDERAL LAW, TO ALLOW THE STATE
 7 MINIMUM WAGE LAW TO APPLY TO EMPLOYEES COVERED BY THE FAIR
 8 LABOR STANDARDS ACT, AND TO EXCLUDE TIPS FROM THE MINIMUM
 9 WAGE PAID TO MONTANA EMPLOYEES; AMENDING SECTIONS 39-3-402,
 10 39-3-404, AND 39-3-408, MCA; AND PROVIDING EFFECTIVE DATES."
 11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 Section 1. Section 39-3-402, MCA, is amended to read:
 14 "39-3-402. Definitions. As used in this part the
 15 following definitions apply:
 16 (1) "Commissioner" means the commissioner of labor and
 17 industry.
 18 (2) "Employ" means to suffer or permit to work.
 19 (3) "Employee" includes any individual employed by an
 20 employer.
 21 (4) "Farm or ranch" shall mean any endeavor primarily
 22 engaged in cultivating the soil or in connection with
 23 raising or harvesting any agricultural or horticultural
 24 commodity, including the raising, shearing, feeding, caring
 25 for, training, and management of livestock, bees, and

1 poultry and fur-bearing animals and wildlife.
 2 (5) "Farm worker" means any person employed to do any
 3 service performed on a farm or ranch.
 4 (6) "Occupation" means any occupation, service, trade,
 5 business, industry, or branch or group of industries or
 6 employment or class of employment in which employees are
 7 gainfully employed.
 8 (7) "Wage" means compensation due to an employee by
 9 reason of his employment, payable in legal tender of the
 10 United States or check on banks convertible into cash on
 11 demand at full face value, subject to such allowance as may
 12 be permitted by regulations of the commissioner under
 13 39-3-403. The term "wage" includes the reasonable cost to
 14 the employer of furnishing such employee with board,
 15 lodging, or other facilities, if such board, lodging, or
 16 other facilities are customarily furnished by such employer
 17 to his employees; provided, however, that in no case shall
 18 such inclusion exceed an amount equal to 40% of the total
 19 wage paid by such employer to such employee. The term wage
 20 does not include the value of any tips received by an
 21 employee as a gratuity for service."
 22 Section 2. Section 39-3-404, MCA, is amended to read:
 23 "39-3-404. Minimum wage. (1) Except as otherwise
 24 provided in this part and except for farm workers as
 25 provided in subsection (2), every employer shall pay to each

1 of his employees: a wage of not less than the applicable
 2 minimum wage as determined by the commissioner in accordance
 3 with [section 4].

4 ~~(a) -- at least \$3.05 an hour after September 30, 1985,~~
 5 ~~and before October 1, 1986;~~

6 ~~(b) -- at least \$3.35 an hour on October 1, 1986, and~~
 7 ~~thereafter;~~

8 (2) In the case of a farm worker employed for a part
 9 of a calendar year which includes periods requiring working
 10 hours in excess of 8 hours per day and other seasonal
 11 periods requiring working hours substantially less than 8
 12 hours per day, the employer may pay the worker at a fixed
 13 rate of compensation during the term of employment. The
 14 employer may elect to:

15 (a) keep a record of the total number of hours worked
 16 by the worker during the part of the year during which the
 17 worker was employed by him (the total wages paid by such
 18 employer to such employee for that part of the year during
 19 which said employee was employed by him shall not be less
 20 than the applicable minimum wage rate multiplied by the
 21 total number of hours so worked); or

22 (b) in lieu of the minimum wage set forth herein, pay
 23 the farm worker a wage as herein defined on a monthly basis.
 24 This monthly compensation shall constitute a minimum wage
 25 and shall not be less than the following rates:

1 (i) \$575 a month for the first year from July 1, 1981;
 2 (ii) \$635 a month for the second year from July 1,
 3 1981, and thereafter."

4 Section 3. Section 39-3-408, MCA, is amended to read:
 5 "39-3-408. Provisions cumulative. The provisions of
 6 this part shall be in addition to other provisions now
 7 provided by law for the payment and collection of wages and
 8 salaries but shall not apply to employees covered by the
 9 Fair Labor Standards Act except with respect to the minimum
 10 wage."

11 NEW SECTION. Section 4. Adoption of minimum wage
 12 rates. The commissioner shall adopt rules to establish a
 13 minimum wage that must be the same minimum hourly wage rate
 14 as provided under federal law.

15 NEW SECTION. Section 5. Extension of authority. Any
 16 existing authority of the commissioner of labor and industry
 17 to make rules on the subject of the provisions of this act
 18 is extended to the provisions of this act.

19 NEW SECTION. Section 6. Codification instruction.
 20 Section 4 is intended to be codified as an integral part of
 21 Title 39, chapter 3, part 4, and the provisions of Title 39,
 22 chapter 3, part 4, apply to section 4.

23 NEW SECTION. Section 7. Effective dates. (1) Sections
 24 4 and 5 and this section are effective October 1, 1987.

25 (2) The remaining sections of this act are effective

LC 1487/01

1 January 1, 1988.

-End-

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

1 SENATE BILL NO. 359

2 INTRODUCED BY HAFPEY, PAVLOVICH, JACOBSON, DRISCOLL,

3 J. BROWN, KEENAN, MANNING, YELLOWTAIL, MENAHAN

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING--THE--STATE
6 MINIMUM-WAGE-LAWS-TO-REQUIRE-THE-STATE-MINIMUM-WAGE-RATES-TO
7 BE--SET--IN--ACCORDANCE--WITH-FEDERAL-LAW, TO AMEND SECTIONS
8 39-3-402 AND 39-3-408, MCA, TO ALLOW THE STATE MINIMUM WAGE
9 LAW TO APPLY TO EMPLOYEES COVERED BY THE FAIR LABOR
10 STANDARDS ACT, AND TO EXCLUDE TIPS FROM THE MINIMUM WAGE
11 PAID TO MONTANA EMPLOYEES; AMENDING--SECTIONS--39-3-402, 7
12 39-3-404, --AND--39-3-408, --MCA, AND PROVIDING A DELAYED
13 EFFECTIVE DATES DATE."

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22 (3) "Employee" includes any individual employed by an
23 employer.

24 (4) "Farm or ranch" shall mean any endeavor primarily
25 engaged in cultivating the soil or in connection with

1 raising or harvesting any agricultural or horticultural
2 commodity, including the raising, shearing, feeding, caring
3 for, training, and management of livestock, bees, and
4 poultry and fur-bearing animals and wildlife.

5 (5) "Farm worker" means any person employed to do any
6 service performed on a farm or ranch.

7 (6) "Occupation" means any occupation, service, trade,
8 business, industry, or branch or group of industries or
9 employment or class of employment in which employees are
10 gainfully employed.

11 (7) "Wage" means compensation due to an employee by
12 reason of his employment, payable in legal tender of the
13 United States or check on banks convertible into cash on
14 demand at full face value, subject to such allowance as may
15 be permitted by regulations of the commissioner under
16 39-3-403. The term "wage" includes the reasonable cost to
17 the employer of furnishing such employee with board,
18 lodging, or other facilities, if such board, lodging, or
19 other facilities are customarily furnished by such employer
20 to his employees; provided, however, that in no case shall
21 such inclusion exceed an amount equal to 40% of the total
22 wage paid by such employer to such employee. The term wage
23 does not include the value of any tips received by an
24 employee as a gratuity for service."

25 ~~Section 2, --Section--39-3-404,--MCA, is amended to read:~~

1 "39-3-404. Minimum wage. (1) Except as otherwise
 2 provided in this part and except for farm workers as
 3 provided in subsection (2), every employer shall pay to each
 4 of his employees: a wage of not less than the applicable
 5 minimum wage as determined by the commissioner in accordance
 6 with section 4.

7 (a) at least \$3.05 an hour after September 30, 1985,
 8 and before October 1, 1986;

9 (b) at least \$3.35 an hour on October 1, 1986, and
 10 thereafter;

11 (2) In the case of a farm worker employed for a part
 12 of a calendar year which includes periods requiring working
 13 hours in excess of 8 hours per day and other seasonal
 14 periods requiring working hours substantially less than 8
 15 hours per day, the employer may pay the worker at a fixed
 16 rate of compensation during the term of employment. The
 17 employer may elect to:

18 (a) keep a record of the total number of hours worked
 19 by the worker during the part of the year during which the
 20 worker was employed by him (the total wages paid by such
 21 employer to such employee for that part of the year during
 22 which said employee was employed by him shall not be less
 23 than the applicable minimum wage rate multiplied by the
 24 total number of hours so worked); or

25 (b) in lieu of the minimum wage set forth herein, pay

1 the farm worker a wage as herein defined on a monthly basis;
 2 This monthly compensation shall constitute a minimum wage
 3 and shall not be less than the following rates:

4 (i) \$575 a month for the first year from July 1, 1981;
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7 Section 2. Section 39-3-408, MCA, is amended to read:

8 "39-3-408. Provisions cumulative. (1) The provisions
 9 of this part shall be in addition to other provisions now
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 11 salaries but shall not apply to employees covered by the
 12 Fair Labor Standards Act except with respect to the minimum
 13 wage AS PROVIDED IN SUBSECTION (2).

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 15 EMPLOYEE COVERED BY THE FAIR LABOR STANDARDS ACT IF STATE
 16 LAW PROVIDES A MINIMUM WAGE THAT IS HIGHER THAN THE MINIMUM
 17 WAGE ESTABLISHED UNDER FEDERAL LAW."

18 NEW SECTION. Section 4. Adoption of minimum wage
 19 rates. The commissioner shall adopt rules to establish a
 20 minimum wage that must be the same minimum hourly wage rate
 21 as provided under federal law.

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 23 existing authority of the commissioner of labor and industry
 24 to make rules on the subject of the provisions of this act
 25 is extended to the provisions of this act.

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2 ~~Section 4 is intended to be codified as an integral part of~~
3 ~~Title 39, chapter 3, part 4, and the provisions of Title 39,~~
4 ~~chapter 3, part 4, apply to section 4.~~

5 ~~NEW SECTION. Section 7. Effective dates. (1)~~
6 ~~Sections 4 and 5 and this section are effective October 1,~~
7 ~~1987.~~

8 ~~(2) The remaining sections of this act are effective~~
9 ~~January 1, 1988.~~

10 ~~NEW SECTION. SECTION 4. EFFECTIVE DATE. THIS ACT IS~~
11 ~~EFFECTIVE JANUARY 1, 1988.~~

-End-

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2 commodity, including the raising, shearing, feeding, caring
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5 (5) "Farm worker" means any person employed to do any
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8 business, industry, or branch or group of industries or
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10 gainfully employed.11 (7) "Wage" means compensation due to an employee by
12 reason of his employment, payable in legal tender of the
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14 demand at full face value, subject to such allowance as may
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16 39-3-403. The term "wage" includes the reasonable cost to
17 the employer of furnishing such employee with board,
18 lodging, or other facilities, if such board, lodging, or
19 other facilities are customarily furnished by such employer
20 to his employees; provided, however, that in no case shall
21 such inclusion exceed an amount equal to 40% of the total
22 wage paid by such employer to such employee. The term wage
23 does not include the value of any tips received by an
24 employee as a gratuity for service."25 ~~Section 2--Section--39-3-404--MCA--is--amended--to--read--~~

1 *39-3-404,--Minimum--wage,---(i)--Except--as--otherwise
 2 provided--in--this--part--and--except--for--farm--workers--as
 3 provided--in--subsection--(2),--every--employer--shall--pay--to--each
 4 of--his--employees: a--wage--of--not--less--than--the--applicable
 5 minimum--wage--as--determined--by--the--commissioner--in--accordance
 6 with--(section--4).

7 (a)--at--least--\$3.05--an--hour--after--September--30,--1985,
 8 and--before--October--1,--1986;

9 (b)--at--least--\$3.35--an--hour--on--October--1,--1986,--and
 10 thereafter;

11 (2)--In--the--case--of--a--farm--worker--employed--for--a--part
 12 of--a--calendar--year--which--includes--periods--requiring--working
 13 hours--in--excess--of--8--hours--per--day--and--other--seasonal
 14 periods--requiring--working--hours--substantially--less--than--8
 15 hours--per--day,--the--employer--may--pay--the--worker--at--a--fixed
 16 rate--of--compensation--during--the--term--of--employment.---The
 17 employer--may--elect--to:

18 (a)--keep--a--record--of--the--total--number--of--hours--worked
 19 by--the--worker--during--the--part--of--the--year--during--which--the
 20 worker--was--employed--by--him--(the--total--wages--paid--by--such
 21 employer--to--such--employee--for--that--part--of--the--year--during
 22 which--said--employee--was--employed--by--him--shall--not--be--less
 23 than--the--applicable--minimum--wage--rate--multiplied--by--the
 24 total--number--of--hours--so--worked);--or

25 (b)--in--lieu--of--the--minimum--wage--set--forth--herein,--pay

1 the--farm--worker--a--wage--as--herein--defined--on--a--monthly--basis.
 2 This--monthly--compensation--shall--constitute--a--minimum--wage
 3 and--shall--not--be--less--than--the--following--rates:

4 (i)--\$5.75--a--month--for--the--first--year--from--July--1,--1981;
 5 (ii)--\$6.35--a--month--for--the--second--year--from--July--1,
 6 1981,--and--thereafter.;"

7 Section 2. Section 39-3-408, MCA, is amended to read:

8 "39-3-408. Provisions cumulative. (1) The provisions
 9 of this part shall be in addition to other provisions now
 10 provided by law for the payment and collection of wages and
 11 salaries but shall not apply to employees covered by the
 12 Fair Labor Standards Act except with respect to the minimum
 13 wage. AS PROVIDED IN SUBSECTION (2).

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1 ~~NEW SECTION--Section 6--Codification----instruction.~~
2 ~~Section--4-is-intended-to-be-codified-as-an-integral-part-of~~
3 ~~Title-39,chapter-3,part-4,and-the-provisions-of>Title-39,~~
4 ~~chapter-3,part-4,apply-to-section-4.~~

5 ~~NEW SECTION--Section 7--Effective-----dates:-----{1}~~
6 ~~Sections--4--and-5-and-this-section-are-effective-October-1,~~
7 ~~1987.~~

8 ~~{2}--The-remaining-sections-of-this-act--are--effective~~
9 ~~January-1,1988.~~

10 ~~NEW SECTION. SECTION 4. EFFECTIVE DATE. THIS ACT IS~~
11 ~~EFFECTIVE JANUARY-1-1988 ON PASSAGE AND APPROVAL.~~

-End-

STANDING COMMITTEE REPORT

HOUSE

MARCH 18

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report SENATE BILL NO. 359

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached



REP. LES KITSELMAN

Chairman

AMENDMENTS AS FOLLOWS:

1) Title, line 12

Strike: "A DELAYED"

Insert: "AN IMMEDIATE"

2) Page 5, line 11

Strike: "JANUARY 1, 1988"

Insert: "on passage and approval"

MS) REP. FRED THOMAS will sponsor

THIRD reading copy (BLUE color)