

HOUSE BILL NO. 28

INTRODUCED BY HARRINGTON, LYNCH, DAILY, PAVLOVICH,
QUILICI, SQUIRES, HANSEN, WHALEN, DRISCOLL, KADAS,
O'CONNELL, MENAHAN, MCCORMICK, JACOBSON, VAN VALKENBURG,
PIPINICH, BLAYLOCK, REGAN, HALLIGAN,
MANNING, STIMATZ, NORMAN

IN THE HOUSE

DECEMBER 30, 1988

INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

JANUARY 4, 1989

ON MOTION BY CHIEF SPONSOR,
REPRESENTATIVES DAILY, PAVLOVICH,
QUILICI, SQUIRES, HANSEN, WHALEN,
DRISCOLL, KADAS, O'CONNELL, MENAHAN,
HARRINGTON, AND MCCORMICK AND SENATORS
LYNCH, JACOBSON, AND VAN VALKENBURG
ADDED AS SPONSORS.

JANUARY 12, 1989

ON MOTION BY CHIEF SPONSOR, SENATORS
PIPINICH, BLAYLOCK, REGAN, HALLIGAN,
MANNING, STIMATZ, AND NORMAN ADDED AS
SPONSORS.

JANUARY 25, 1989

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 26, 1989

PRINTING REPORT.

JANUARY 27, 1989

SECOND READING, DO PASS.

JANUARY 28, 1989

ENGROSSING REPORT.

JANUARY 30, 1989

THIRD READING, PASSED.
AYES, 64; NOES, 36.

TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 31, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

MARCH 23, 1989

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 27, 1989

SECOND READING, CONCURRED IN.

MARCH 29, 1989

THIRD READING, CONCURRED IN.
AYES, 49; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 30, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

MARCH 31, 1989

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

APRIL 11, 1989

CONFERENCE COMMITTEE DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 11, 1989

CONFERENCE COMMITTEE DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

APRIL 18, 1989

FREE CONFERENCE COMMITTEE REPORTED.

IN THE SENATE

APRIL 19, 1989

FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 20, 1989

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 28
2 INTRODUCED BY HARRINGTON
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE MINIMUM
5 HOURLY WAGE IN STAGES UNTIL IT EQUALS 50 PERCENT OF THE
6 NATIONAL HOURLY AVERAGE WAGE AFTER MARCH 31, 1990;
7 INCREASING THE MINIMUM MONTHLY WAGE FOR FARM WORKERS AND
8 PROVIDING AN INCREASE IN THAT MINIMUM BASED ON INCREASES IN
9 THE CONSUMER PRICE INDEX; AND AMENDING SECTION 39-3-404,
10 MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 39-3-404, MCA, is amended to read:

14 "39-3-404. Minimum wage. (1) Except as otherwise
15 provided in this part and except for farm workers as
16 provided in subsection (2), every employer shall pay to each
17 of his employees:

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

20 ~~(b)--at-least-\$3.35-an-hour-on--October--1--1986--and~~
21 ~~thereafter~~ at least \$4.25 an hour after June 30, 1989;

22 (b) at least \$4.65 an hour after November 30, 1989;
23 and

24 (c) at least 50% of the national hourly average wage
25 calculated for calendar year 1989 after March 31, 1990, and

1 at least 50% of the national hourly average wage of the
2 preceding calendar year after March 31 for each subsequent
3 calendar year. For the purposes of this subsection (c), the
4 term "national hourly average wage" means the average hourly
5 earnings, in current dollars, for production workers and
6 related workers in mining, manufacturing, and construction
7 and for nonsupervisory employees in other industries, as
8 determined by the U.S. bureau of labor statistics, or a
9 similar average approved by the commissioner of labor.
10 National hourly average wage does not include earnings of
11 agriculture workers.

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

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

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

5 (i) \$575 ~~\$849.63~~ a month ~~for the first year from July~~
6 ~~17-1981~~ after December 30, 1989; and

7 (ii) \$635 ~~a month for the second year from July 1,~~
8 ~~1981, and thereafter~~ beginning January 1, 1991, and on each
9 succeeding January 1, an amount calculated by adding to the
10 amount of the previous year's minimum monthly compensation
11 (which includes all previous cost-of-living changes) an
12 amount determined by multiplying such compensation by the
13 previous year's consumer price index for all urban
14 consumers, U.S. department of labor, bureau of labor
15 statistics, or a recognized successor to that index."

16 **Section 2. Extension of authority.** Any existing
17 authority to make rules on the subject of the provisions of
18 [this act] is extended to the provisions of [this act].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB028, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An act increasing the minimum hourly wage in stages until it equals 50 percent of the national hourly average wage after March 31, 1990; increasing the minimum monthly wage for farm workers and providing an increase in that minimum based on increases in the consumer price index; and amending Section 39-3-404, MCA."

ASSUMPTIONS:

1. Changes will occur in the federal minimum wage law.
2. DOLI will be required to enforce all minimum wage claims cases rather than just state-rate claims because HB28 will raise the minimum wage level above the federal minimum wage level.
3. Additional workload will require one additional Grade 12 FTE.

FISCAL IMPACT:


		<u>FY90</u>			<u>FY91</u>	
	Current	Proposed		Current	Proposed	
	<u>Law</u>	<u>Law</u>	<u>Difference</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>
General Fund						
Personal Services	\$ -0-	\$22,188	\$22,188	\$ -0-	\$22,188	\$22,188
Operating Expenses	-0-	4,500	4,500	-0-	4,500	4,500
Revenues:						
General Fund						
Unknown						

Long-Range Effects of Proposed Legislation:

Dependent upon the final level of federal minimum wage legislation, the additional wages paid to Montana workers would constitute an increased personal income tax base that could increase state revenue. A tax credit approach to supplement those receiving the federal minimum wage may be prepared by President Bush's team, so this tax credit, if enacted at the federal level, may reduce an anticipated increased personal income tax base in Montana because the Montana personal income tax form is directly derived from the federal tax form.

Technical or Mechanical Defects or Conflicts with Existing Legislation:

The basis needs to be spelled out as clearly as possible, because there is substantial fluctuation between monthly levels within a given year's CPI from an entire year's CPI.


 RAY SHACKLEFORD, BUDGET DIRECTOR
 Office of Budget and Program Planning

1/9/89
 DATE

DAN W. HARRINGTON, PRIMARY SPONSOR DATE

Fiscal Note for HB028, as introduced

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

HOUSE BILL NO. 28

INTRODUCED BY HARRINGTON, LYNCH, DAILY, PAVLOVICH,

QUILICI, SQUIRES, HANSEN, WHALEN, DRISCOLL, KADAS,

O'CONNELL, MENAHAN, MCCORMICK, JACOBSON, VAN VALKENBURG

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE MINIMUM
HOURLY WAGE IN--STAGES--UNTIL--IT--EQUALS--50--PERCENT--OF--THE
NATIONAL--HOURLY--AVERAGE--WAGE--AFTER---MARCH---31---1990;
INCREASING THE MINIMUM MONTHLY WAGE FOR FARM WORKERS AND
PROVIDING AN INCREASE IN THAT MINIMUM BASED ON INCREASES IN
THE--CONSUMER--PRICE--INDEX; AND AMENDING SECTION 39-3-404,
MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-3-404, MCA, is amended to read:

"39-3-404. Minimum wage. (1) Except as otherwise
provided in this part and except for farm workers as
provided in subsection (2), every employer shall pay to each
of his employees:

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

(b) at least \$3.35 an hour on October 1, 1986, and
thereafter at least \$4.25 \$3.75 an hour after June 30, 1989;

AND

(b) at least \$4.65 \$4.00 an hour after November 30,

1989, SEPTEMBER 30, 1990 and

(c) at least 50% of the national hourly average wage
calculated for calendar year 1989 after March 31, 1990, and
at least 50% of the national hourly average wage of the
preceding calendar year after March 31 for each subsequent
calendar year. For the purposes of this subsection (c), the
term "national hourly average wage" means the average hourly
earnings, in current dollars, for production workers and
related workers in mining, manufacturing, and construction
and for nonsupervisory employees in other industries as
determined by the U.S. bureau of labor statistics, or a
similar average approved by the commissioner of labor.
National hourly average wage does not include earnings of
agriculture workers.

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

(a) keep a record of the total number of hours worked
by the worker during the part of the year during which the
worker was employed by him (the total wages paid by such
employer to such employee for that part of the year during

which said employee was employed by him shall not be less than the applicable minimum wage rate multiplied by the total number of hours so worked); or

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

(i) \$575 ~~\$849.63~~ \$735 a month for the first year from July 1, 1981 after ~~December 30~~ SEPTEMBER 30, 1989 and

(ii) ~~\$635 a month for the second year from July 1, 1981 and thereafter beginning January 1, 1991 and on each succeeding January 1, an amount calculated by adding to the amount of the previous year's minimum monthly compensation (which includes all previous cost of living changes) an amount determined by multiplying such compensation by the previous year's consumer price index for all urban consumers, U.S. department of labor, bureau of labor statistics, or a recognized successor to that index.~~

NEW SECTION. **Section 2.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-

HOUSE BILL NO. 28

INTRODUCED BY HARRINGTON, LYNCH, DAILY, PAVLOVICH,
 QUILICI, SQUIRES, HANSEN, WHALEN, DRISCOLL, KADAS,
 O'CONNELL, MENAHAN, MCCORMICK, JACOBSON, VAN VALKENBURG

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE MINIMUM
 HOURLY WAGE IN--STAGES--UNTIL--IT--EQUALS--50--PERCENT--OF--THE
 NATIONAL--HOURLY--AVERAGE--WAGE--AFTER---MARCH---31---1990;
 INCREASING THE MINIMUM MONTHLY WAGE FOR FARM WORKERS AND
 PROVIDING AN INCREASE IN THAT MINIMUM BASED ON INCREASES--IN
 THE--CONSUMER--PRICE--INDEX; AND AMENDING SECTION 39-3-404,
 MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-3-404, MCA, is amended to read:

"39-3-404. Minimum wage. (1) Except as otherwise
 provided in this part and except for farm workers as
 provided in subsection (2), every employer shall pay to each
 of his employees:

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

(b) at--least--\$3.35--an--hour--on--October--1--1986--and
 thereafter at least \$4.25 \$3.75 an hour after June 30, 1989;
 AND

(b) at least \$4.65 \$4.00 an hour after November 30,

1989, SEPTEMBER 30, 1990 and

(c) at least 50% of the national hourly average wage
calculated for calendar year 1989 after March 31, 1990, and
at least 50% of the national hourly average wage of the
preceding calendar year after March 31 for each subsequent
calendar year. For the purposes of this subsection (c), the
term "national hourly average wage" means the average hourly
earnings, in current dollars, for production workers and
related workers in mining, manufacturing, and construction
and for nonsupervisory employees in other industries as
determined by the U.S. bureau of labor statistics, or a
similar average approved by the commissioner of labor.
National hourly average wage does not include earnings of
agriculture workers.

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

(a) keep a record of the total number of hours worked
 by the worker during the part of the year during which the
 worker was employed by him (the total wages paid by such
 employer to such employee for that part of the year during

which said employee was employed by him shall not be less than the applicable minimum wage rate multiplied by the total number of hours so worked); or

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

(i) \$575 ~~\$849.63~~ \$735 a month for the first year from July 1, 1981 after December 30, 1989; and

(ii) \$635 a month for the second year from July 1, 1981 and thereafter beginning January 1, 1991 and on each succeeding January 1, an amount calculated by adding to the amount of the previous year's minimum monthly compensation (which includes all previous cost of living changes) an amount determined by multiplying such compensation by the previous year's consumer price index for all urban consumers, U.S. department of labor, bureau of labor statistics or a recognized successor to that index."

NEW SECTION. Section 2. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-

SENATE STANDING COMMITTEE REPORT

page 1 of 2
March 23, 1989

SENATE COMMITTEE ON LABOR, HB 28
3-23-89
Page 2 of 2

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration HB 28 (third reading copy -- blue), respectfully report that HB 28 be amended and as so amended be concurred in:

Sponsor: Harrington (Akilestad)

1. Title, lines 6 and 7.
Following: the second "AN ACT" on line 6
Strike: remainder of line 6 through "WAGE" on line 7
2. Title, line 8.
Following: "~~1990~~"
Insert: "REVISING THE STATE MINIMUM WAGE LAWS TO REQUIRE THE STATE MINIMUM WAGE TO BE SET IN ACCORDANCE WITH FEDERAL LAW, BUT NOT TO EXCEED \$4 AN HOUR"
3. Title, line 11.
Following: " ; "
Insert: "ESTABLISHING A LOWER MINIMUM WAGE FOR EMPLOYEES WHO ARE NEWLY HIRED; "
4. Page 1, lines 19 and 20.
Following: "employees"
Strike: " : (a) "
Insert: "a wage of not less than the applicable minimum wage as determined by the commissioner in accordance with [section 2]"
5. Page 1, line 23 through page 2, line 1.
Strike: "at" on line 23 through "~~1990~~" on page 2, line 1
6. Page 3, line 8.
Strike: "~~\$735~~"
Insert: "\$635"
7. Page 3, line 9.
Strike: "after"
Following: "~~December 30~~"
Strike: "~~SEPTEMBER 30, 1989~~"
Insert: "beginning January 1, 1990"
8. Page 3, line 19.
Following: line 18
Insert: "NEW SECTION. Section 2. Adoption of minimum wage rates. The commissioner shall adopt rules to establish a minimum wage that must be the same minimum hourly wage rate as provided under the federal Fair Labor Standards Act (29 U.S.C. 206), but not to exceed \$4 an hour."
"NEW SECTION. Section 3. New hire wage. (1) In lieu of the

minimum wage provided for in 39-3-404(1), an employer may pay an employee a wage of at least \$3.35 an hour if the employee has not been previously employed by the employer.

(2) An employer may pay an employee the minimum wage authorized in subsection (1) for a period not to exceed 180 days beginning from the date the employee is hired.

(3) An employee may not be displaced by another employee (including partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) for the purpose of allowing the employer to pay the minimum wage described in this section."

Renumber: subsequent section

AND AS AMENDED BE CONCURRED IN

Signed: Gary C. Akilestad
Gary C. Akilestad, Chairman

continued

SCRHB028.323

SENATE
HB 28

HOUSE BILL NO. 28

INTRODUCED BY HARRINGTON, LYNCH, DAILY, PAVLOVICH,

QUILICI, SQUIRES, HANSEN, WHALEN, DRISCOLL, KADAS,

O'CONNELL, MENAHAN, MCCORMICK, JACOBSON, VAN VALKENBURG,

PIPINICH, BLAYLOCK, REGAN, HALLIGAN,

MANNING, STIMATZ, NORMAN

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE MINIMUM HOURLY WAGE IN STAGES UNTIL IT EQUALS 50 PERCENT OF THE NATIONAL HOURLY AVERAGE WAGE AFTER MARCH 31, 1990 REVISING THE STATE MINIMUM WAGE LAWS TO REQUIRE THE STATE MINIMUM WAGE TO BE SET IN ACCORDANCE WITH FEDERAL LAW, BUT NOT TO EXCEED \$4 AN HOUR; INCREASING THE MINIMUM MONTHLY WAGE FOR FARM WORKERS AND PROVIDING AN INCREASE IN THAT MINIMUM BASED ON INCREASES IN THE CONSUMER PRICE INDEX; ESTABLISHING A LOWER MINIMUM WAGE FOR EMPLOYEES WHO ARE NEWLY HIRED; AND AMENDING SECTION 39-3-404, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-3-404, MCA, is amended to read:

"39-3-404. Minimum wage. (1) Except as otherwise provided in this part and except for farm workers as provided in subsection (2), every employer shall pay to each of his employees:

(a) A WAGE OF NOT LESS THAN THE APPLICABLE MINIMUM

WAGE AS DETERMINED BY THE COMMISSIONER IN ACCORDANCE WITH [SECTION 2] at least \$3.85 an hour after September 30, 1985, and before October 1, 1986;

(b) at least \$3.35 an hour on October 1, 1986, and thereafter at least \$4.25 \$3.75 an hour after June 30, 1989, AND

(c) at least \$4.65 \$4.00 an hour after November 30, 1989, SEPTEMBER 30, 1990 and

(c) at least 50% of the national hourly average wage calculated for calendar year 1989 after March 31, 1990, and at least 50% of the national hourly average wage of the preceding calendar year after March 31 for each subsequent calendar year. For the purposes of this subsection (c), the term "national hourly average wage" means the average hourly earnings, in current dollars, for production workers and related workers in mining, manufacturing, and construction and for nonsupervisory employees in other industries as determined by the U.S. bureau of labor statistics, or a similar average approved by the commissioner of labor. National hourly average wage does not include earnings of agriculture workers.

(2) In the case of a farm worker employed for a part of a calendar year which includes periods requiring working hours in excess of 8 hours per day and other seasonal periods requiring working hours substantially less than 8

hours per day, the employer may pay the worker at a fixed rate of compensation during the term of employment. The employer may elect to:

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

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

~~(i) \$575 \$849.63 \$735 \$635 a month for the first year from July 1, 1981 after December 30, 1989 BEGINNING JANUARY 1, 1990; and~~

~~(ii) \$635 a month for the second year from July 1, 1981; and thereafter beginning January 1, 1991; and on each succeeding January 1, an amount calculated by adding to the amount of the previous year's minimum monthly compensation (which includes all previous cost-of-living changes) an amount determined by multiplying such compensation by the previous year's consumer price index for all urban consumers; U.S. department of labor, bureau of labor~~

~~statistics, or a recognized successor to that index."~~

NEW SECTION. SECTION 2. ADOPTION OF MINIMUM WAGE RATES. THE COMMISSIONER SHALL ADOPT RULES TO ESTABLISH A MINIMUM WAGE THAT MUST BE THE SAME MINIMUM HOURLY WAGE RATE AS PROVIDED UNDER THE FEDERAL FAIR LABOR STANDARDS ACT (29 U.S.C. 206), BUT NOT TO EXCEED \$4 AN HOUR.

NEW SECTION. SECTION 3. NEW HIRE WAGE. (1) IN LIEU OF THE MINIMUM WAGE PROVIDED FOR IN 39-3-404(1), AN EMPLOYER MAY PAY AN EMPLOYEE A WAGE OF AT LEAST \$3.35 AN HOUR IF THE EMPLOYEE HAS NOT BEEN PREVIOUSLY EMPLOYED BY THE EMPLOYER.

(2) AN EMPLOYER MAY PAY AN EMPLOYEE THE MINIMUM WAGE AUTHORIZED IN SUBSECTION (1) FOR A PERIOD NOT TO EXCEED 180 DAYS BEGINNING FROM THE DATE THE EMPLOYEE IS HIRED.

(3) AN EMPLOYEE MAY NOT BE DISPLACED BY ANOTHER EMPLOYEE (INCLUDING PARTIAL DISPLACEMENT, SUCH AS A REDUCTION IN THE HOURS OF NONOVERTIME WORK, WAGES, OR EMPLOYMENT BENEFITS) FOR THE PURPOSE OF ALLOWING THE EMPLOYER TO PAY THE MINIMUM WAGE DESCRIBED IN THIS SECTION.

NEW SECTION. Section 4. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-

Free Conference Committee
on HOUSE BILL 28
Report No. 1, April 18, 1989

April 18, 1989
Page 2 of 2

Page 1 of 2

Mr. Speaker/Mr. President:

We, your Free Conference Committee on House Bill 28 met and considered:

House Bill 28 (third reading -- blue) and the Senate Labor and Employment Relations Committee's amendments to House Bill 28 (pink sheet) dated March 23, 1989.

We recommend that HOUSE BILL 28 (reference copy -- salmon) be amended as follows:

1. Title, lines 16 and 17.
Strike: "AND" on line 16
Following: "MCA" on line 17
Insert: "; AND PROVIDING A DELAYED EFFECTIVE DATE"

2. Page 1, line 19.
Following: line 18
Insert: " STATEMENT OF INTENT

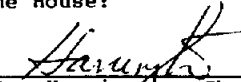
A statement of intent is required for this bill because [section 2] grants the commissioner of labor and industry authority to adopt rules to establish the minimum wage provided for in 39-3-404(1). It is the intent of the legislature that the commissioner, in adopting rules, shall establish a minimum wage that is the same minimum hourly wage rate as provided under the federal Fair Labor Standards Act, but not to exceed \$4 an hour."

3. Page 4, line 12.
Strike: "180"
Insert: "120 calendar"

4. Page 4.
Following: line 22
Insert: "NEW SECTION. Section 5. Effective date. [This act] is effective January 1, 1990."

And that this Free Conference Committee Report be adopted.

For the House:


Rep. Dan Harrington, Chairman


Rep. Jerry Driscoll


Rep. Clyde Smith

For the Senate:


Sen. Gary Aklestad, Chairman


Sen. Gerry Devlin


Sen. J.D. Lynch

ADOPT

REJECT

871426CC.HBV

HB 28

HOUSE BILL NO. 28

INTRODUCED BY HARRINGTON, LYNCH, DAILY, PAVLOVICH,

QUILICI, SQUIRES, HANSEN, WHALEN, DRISCOLL, KADAS,

O'CONNELL, MENAHAN, MCCORMICK, JACOBSON, VAN VALKENBURG,

PIPINICH, BLAYLOCK, REGAN, HALLIGAN,

MANNING, STIMATZ, NORMAN

A BILL FOR AN ACT ENTITLED: "AN ACT ~~INCREASING THE--MINIMUM~~
~~HOURLY--WAGE IN--STAGES--UNTIL--IT--EQUALS--50--PERCENT--OF--THE~~
~~NATIONAL--HOURLY--AVERAGE--WAGE--AFTER--MARCH--31--1990~~ REVISING
THE STATE MINIMUM WAGE LAWS TO REQUIRE THE STATE MINIMUM
WAGE TO BE SET IN ACCORDANCE WITH FEDERAL LAW, BUT NOT TO
EXCEED \$4 AN HOUR; INCREASING THE MINIMUM MONTHLY WAGE FOR
FARM WORKERS AND PROVIDING AN INCREASE IN THAT MINIMUM BASED
ON INCREASES IN THE CONSUMER--PRICE--INDEX; ESTABLISHING A
LOWER MINIMUM WAGE FOR EMPLOYEES WHO ARE NEWLY HIRED; AND
AMENDING SECTION 39-3-404, MCA; AND PROVIDING A DELAYED
EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because
[section 2] grants the commissioner of labor and industry
authority to adopt rules to establish the minimum wage
provided for in 39-3-404(1). It is the intent of the
legislature that the commissioner, in adopting rules, shall

establish a minimum wage that is the same minimum hourly
wage rate as provided under the federal Fair Labor Standards
Act, but not to exceed \$4 an hour.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-3-404, MCA, is amended to read:

"39-3-404. Minimum wage. (1) Except as otherwise
provided in this part and except for farm workers as
provided in subsection (2), every employer shall pay to each
of his employees:

(a) A WAGE OF NOT LESS THAN THE APPLICABLE MINIMUM
WAGE AS DETERMINED BY THE COMMISSIONER IN ACCORDANCE WITH
[SECTION 2] at least \$3.05 an hour after September 30, 1985,
and before October 1, 1986;

(b) at least \$3.35 an hour on October 1, 1986, and
thereafter at least \$4.25 \$3.75 an hour after June 30, 1989;

AND

(b) at least \$4.65 \$4.00 an hour after November 30,
1989; SEPTEMBER 30, 1990 and

(c) at least 50% of the national hourly average wage
calculated for calendar year 1989 after March 31, 1990, and
at least 50% of the national hourly average wage of the
preceding calendar year after March 31 for each subsequent
calendar year. For the purposes of this subsection (c), the
term "national hourly average wage" means the average hourly

earnings, in current dollars, for production workers and related workers in mining, manufacturing and construction and for nonsupervisory employees in other industries, as determined by the U.S. bureau of labor statistics, or a similar average approved by the commissioner of labor. National hourly average wage does not include earnings of agriculture workers.

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

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

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

(i) \$575 \$849.63 \$735 \$635 a month for the first year from July 1, 1981 after December 30, SEPTEMBER 30, 1989 BEGINNING JANUARY 1, 1990, and

(ii) \$635 a month for the second year from July 1, 1981, and thereafter beginning January 1, 1991, and on each succeeding January 1, an amount calculated by adding to the amount of the previous year's minimum monthly compensation (which includes all previous cost-of-living changes) an amount determined by multiplying such compensation by the previous year's consumer price index for all urban consumers, U.S. department of labor, bureau of labor statistics, or a recognized successor to that index."

NEW SECTION. SECTION 2. ADOPTION OF MINIMUM WAGE RATES. THE COMMISSIONER SHALL ADOPT RULES TO ESTABLISH A MINIMUM WAGE THAT MUST BE THE SAME MINIMUM HOURLY WAGE RATE AS PROVIDED UNDER THE FEDERAL FAIR LABOR STANDARDS ACT (29 U.S.C. 206), BUT NOT TO EXCEED \$4 AN HOUR.

NEW SECTION. SECTION 3. NEW HIRE WAGE. (1) IN LIEU OF THE MINIMUM WAGE PROVIDED FOR IN 39-3-404(1), AN EMPLOYER MAY PAY AN EMPLOYEE A WAGE OF AT LEAST \$3.35 AN HOUR IF THE EMPLOYEE HAS NOT BEEN PREVIOUSLY EMPLOYED BY THE EMPLOYER.

(2) AN EMPLOYER MAY PAY AN EMPLOYEE THE MINIMUM WAGE AUTHORIZED IN SUBSECTION (1) FOR A PERIOD NOT TO EXCEED 180 CALENDAR DAYS BEGINNING FROM THE DATE THE EMPLOYEE IS HIRED.

1 (3) AN EMPLOYEE MAY NOT BE DISPLACED BY ANOTHER
2 EMPLOYEE (INCLUDING PARTIAL DISPLACEMENT, SUCH AS A
3 REDUCTION IN THE HOURS OF NONOVERTIME WORK, WAGES, OR
4 EMPLOYMENT BENEFITS) FOR THE PURPOSE OF ALLOWING THE
5 EMPLOYER TO PAY THE MINIMUM WAGE DESCRIBED IN THIS SECTION.

6 NEW SECTION. **Section 4.** Extension of authority. Any
7 existing authority to make rules on the subject of the
8 provisions of [this act] is extended to the provisions of
9 [this act].

10 NEW SECTION. **SECTION 5.** EFFECTIVE DATE. [THIS ACT]
11 IS EFFECTIVE JANUARY 1, 1990.

-End-