

MINIMUM WAGE AND OVERTIME LAWS

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting (5-4-105, MCA; [Chapter 309, Laws of 2017](#)). The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary: Both minimum wage and overtime are under the "Wage and Hour" regulatory authority of federal and state law. For that reason they are combined in one information sheet.

Minimum Wage

The federal [Fair Labor Standards Act](#) specifies a federal minimum wage as a floor but allows state minimum wage laws to apply instead if those rates are higher than the federal rate. Certain exceptions apply, in particular to overtime wages. Some of these exemptions are listed in a federal advisory [document](#).

In 2006 Montana voters passed Initiative Measure No. 151, which included an annual calculation by the Department of Labor and Industry to automatically adjust the minimum wage each January 1 to reflect inflationary increases (not decreases). According to the National Conference of State Legislatures, eight states automatically increase minimum wage rates based on the cost of living and 29 states and the District of Columbia have minimum wages above the federal rate of \$7.25 an hour, which has been in effect since 2009.

*SB 241 from the 2015 Legislature is included below, not because it specifically dealt with minimum wage but because the bill would have prevented differences among localities that had different wage or benefits than what the state required.

Overtime

Overtime generally is 1½ times the hourly wage of an employee who works more than 40 hours in a week, although there are provisions for how work weeks are structured. There are exceptions for certain types of employees, generally those in management, some computer specialists, farm workers, firefighters, law enforcement officers, and certain other workers. Montana's overtime compensation statute is [39-3-405](#), MCA. Montana minimum wage statutes are [39-3-404](#) and [39-3-409](#), MCA. Exceptions to both the minimum wage and the overtime provisions are listed in [39-3-406](#), MCA.

Legislative Services Division Materials: (None)

Other Materials:

The Department of Labor and Industry has a frequently asked questions [page](#) on its website for minimum wage/overtime.

U.S. Code related to minimum wage and overtime is in 29 U.S.C. 212.

National Conference of State Legislatures has [background](#) on states' minimum wage laws

Introduced Legislation

*Chapter number assigned means bill was passed and approved.

2019

Minimum Wage

[HB 345](#) – (Died in Process) - "AN ACT PROVIDING A STEPPED INCREASE IN THE MINIMUM WAGE TO A LIVING WAGE FOR ALL NONAGRICULTURAL EMPLOYEES; LIMITING COST-OF-LIVING INCREASES UNTIL THE MINIMUM WAGE REACHES \$15 AN HOUR; REMOVING A \$4 MINIMUM WAGE FOR CERTAIN BUSINESSES; AMENDING SECTION 39-3-409, MCA; AND PROVIDING AN EFFECTIVE DATE."

[HB 588](#) – (Died in Process) - "AN ACT PROHIBITING A SUBMINIMUM WAGE FOR PERSONS WITH DISABILITIES; AMENDING SECTION 39-3-406, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Minimum Wage and Overtime

[HB 570](#) – (Died in Process) - "AN ACT PROVIDING AN APPRENTICE THE RIGHT TO MINIMUM WAGE AND OVERTIME COMPENSATION; AMENDING SECTION 39-3-406, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

[HJ 59](#) – (Died in Standing Committee) - A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF OVERTIME WAGE LAWS, WAGE EXPLOITATION, AND CLASSIFICATION OF EMPLOYEES; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

[SB 218](#) – (Chapter Number Assigned) – "AN ACT EXEMPTING CERTAIN STUDENTS FROM MINIMUM WAGE AND OVERTIME COMPENSATION REQUIREMENTS; AMENDING SECTION 39-3-406, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

2017

Minimum Wage

[HB 169](#) – (Died in Standing Committee) - "AN ACT PROVIDING FOR AN INCREASE IN THE MINIMUM WAGE; LIMITING COST-OF-LIVING ADJUSTMENTS UNTIL AFTER 2018; REVISING THE MINIMUM WAGE FOR BUSINESSES WITH LOW ANNUAL GROSS SALES; AMENDING SECTION 39-3-409, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

[HJ 26](#) – (Died in Standing Committee) - A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA FOR AN INTERIM STUDY OF EMPLOYMENT,

October 2020

WAGES, AND BENEFITS FOR THE marginally employed, the self-employed, and others to determine the necessity or scope of a living wage in Montana.

2015

Minimum Wage*

HB 384 – (Missed Deadline for General Bill Transmittal) - "AN ACT PROVIDING FOR A GRADUAL INCREASE IN THE MINIMUM WAGE TO \$10.10 AN HOUR; LIMITING COST-OF-LIVING INCREASES UNTIL A MINIMUM WAGE OF \$10.10 AN HOUR IS REACHED; REVISING THE MINIMUM WAGE FOR BUSINESSES WITH LIMITED ANNUAL GROSS SALES; AND AMENDING SECTION 39-3-409, MCA."

HJ 20 – (Died in Standing Committee) - A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A STUDY OF A LIVING WAGE IN MONTANA AND THE POTENTIAL IMPACTS ON THE STATE'S ECONOMY.

SB 2 – (Missed Deadline for General Bill Transmittal) - "AN ACT RAISING THE STATE'S MINIMUM WAGE; PROVIDING A DELAYED DATE FOR INDEXING THE NEW WAGE TO INFLATION; AMENDING SECTION 39-3-409, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

***SB 241 – (Vetoed by Governor)** - "AN ACT PROHIBITING POLITICAL SUBDIVISIONS FROM REQUIRING EMPLOYERS TO PROVIDE WAGES AND BENEFITS THAT ARE INCONSISTENT WITH STATE AND FEDERAL LAW; AMENDING SECTION 7-1-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

SB 270 - (Chapter Number Assigned) – "EXEMPTING CERTAIN SEASONAL ESTABLISHMENTS FROM MINIMUM WAGE REQUIREMENTS; AMENDING SECTION 39-3-406, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

2013

Overtime

HB 226 – (Chapter Number Assigned) – "AN ACT EXCLUDING COMPUTER INFORMATIONAL TECHNOLOGY PROFESSIONALS FROM OVERTIME LAWS; AND AMENDING SECTION 39-3-406, MCA."

2011 (None)

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