106TH CONGRESS
1ST SESSION

# S. 1887

To amend the Fair Labor Standards Act of 1938 to provide for an increase in the minimum wage and protect the rights of States that have adopted State minimum wage laws.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 9, 1999

Mr. ENZI introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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# A BILL

To amend the Fair Labor Standards Act of 1938 to provide for an increase in the minimum wage and protect the rights of States that have adopted State minimum wage laws.

1    *Be it enacted by the Senate and House of Representa-*

2    *tives of the United States of America in Congress assembled,*

3    **SECTION 1. SHORT TITLE.**

4    This Act may be cited as the "Minimum Wage State

5    Flexibility Act of 1999".

**SEC. 2. STATE MINIMUM WAGES AND AREA STANDARDS.**

(a) IN GENERAL.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end the following:

"(h) STATE MINIMUM WAGES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section and sections 13(a) and 14, an employer in a State that has adopted minimum wage legislation that meets the requirements of paragraph (2) shall pay to each of its employees a wage at a rate that is not less than the rate provided for in such State's minimum wage legislation.

"(2) REQUIREMENT.—This section and sections 13(a) and 14 shall only apply in such States that have adopted minimum wage legislation that sets wages for at least 95 percent of the workers within the State at an hourly rate that is not less than 85 percent of the hourly rate generally applicable for the year involved under subsection (a).

"(3) EMERGENCY CIRCUMSTANCES.—The chief executive officer of a State, through an executive order (or its equivalent), may set wages applicable to at least 95 percent of the employees within the State (or particular county of the State) at an hourly rate that is not less than 85 percent of the hourly rate generally applicable for the year involved under sub-

1  section (a) if any of the following circumstances

2  exist:

3      "(A) The State welfare-to-work programs

4      would be sufficiently harmed by mandating a

5      minimum wage rate above an hourly rate equal

6      to 85 percent of the hourly rate required under

7      subsection (a).

8      "(B) The State (or county) is experiencing

9      a period of high unemployment.

10      "(C) The State (or county) is experiencing

11      a period of slow economic growth.

12  This paragraph shall only apply to an executive

13  order (or its equivalent) that is effective for a period

14  of 12 months or less.".

15  (b) APPLICABILITY OF MINIMUM WAGE TO THE TER-

16  RITORIES.—Notwithstanding section 5 of the Fair Labor

17  Standards Act (29 U.S.C. 205), the provisions of section

18  6 of such Act (29 U.S.C. 206) shall apply to the territories

19  and possessions of the United States (including the Com-

20  monwealth of the Northern Mariana Islands) in the same

21  manner as such provisions apply to the States.

22  (c) EFFECTIVE DATE.—

23      (1) IN GENERAL.—Except as provided in para-

24      graph (2), the amendments made by this section

25      shall take effect on April 1, 2000.

1     (2) EXCEPTION FOR CERTAIN STATES.—In the
2     case of a State which the Secretary of Labor identi-
3     fies as having a legislature which is not scheduled to
4     meet prior to the effective date described in para-
5     graph (1) in a legislative session, the date specified
6     in such paragraph shall be the first day of the first
7     calendar quarter beginning after the close of the
8     first legislative session of the State legislature that
9     begins on or after such effective date, and in which
10     a State law described in section 6(h)(2) of the Fair
11     Labor Standards Act of 1938 (as added by sub-
12     section (a)) may be considered. For purposes of the
13     previous sentence, in the case of a State that has a
14     2-year legislative session, each year of such session
15     shall be deemed to be a separate regular session of
16     the State legislature.

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