

HOUSE BILL 49

Introduced by Cohen

1/02	Introduced
1/02	Referred to Labor & Employment Relations
1/03	Fiscal Note Requested
1/10	Fiscal Note Received
1/10	Fiscal Note Printed
1/16	Sponsor Fiscal Note Requested
1/17	Hearing
1/17	Sponsor Fiscal Note Received
1/18	Sponsor Fiscal Note Printed
1/25	Tabled in Committee

HOUSE BILL NO. 49

INTRODUCED BY COHEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE HOURLY MINIMUM WAGE TO \$4.35; TO ESTABLISH AN EXCLUSION FROM THE MINIMUM WAGE FOR EMPLOYEES WHO ARE HIGH SCHOOL PUPILS UNDER 18 YEARS OF AGE AND RESIDE WITH A PARENT OR GUARDIAN; AND AMENDING SECTIONS 39-3-404 AND 39-3-406, 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 \$3.85 an hour after September 30, 1985, and before October 1, 1986;~~

~~(b) at least \$3.35~~ \$4.35 an hour on October 1, 1986 1989, and thereafter.

(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 a month for the first year from July 1, 1981;

(ii) \$635 a month for the second year from July 1, 1981, and thereafter."

Section 2. Section 39-3-406, MCA, is amended to read:

"39-3-406. Exclusions. (1) The provisions of 39-3-404 and 39-3-405 shall not apply with respect to:

(a) students participating in a distributive education program established under the auspices of an accredited educational agency;

(b) persons employed in private homes whose duties consist of menial chores such as babysitting, mowing lawns, cleaning sidewalks;

(c) persons employed directly by the head of a

household to care for children dependent upon the head of the household;

(d) immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a dependent;

(e) any persons not regular employees thereof who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;

(f) handicapped workers engaged in work which is incidental to training or evaluation programs or whose earning capacity is so severely impaired that they are unable to engage in competitive employment;

(g) apprentices or learners, who may be exempted by the commissioner for a period not to exceed 30 days of their employment;

(h) learners under the age of 18 who are employed as farm workers, provided that such exclusion shall not exceed a period of 180 days from their initial date of employment and further provided that during this exclusion period wages paid such learners may not be less than 50% of the minimum wage rate established in this part;

(i) retired or semiretired persons performing part-time incidental work as a condition of their residence on a farm or ranch;

(j) any individual employed in a bona fide executive,

administrative, or professional capacity as these terms are defined and delimited by regulations of the commissioner;

(k) any individual employed by the United States of America;

(l) resident managers employed in lodging establishments or personal care facilities who, under the terms of their employment, live in the establishment or facility.

(2) The provisions of 39-3-405 do not apply to:

(a) an employee with respect to whom the United States Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S.C. 304;

(b) an employee of an employer subject to the provisions of part I of the Interstate Commerce Act;

(c) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state;

(d) an outside salesman paid on a commission or contract basis who is primarily employed in selling advertising for a newspaper;

(e) a salesman, partsman, or mechanic paid on a commission or contract basis and primarily engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements if he is employed

1 by a nonmanufacturing establishment primarily engaged in the
2 business of selling such vehicles or implements to ultimate
3 purchasers;

4 (f) a salesman primarily engaged in selling trailers,
5 boats, or aircraft if he is employed by a nonmanufacturing
6 establishment primarily engaged in the business of selling
7 trailers, boats, or aircraft to ultimate purchasers;

8 (g) a salesman paid on a commission or contract basis
9 who is primarily engaged in selling advertising for a radio
10 or television station employer;

11 (h) an employee employed as a driver or driver's
12 helper making local deliveries who is compensated for such
13 employment on the basis of trip rates, or other delivery
14 payment plan, if the commissioner finds that such plan has
15 the general purpose and effect of reducing hours worked by
16 such employees to or below the maximum workweek applicable
17 to them under 39-3-405;

18 (i) an employee employed in agriculture or in
19 connection with the operation or maintenance of ditches,
20 canals, reservoirs, or waterways not owned or operated for
21 profit and not operated on a sharecrop basis and which are
22 used exclusively for supply and storing of water for
23 agricultural purposes;

24 (j) an employee with respect to his employment in
25 agriculture by a farmer, notwithstanding other employment of

1 such employee in connection with livestock auction
2 operations in which such farmer is engaged as an adjunct to
3 the raising of livestock, either on his own account or in
4 conjunction with other farmers, if such employee is:

5 (i) primarily employed during his workweek in
6 agriculture by such farmer; and

7 (ii) paid for his employment in connection with such
8 livestock auction operations at a wage rate not less than
9 that prescribed by 39-3-404;

10 (k) an employee of an establishment commonly
11 recognized as a country elevator, including an establishment
12 which sells products and services used in the operation of a
13 farm, if no more than five employees are employed by the
14 establishment;

15 (l) a driver employed by an employer engaged in the
16 business of operating taxicabs;

17 (m) an employee who is employed with his spouse by a
18 nonprofit educational institution to serve as the parents of
19 children who are orphans or one of whose natural parents is
20 deceased or who are enrolled in such institution and reside
21 in residential facilities of the institution so long as the
22 children are in residence at the institution and so long as
23 such employee and his spouse reside in such facilities and
24 receive, without cost, board and lodging from the
25 institution and are together compensated, on a cash basis,

1 at an annual rate of not less than \$10,000;

2 (n) an employee employed in planting or tending trees;
3 cruising, surveying, or felling timber; or transporting logs
4 or other forestry products to a mill, processing plant,
5 railroad, or other transportation terminal if the number of
6 employees employed by his employer in such forestry or
7 lumbering operations does not exceed eight;

8 (o) an employee of a sheriff's department who is
9 working under an established work period in lieu of a
10 workweek pursuant to 7-4-2509(1);

11 (p) an employee of a municipal or county government
12 who is working under a work period not exceeding 40 hours in
13 a 7-day period established through a collective bargaining
14 agreement when a collective bargaining unit represents the
15 employee or by mutual agreement of the employer and employee
16 where no bargaining unit is recognized. Employment in
17 excess of 40 hours in a 7-day, 40-hour work period must be
18 compensated at a rate of not less than 1 1/2 times the
19 hourly wage rate for the employee.

20 (q) an employee of a hospital or other establishment
21 primarily engaged in the care of the sick, disabled, aged,
22 or mentally ill or defective who is working under a work
23 period not exceeding 80 hours in a 14-day period established
24 through either a collective bargaining agreement when a
25 collective bargaining unit represents the employee or by

1 mutual agreement of the employer and employee where no
2 bargaining unit is recognized. Employment in excess of 8
3 hours per day or 80 hours in a 14-day period must be
4 compensated for at a rate of not less than 1 1/2 times the
5 hourly wage rate for the employee.

6 (r) a firefighter who is working under a work period
7 established in a collective bargaining agreement entered
8 into between a public employer and a firefighters'
9 organization or its exclusive representative;

10 (s) an officer or other employee of a police
11 department in a city of the first or second class who is
12 working under a work period established by the chief of
13 police under 7-32-4118;

14 (t) an employee of a department of public safety
15 working under a work period established pursuant to
16 7-32-115.

17 (3) The provisions of 39-3-404 do not apply to an
18 employee who is:

19 (a) a pupil enrolled or, if the school year has ended,
20 was at the end of the previous school year enrolled in a
21 home, public, private, or parochial high school;

22 (b) under 18 years of age; and

23 (c) a resident in the domicile of a parent or legal
24 guardian."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB049, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled "An act to increase the hourly minimum wage to \$4.35; to establish an exclusion from the minimum wage for employees who are high school pupils under 18 years of age and reside with a parent or guardian; and amending sections 39-3-404 and 39-3-406, 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 HB49 will raise the minimum wage level above the federal minimum wage level.
3. Additional workload will require one additional Grade 12 FTE to enforce the new law.

FISCAL IMPACT:


	Current Law	Proposed Law FY90	Difference FY90	Current Law	Proposed Law FY91	Difference
<u>Expenditures:</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 increase 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.

 1/9/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

BEN COHEN, PRIMARY SPONSOR DATE

Fiscal Note for HB049, as introduced

SPONSOR'S FISCAL NOTE

Form BD-155

There is hereby submitted a Sponsor's Fiscal Note for: HB 49, Version: 1

DESCRIPTION OF PROPOSED LEGISLATION:

An act to increase the hourly minimum wage to \$4.35; and to establish an exclusion from the minimum wage for employees who are high school pupils under 18 years of age and reside with a parent or guardian.

ASSUMPTIONS: An increase in the statutory minimum wage can effect individuals, businesses, the economy, and government revenues in several, often complimentary ways.

No state (11) with a statutory minimum wage above the Federal minimum wage experienced loss of employment.

Increased revenue from personal income tax was calculated using 36,000 workers at 20 hours/week for 50 weeks and all of the additional income in the lowest brackets (3%). This figure will be higher if any of the wage increment goes to families with a combined income in a higher bracket.

There are presently 10,000 women with children receiving AFDC benefits which the Legislative Fiscal Analyst has estimated to be costing the state an average of \$1,000 per month per case. If 50 of these cases were to leave the roll then the combined cost of AFDC/Medicaid to the state would be reduced by \$600,000.

FISCAL IMPACT:

<u>Expenditures:</u>	<u>Budget</u>	<u>Proposed</u>	<u>Difference</u>
1 FTE c and e	-	\$26,688	\$26,688
AFDC/Medicaid State Share	\$72,018,763	\$71,418,763	(\$600,000)
<u>Revenues:</u>			
Income Tax	\$389,448,000	\$390,528,000	\$1,080,000
Minimum Net Impact		positive	\$1,653,312

HB 49

SPONSOR'S FISCAL NOTE

Form BD-15S

There is hereby submitted a Sponsor's Fiscal Note for: HB 49, Version: 1

Long-Range Effects of the Proposed Legislation

The number of Montana citizens living at or below the poverty line will be reduced. The number of children at risk of neglect or abuse will be reduced. There will be a reduced need for social services. The state's economy will experience a surge as \$36,000,000 is pumped back into the economy at a level where it will have the greatest multiplier effect as it percolates through our communities.


PRIMARY SPONSOR

1/17/89
DATE

Fiscal Note for: HB 49

Version: 1

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