

## SENATE BILL NO. 193

INTRODUCED BY J. O'NEIL

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE STATE MINIMUM WAGE FOR THOSE EMPLOYEES AND BUSINESSES NOT SUBJECT TO THE MINIMUM WAGE PROVISIONS OF THE FEDERAL FAIR LABOR STANDARDS ACT OF 1938 IN A COUNTY THAT HAS AN AVERAGE ANNUAL UNEMPLOYMENT RATE GREATER THAN 10 PERCENT ACCORDING TO THE LABOR FORCE STATISTICS COMPILED BY THE DEPARTMENT OF LABOR AND INDUSTRY'S OFFICE OF RESEARCH AND ANALYSIS FOR THE MOST RECENT COMPLETED CALENDAR YEAR; AMENDING SECTION 39-3-404, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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) and for counties as provided in subsection (3), every each employer shall pay to each of his employees employee a wage of not less than the applicable minimum wage as determined by the commissioner in accordance with 39-3-409.

(2) In the case of a farm worker employed for a part of a calendar year ~~which~~ that includes periods requiring working hours in excess of 8 hours ~~per~~ a day and other seasonal periods requiring working hours substantially less than 8 hours ~~per~~ a 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 employer (the total wages paid by ~~such~~ the employer to ~~such~~ the employee for that part of the year during which ~~said~~ the employee was employed by ~~him~~ shall the employer may 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~~ in this subsection (2), pay the farm worker a wage ~~as herein defined~~ on a monthly basis. This monthly compensation ~~shall constitute~~ constitutes a minimum wage and ~~shall may~~ not be less than \$635 a month ~~beginning January 1, 1990.~~

(3) For those employees and businesses not subject to the minimum wage provisions of the Fair Labor

1 Standards Act of 1938, 29 U.S.C. 206(a)(1), the provisions of the Montana minimum wage law, including the  
2 provisions of 39-3-409, do not apply in a county that has an average annual unemployment rate greater than  
3 10% according to the labor force statistics compiled by the department of labor and industry's office of research  
4 and analysis for the most recent completed calendar year."

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6 **NEW SECTION. Section 2. Effective date -- applicability.** [This act] is effective on passage and  
7 approval and applies to wages paid on or after [the effective date of this act].

8 - END -