1	SENATE BILL NO. 120
2	INTRODUCED BY MAHLUM
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN EXCEPTION FROM THE REQUIREMENT THAT
5	AN EMPLOYEE WHO IS SEPARATED FOR CAUSE FROM EMPLOYMENT BE PAID ALL UNPAID WAGES
6	IMMEDIATELY UPON SEPARATION IF A WAGE PAYMENT PROVISION IS PROVIDED FOR IN THE
7	EMPLOYER'S WRITTEN PERSONNEL POLICY MANUAL; CLARIFYING THE PROVISIONS FOR PAYMENT
8	OF UNPAID WAGES; AND AMENDING SECTION 39-3-205, MCA."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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12	Section 1. Section 39-3-205, MCA, is amended to read:
13	"39-3-205. Payment of wages when employee separated from employment prior to payday
14	exception exceptions. (1) Except as provided in subsections subsection (2) and (3), when an employee is
15	separated from the employ of any employer, all the unpaid wages of the employee are due and payable:
16	(a) within 3 days, except for employees of the state of Montana and its political subdivisions who
17	would be paid on the next regular payday for the pay period during which the employee was separated from
18	employment or 15 days from the date of separation from employment, whichever occurs first, either
19	through the regular pay channels or by mail if requested by the employee. However, if an employer's payroll
20	checks originate at an office outside the state, the time provided in this section for payment of wages must
21	be extended for 3 additional days.
22	(b) immediately upon separation:
23	(2) (i) Except as provided in subsection (3), if an employee is separated for cause from employment
24	by the employer, all the unpaid wages of the employee are due and payable immediately upon the
25	separation; or
26	(ii) unless payment of wages is provided for in an employer's written personnel policy manual.
27	(3) (2) If The provisions of subsection (1) concerning payment of unpaid wages upon separation
28	of employment do not apply to an employee who is separated from employment by the employer because
29	the employee has committed the offense of theft of the employer's funds or property and criminal charges

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have been filed by the county attorney against the employee7. If an employee is separated from employment

pursuant to this subsection, the employer may apply to the district court for an order temporarily staying
the payment of any unpaid wages due the employee and staying the running of the penalty provided for
in 39-3-206 pending the final resolution of criminal proceedings against the employee. If the employee
pleads or is found guilty of the criminal offense, the district court may order any wages due and owing to
the employee by the employer to be offset against the amount that the employee illegally obtained from
the employer. If the employee is found not guilty of the criminal offense, the district court may order the
employer to pay the employee any wages due, including interest."

8 -END-



APPROVED BY COM ON LABOR & EMPLOYMENT RELATIONS

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2	INTRODUCED BY MAHLUM
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6	the employer. If the employee is found not guilty of the criminal offense, the district court may order the
7	employer to pay the employee any wages due, including interest. WHEN AN EMPLOYEE SEPARATES
8	FROM THE EMPLOY OF ANY EMPLOYER, ALL THE UNPAID WAGES OF THE EMPLOYEE ARE DUE AND
9	PAYABLE ON THE NEXT REGULAR PAYDAY FOR THE PAY PERIOD DURING WHICH THE EMPLOYEE WAS
10	SEPARATED FROM EMPLOYMENT OR 15 DAYS FROM THE DATE OF SEPARATION FROM EMPLOYMENT,
11	WHICHEVER OCCURS FIRST, EITHER THROUGH THE REGULAR PAY CHANNELS OR BY MAIL IF
12	REQUESTED BY THE EMPLOYEE.

- (2) EXCEPT AS PROVIDED IN SUBSECTION (3), WHEN AN EMPLOYEE IS SEPARATED FOR CAUSE OR LAID OFF FROM EMPLOYMENT BY THE EMPLOYER, ALL THE UNPAID WAGES OF THE EMPLOYEE ARE DUE AND PAYABLE IMMEDIATELY UPON SEPARATION UNLESS THE EMPLOYER HAS A WRITTEN PERSONNEL POLICY GOVERNING THE EMPLOYMENT THAT EXTENDS THE TIME FOR PAYMENT OF FINAL WAGES TO THE EMPLOYEE'S NEXT REGULAR PAYDAY FOR THE PAY PERIOD OR TO WITHIN 15 DAYS FROM THE SEPARATION, WHICHEVER OCCURS FIRST.
- 19 (3) WHEN AN EMPLOYEE IS DISCHARGED BY REASON OF AN ALLEGATION OF THEFT OF
 20 PROPERTY OR FUNDS CONNECTED TO THE EMPLOYEE'S WORK, THE EMPLOYER MAY WITHHOLD
 21 FROM THE EMPLOYEE'S FINAL PAYCHECK AN AMOUNT SUFFICIENT TO COVER THE VALUE OF THE
 22 THEFT IF:
 - (A) THE EMPLOYEE AGREES IN WRITING TO THE WITHHOLDING; OR
- 24 (B) THE EMPLOYER FILES A REPORT OF THE THEFT WITH THE LOCAL LAW ENFORCEMENT
 25 AGENCY WITHIN 7 DAYS OF THE SEPARATION FROM EMPLOYMENT, SUBJECT TO THE FOLLOWING
 26 CONDITIONS:
- 27 (I) IF NO CHARGES ARE FILED IN A COURT OF COMPETENT JURISDICTION AGAINST THE
 28 EMPLOYEE FOR THE ALLEGED THEFT WITHIN 15 DAYS OF THE FILING OF THE REPORT WITH A LOCAL
 29 LAW ENFORCEMENT AGENCY, WAGES ARE DUE AND PAYABLE UPON THE EXPIRATION OF THE 1530 DAY PERIOD.



1	(II) IF CHARGES ARE FILED AGAINST THE EMPLOYEE FOR THEFT, THE COURT MAY ORDER THE
2	WITHHELD WAGES TO BE OFFSET BY THE VALUE OF THE THEFT. IF THE EMPLOYEE IS FOUND NOT
3	GUILTY OR IF THE EMPLOYER WITHHOLDS AN AMOUNT IN EXCESS OF THE VALUE OF THE THEFT, THE
4	COURT MAY ORDER THE EMPLOYER TO PAY THE EMPLOYEE THE WITHHELD AMOUNT PLUS
5	INTEREST."
6	-END-

Legislative Services Djvision

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2	INTRODUCED BY MAHLUM
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55th Legislature SB0120.02

1 purguant to this subsection, the employer may apply to the district court for an order temporarily staying 2 the payment of any unpaid wages due the employee and staying the running of the penalty provided for 3 in 39-3-206 pending the final resolution of criminal proceedings against the employee. If the employee pleads or is found guilty of the criminal offense, the district court may order any wages due and owing to 4 5 the employee by the employer to be offset against the amount that the employee illegally obtained from the employer. If the employee is found not guilty of the criminal offense, the district court may order the 6 7 employer to pay the employee any wages due, including interest. WHEN AN EMPLOYEE SEPARATES FROM THE EMPLOY OF ANY EMPLOYER, ALL THE UNPAID WAGES OF THE EMPLOYEE ARE DUE AND 8 PAYABLE ON THE NEXT REGULAR PAYDAY FOR THE PAY PERIOD DURING WHICH THE EMPLOYEE WAS 9 10 SEPARATED FROM EMPLOYMENT OR 15 DAYS FROM THE DATE OF SEPARATION FROM EMPLOYMENT. WHICHEVER OCCURS FIRST, EITHER THROUGH THE REGULAR PAY CHANNELS OR BY MAIL IF 11 12 REQUESTED BY THE EMPLOYEE. 13

(2) EXCEPT AS PROVIDED IN SUBSECTION (3), WHEN AN EMPLOYEE IS SEPARATED FOR CAUSE OR LAID OFF FROM EMPLOYMENT BY THE EMPLOYER, ALL THE UNPAID WAGES OF THE EMPLOYEE ARE DUE AND PAYABLE IMMEDIATELY UPON SEPARATION UNLESS THE EMPLOYER HAS A WRITTEN PERSONNEL POLICY GOVERNING THE EMPLOYMENT THAT EXTENDS THE TIME FOR PAYMENT OF FINAL WAGES TO THE EMPLOYEE'S NEXT REGULAR PAYDAY FOR THE PAY PERIOD OR TO WITHIN 15 DAYS FROM THE SEPARATION, WHICHEVER OCCURS FIRST.

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22 THEFT IF:

(A) THE EMPLOYEE AGREES IN WRITING TO THE WITHHOLDING; OR

(B) THE EMPLOYER FILES A REPORT OF THE THEFT WITH THE LOCAL LAW ENFORCEMENT AGENCY WITHIN 7 DAYS OF THE SEPARATION FROM EMPLOYMENT, SUBJECT TO THE FOLLOWING CONDITIONS:

(I) IF NO CHARGES ARE FILED IN A COURT OF COMPETENT JURISDICTION AGAINST THE EMPLOYEE FOR THE ALLEGED THEFT WITHIN 15 DAYS OF THE FILING OF THE REPORT WITH A LOCAL LAW ENFORCEMENT AGENCY, WAGES ARE DUE AND PAYABLE UPON THE EXPIRATION OF THE 15-DAY PERIOD.

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SB 120

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6	-END-

Legislative Services Division

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Legislative Services Division