

3 2 7 1975

Reprinted

HOUSE FILE 351

BY COMMITTEE ON LABOR AND
INDUSTRIAL RELATIONS

Place On Calendar
Sen. Labor 3/25, Pass for 3/20 4/8

Passed House, Date 3-6-75 (563) Passed Senate, Date 4-15-75 (943)

Vote: Ayes 73 Nays 25 Vote: Ayes 31 Nays 18

Approved 6-3-75

Motion to reconsider was 2/6 (564)

Passed House as amended by Senate
5-6-75 (1563)

70-20

A BILL FOR

1 An Act relating to the payment of wages and expenses by an
2 employer and providing a civil money penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

1 Section 1. NEW SECTION. SHORT TITLE. This Act shall
2 be known and may be referred to as the "Iowa Wage Payment
3 Collection Law".

4 Sec. 2. NEW SECTION. DEFINITIONS. As used in this Act:

5 1. "Commissioner" means the labor commissioner or a
6 designee.

7 2. "Employer" means any person, as defined in chapter
8 four (4) of the Code, who in this state employs for wages
9 a natural person, or who is an officer or manager of such
10 employer and who knowingly permits or causes such employer
11 to violate the provisions of this Act.

12 3. "Employee" means a natural person who is employed in
13 this state for wages by an employer. However, employee does
14 not mean a licensed person employed on a contractual basis
15 for professional services.

16 4. "Wages" means compensation owed by an employer for:

17 a. Labor or services rendered by an employee, whether
18 determined on a time, task, piece, commission, or other basis
19 of calculation.

20 b. Vacation, holiday, sick leave, and severance payments
21 which are due an employee under an agreement with the employer
22 or under a policy of the employer.

23 c. Any payments to the employee or to a fund for the
24 benefit of the employee, including but not limited to payments
25 for medical, health, hospital, welfare, pension, or profit-
26 sharing, which are due an employee under an agreement with
27 the employer or under a policy of the employer. However,
28 the assets of an employee in a fund for the benefit of the
29 employee, whether such assets were originally paid into the
30 fund by an employer or employee, are not wages.

31 5. "Days" means calendar days.

32 6. "Employment days" means the sum of the total number
33 of employees employed for wages by an employer in a calendar
34 year multiplied by the total number of days in a calendar
35 year in which each such employee is employed for wages for

1 any part of the day. If more than one employee is employed
2 for wages for any part of a particular day, the total number
3 of employees so employed shall be used to compute the "total
4 number of days" for that particular day.

5 7. "Liquidated damages" means the sum of five percent
6 multiplied by the amount of any wages that were not paid or
7 of any authorized expenses that were not reimbursed on a
8 regular payday or on another day pursuant to section three
9 (3) of this Act multiplied by the total number of days,
10 discounting Sundays, legal holidays, and the first seven days
11 after the regular payday on which wages were not paid or
12 expenses were not reimbursed. However, such sum shall not
13 exceed twice the amount of the unpaid wages and shall not
14 accumulate when an employer is subject to a petition filed
15 in bankruptcy.

16 Sec. 3. NEW SECTION. MODE OF PAYMENT.

17 1. An employer shall pay all wages due its employees,
18 less any lawful deductions specified in section six (6) of
19 this Act, at least twice during each calendar month on regular
20 paydays which are at consistent intervals from each other
21 and which are designated in advance by the employer. A regular
22 payday shall not be more than six days, excluding Sundays
23 and legal holidays, after the end of the period in which the
24 wages were earned.

25 2. The wages paid under subsection one (1) of this section
26 shall be paid in United States currency or by written
27 instrument issued by the employer and negotiable on demand
28 at full face value for such currency, unless the employee
29 has agreed in writing to receive a part of or all wages in
30 kind or in other form.

31 3. The wages paid under subsection one (1) of this section
32 shall be paid at the employee's normal place of employment
33 during normal employment hours or at a place and hour mutually
34 agreed upon by the employer and employee.

35 4. The wages paid under subsection one (1) of this section

1 may be paid to a designee of the employee who is so designated
2 in writing and may be sent to the employee by any reasonable
3 means requested by the employee in writing.

4 5. If an employee is absent from the normal place of
5 employment on the regular payday, the employer shall, upon
6 demand of the employee made within the first seven days
7 following the regular payday, pay the wages which were due
8 on that regular payday. However, if demand is not made within
9 this seven-day period, the employer shall, upon demand of
10 the employee, pay the wages which were due on a regular payday
11 within the first seven days following the day on which demand
12 is made.

13 6. An employer and employee may, upon written agreement
14 which shall be maintained as a record under section seven
15 (7) of this Act, vary the provisions of subsection one (1)
16 of this section. However, such variance shall not permit
17 an employee to be paid less frequently than once a month for
18 wages earned in the preceding month's period.

19 7. Expenses by the employee which are authorized by the
20 employer shall either be reimbursed in advance of expenditure
21 or be reimbursed not later than thirty days after the
22 employee's submission of an expense claim. If the employer
23 refuses to pay all or part of each claim, the employer shall
24 submit to the employee a written justification of such refusal
25 within the same time period in which expense claims are paid
26 under this subsection.

27 Sec. 4. NEW SECTION. EMPLOYMENT SUSPENSION OR TERMINATION-
28 -HOW WAGES ARE PAID. When the employment of an employee is
29 suspended or terminated, the employer shall pay all wages
30 earned by the employee up to the time of the suspension or
31 termination not later than the next regular payday as provided
32 in section three (3) of this Act. Any wages representing
33 vacation payments shall accrue during employment in proportion
34 of the vacation allowed for the calendar year to the portion
35 of the year actually worked.

1 Sec. 5. NEW SECTION. DEATH OF EMPLOYEE--HOW WAGES ARE
2 PAID.

3 1. If an employee dies and has earned wages that are not
4 yet paid, such unpaid wages shall be paid in accordance with
5 the provisions of this section, notwithstanding anything to
6 the contrary in chapter six hundred thirty-three (633) of
7 the Code.

8 2. An employer shall allow its employees to designate
9 a recipient of unpaid wages earned before death. Upon death
10 of an employee and after the next regular payday, the employer
11 shall pay any designated recipient the unpaid wages earned
12 by any means reasonably likely to reach the designated
13 recipient.

14 3. If an employee does not designate under subsection
15 two (2) of this section or if the designated recipient is
16 not alive, the employer shall pay any unpaid wages earned
17 before death to the following persons in order of preference
18 according to which person is in existence:

19 a. First to any surviving spouse.

20 b. If there is not a surviving spouse, then to any
21 surviving children per stirpes.

22 c. If there is not any surviving children, then to any
23 surviving parents.

24 4. The employer shall not make a payment under subsection
25 three (3) of this section until any person claiming the unpaid
26 wages earned files with the employer a verified affidavit
27 stating that:

28 a. The employee is dead;

29 b. Why the claimant is entitled to payment; and,

30 c. Another person with a better claim under this subsection
31 is not in existence.

32 5. If unpaid wages earned are not paid under subsections
33 two (2), three (3), and four (4) of this section within sixty
34 days of the employee's death, the employer shall deposit the
35 unpaid wages earned with the commissioner. Any money so

1 deposited shall be held in an escrow fund. Payment from the
2 fund shall be made to the estate of the deceased employee
3 upon presentation of testamentary letters or letters of
4 administration by the personal representative of the decedent.
5 However, any interest earned on such escrow fund shall be
6 retained by the commissioner to pay for the costs of
7 administering the escrow fund. If a claim is not made on
8 the commissioner under this subsection within five years of
9 death, the money deposited in an escrow fund shall escheat
10 to the state.

11 6. Any payment of wages that complies with the provisions
12 of this section shall discharge the employer from further
13 liability on unpaid wages earned at the death of an employee
14 to the extent of the payment made.

15 Sec. 6. NEW SECTION. DEDUCTIONS FROM WAGES.

16 1. An employer shall not withhold or divert any portion
17 of an employee's wages unless:

18 a. The employer is required or may do so by state or
19 federal law or by order of a court of competent jurisdiction;
20 or

21 b. The employer has written authorization from the employee
22 to so deduct for any lawful purpose accruing to the benefit
23 of the employee.

24 2. The following losses shall not be deducted from an
25 employee's wages:

26 a. Cash shortage in a common money till, cash box, or
27 register operated by two or more employees or by an employee
28 and an employer.

29 b. Losses due to acceptance by an employee of checks which
30 are subsequently dishonored so long as the employee is given
31 the discretion to accept or reject such checks and the employee
32 does not abuse the discretion given.

33 c. Losses due to breakage, defective or faulty workmanship,
34 lost or stolen property, damage to property, default of
35 customer credit, or nonpayment for goods or services rendered

1 so long as such losses are not attributable to the employee's
2 willful or intentional disregard of the employer's interests.

3 Sec. 7. NEW SECTION. NOTICE AND RECORD-KEEPING
4 REQUIREMENTS.

5 1. An employer shall:

6 a. Notify its employees in writing at the time of hiring
7 what wages and regular paydays are designated by the employer.

8 b. Notify, at least one pay period prior to the initiation
9 of any changes, its employees of any changes in the arrange-
10 ments specified in subsection one (1) of this section that
11 reduce wages or alter the regular paydays. The notice shall
12 either be in writing or posted at a place where employee
13 notices are routinely posted.

14 c. Make available to its employees, either in writing
15 or through a notice posted at a place where employee notices
16 are routinely posted, employment agreements and policies with
17 regard to vacation pay, sick leave, reimbursement for expenses,
18 retirement benefits, severance pay, and other comparable
19 matters.

20 d. Furnish, upon request by an employee and within seven
21 days after receipt of such request, the employee with an
22 itemized statement of earnings and deductions made from wages
23 for each pay period in which the deductions were made and
24 with an explanation of how the wages and deductions were
25 computed.

26 e. Establish, maintain, and preserve for three calendar
27 years the payroll records showing the hours worked, wages
28 earned, and deductions made for each employee and any
29 employment agreements entered into between an employer and
30 employee.

31 2. The requirements of subsection one (1) of this section
32 shall not apply to an employer who engages employees for less
33 than sixty employment days. However, an employer who has
34 paid a claim for unpaid wages and liquidated damages under
35 section eleven (11) of this Act or who has been assessed a

1 civil money penalty under section thirteen (13) of this Act
2 shall be subject to the requirements of subsection one (1)
3 of this section regardless of how many employment days
4 employees are engaged for.

5 Sec. 8. NEW SECTION. WAGE DISPUTES. If there is a dispute
6 between an employer and employee concerning the amount of
7 wages or expense reimbursement due, the employer shall, without
8 condition and pursuant to section three (3) of this Act, pay
9 all wages conceded to be due and reimburse all expenses
10 conceded to be due. Payment of wages or reimbursement of
11 expenses under this section shall not relieve the employer
12 of any liability for the balance of wages or expenses claimed
13 by the employee.

14 Sec. 9. NEW SECTION. DAMAGES RECOVERABLE BY AN EMPLOYEE.
15 When it has been shown that an employer has knowingly failed
16 to pay an employee wages or reimburse expenses pursuant to
17 section three (3) of this Act, whether as the result of a
18 wage dispute or otherwise, the employer shall be liable to
19 the employee for any wages or expenses that are so knowingly
20 failed to be paid or reimbursed, plus liquidated damages,
21 court costs, and such attorney's fees which are incurred in
22 recovering the unpaid wages and are determined to have been
23 usual and necessary. Otherwise, the employer shall be liable
24 only for any unpaid wages or expenses, court costs, and such
25 attorney's fees which are incurred in recovering the unpaid
26 wages or expenses and are determined to have been usual and
27 necessary.

28 Sec. 10. NEW SECTION. GENERAL POWERS AND DUTIES OF THE
29 COMMISSIONER.

30 1. The commissioner shall enforce, administer, and insure
31 compliance with the provisions of this Act. The commissioner
32 may hold hearings and investigate charges of violations of
33 this Act.

34 2. The commissioner may, consistent with due process of
35 law, enter any place of employment to inspect records, to

1 question the employer and employees, and to investigate such
2 facts, conditions or matters as are deemed appropriate in
3 determining whether any person has violated the provisions
4 of this Act. However, such entry by the commissioner shall
5 only be in response to a written complaint.

6 3. The commissioner may employ such qualified personnel
7 as are necessary for the enforcement of this Act. Such
8 personnel shall be employed pursuant to chapter nineteen A
9 (19A) of the Code.

10 4. The commissioner shall promulgate, pursuant to chapter
11 seventeen A (17A) of the Code, such rules as are necessary
12 to carry out the provisions of this Act.

13 Sec. 11. NEW SECTION. SETTLEMENT OF CLAIMS AND SUITS
14 FOR WAGES.

15 1. Upon the written complaint of the employee involved,
16 the commissioner may determine whether wages have not been
17 paid and may constitute an enforceable claim. If for any
18 reason the commissioner decides not to make such determination,
19 the commissioner shall so notify the complaining employee within
20 fourteen days of receipt of the complaint. The commissioner
21 shall otherwise notify the employee of such determination
22 within a reasonable time and if it is determined that there
23 is an enforceable claim, the commissioner shall, with the
24 consent of the complaining employee, take an assignment in
25 trust for the wages and for any claim for liquidated damages
26 without being bound by any of the technical rules respect-
27 ing the validity of the assignment. However, the commissioner
28 shall not accept any complaint for unpaid wages and liquidated
29 damages after one year from the date the wages became due
30 and payable.

31 2. The commissioner with the assistance of the office
32 of the attorney general if the commissioner requests such
33 assistance, shall, unless a settlement is reached under this
34 subsection, commence a civil action in any court of competent
35 jurisdiction to recover for the benefit of any employee any

1 wage and liquidated damages' claims that have been assigned
2 to the commissioner for recovery. With the consent of the
3 assigning employee, the commissioner may also settle a claim
4 on behalf of the assigning employee. Proceedings under this
5 subsection and subsection one (1) of this section that precede
6 commencement of a civil action shall be conducted informally
7 without any party having a right to be heard before the com-
8 missioner. The commissioner may join various claimants in
9 one claim for the purpose of settling or litigating their
10 claims.

11 3. The provisions of subsection one (1) and two (2) of
12 this section shall not be construed to prevent an employee
13 from settling or bringing an action for damages under section
14 nine (9) of this Act if the employee has not assigned the
15 claim under subsection one (1) of this section.

16 4. Any recovery of attorney's fees, in the case of actions
17 brought under this section by the commissioner, shall be re-
18 mitted by the commissioner to the treasurer of state for
19 deposit in the general fund of the state. Also, the
20 commissioner shall not be required to pay any filing fee or
21 other court costs.

22 5. An employer shall not discharge or in any other manner
23 discriminate against any employee because such employee has
24 filed a complaint, assigned a claim, or brought an action
25 under this section or has cooperated in bringing any action
26 against an employer.

27 Sec. 12. NEW SECTION. WAGE CLAIMS BROUGHT UNDER
28 RECIPROCITY.

29 1. The commissioner may enter into reciprocal agreements
30 with the labor department or corresponding agency of any other
31 state or its representatives for the collection in such other
32 states of claims or judgments for wages and other demands
33 based upon claims assigned to the commissioner.

34 2. The commissioner may, to the extent provided for by
35 any reciprocal agreement entered into by law or with an agency

1 of another state as provided in this section, maintain actions
2 in the courts of such other state for the collection of claims
3 for wages, judgments and other demands and may assign such
4 claims, judgments and demands to the labor department or
5 agency of such other state for collection to the extent that
6 such an assignment may be permitted or provided for by the
7 laws of such state or by reciprocal agreement.

8 3. The commissioner may, upon the written consent of the
9 labor department or other corresponding agency of any other
10 state or its representatives, maintain actions in the courts
11 of this state upon assigned claims for wages, judgments and
12 demands arising in such other state in the same manner and
13 to the same extent that such actions by the commissioner are
14 authorized when arising in this state. However, such actions
15 may be maintained only in cases in which such other state
16 by law or reciprocal agreement extends a like comity to cases
17 arising in this state.

18 Sec. 13. NEW SECTION. CIVIL PENALTIES.

19 1. Any employer who violates the provisions of this Act,
20 other than section seven (7) of this Act, or the rules
21 promulgated under it shall be subject to a civil money penalty
22 of not more than one thousand dollars for each violation.
23 Any employer who violates the provisions of section seven
24 (7) of this Act or the rules promulgated under it shall be
25 subject to a civil money penalty of not more than five hundred
26 dollars for each violation. The commissioner may recover
27 such civil money penalty according to the provisions of
28 subsections two (2) through five (5) of this section. Any
29 civil money penalty recovered shall be deposited in the general
30 fund of the state.

31 2. The commissioner may propose that an employer be
32 assessed a civil money penalty by serving the employer with
33 notice of such proposal in the same manner as an original
34 notice is served under the rules of civil procedure. Upon
35 service of such notice, the proposed assessment shall be

1 treated as a contested case under chapter seventeen A (17A)
2 of the Code. However, an employer must request a hearing
3 within thirty days of being served.

4 3. If an employer does not request a hearing pursuant
5 to subsection two (2) of this section or if the commissioner
6 determines, after an appropriate hearing, that an employer
7 is in violation of this Act, the commissioner shall assess
8 a civil money penalty which is consistent with the provisions
9 of subsection one (1) of this section and which is rendered
10 with due consideration for the penalty amount in terms of
11 the size of the employer's business, the gravity of the
12 violation, the good faith of the employer, and the history
13 of previous violations.

14 4. An employer may seek judicial review of any assessment
15 rendered under subsection three (3) of this section by
16 instituting proceedings for judicial review pursuant to chapter
17 seventeen A (17A) of the Code. However, such proceedings
18 must be instituted in the district court of the county in
19 which the violation or one of the violations occurred and
20 within thirty days of the day on which the employer was
21 notified that an assessment has been rendered. Also, an
22 employer must, upon instituting such proceedings, deposit
23 the amount assessed with the clerk of the district court.
24 Any moneys so deposited shall either be returned to the
25 employer or be forwarded to the commissioner for deposit in
26 the general fund of the state, depending on the outcome of
27 the judicial review, including any appeal to the supreme
28 court.

29 6. After the time for seeking judicial review has expired
30 or after all judicial review has been exhausted and the
31 commissioner's assessment has been upheld, the commissioner
32 shall refer any unpaid assessments to the attorney general
33 for recovery in a civil action.

34 Sec. 14.

35 1. The provisions of this Act shall prevail whenever they

1 conflict with a law in effect prior to this Act becoming
2 effective.

3 2. This Act shall not authorize the commissioner or any
4 other person to take any assignment of wages or commence any
5 action that is based on an act committed prior to the effective
6 date of this Act.

7 Sec. 15. Section seventy-nine point one (79.1), unnumbered
8 paragraphs one (1) and two (2), Code 1975, are amended to
9 read as follows:

10 Salaries specifically provided for in an appropriation
11 Act of the general assembly shall be in lieu of existing
12 statutory salaries, for the positions provided for in any
13 such Act, and all salaries shall be paid ~~in-equal-monthly,~~
14 ~~semimonthly-or-biweekly-instalments~~ according to the
15 provisions of this Act and shall be in full compensation
16 of all services, except as otherwise expressly provided.
17 All employees of the state including highway maintenance
18 employees of the state department of transportation shall
19 earn two weeks' vacation per year during the first year of
20 employment and through the fourth year of employment, and
21 three weeks' vacation per year during the fifth and through
22 the eleventh year of employment, and four weeks' vacation
23 per year during the twelfth year and all subsequent years
24 of employment, with pay. One week vacation shall be equal
25 to the number of hours in the employee's normal work week.
26 Vacation allowances shall be accrued ~~on-a-pay-period,-monthly,~~
27 ~~or-quarterly-basis~~ according to the provisions of this Act
28 as provided by the rules of the Iowa merit employment
29 department. Said vacations shall be granted at the discretion
30 and convenience of the head of the department, agency or
31 commission, except that in no case may an employee be granted
32 vacation in excess of the amount earned by him. In the event
33 that the employment of an employee of the state ~~shall-be is~~
34 ~~terminated for-any-reason-other-than-a-discharge-for-good~~
35 ~~cause,-he-shall-be-paid-a-vacation-allowance-for-any-vacation~~

1 which he may have earned prior to such termination, and which
2 he has not yet taken. -- For the purposes of this section, death
3 of an employee shall be considered a termination of employment
4 which shall require payment of such vacation allowances as
5 might be payable for any other termination the provisions of
6 this Act relating to such termination shall apply.

7 If said termination of employment shall be by reason of
8 the death of the employee, such vacation allowance shall be
9 paid to the estate of the deceased employee if such estate
10 shall be open for probate. -- If no estate be opened, the
11 allowance shall be paid to the surviving spouse, if any, or
12 to the legal heirs if no spouse survives.

13 Sec. 16. Sections four hundred seventy-seven point fifty-
14 one (477.51) and four hundred seventy-seven point fifty-two
15 (477.52), Code 1975, are repealed.

16 EXPLANATION

17 This bill designates comprehensive specifications for the
18 regular collection of wages and expense reimbursements by
19 an employee employed in this state from an employer. It also
20 provides specifications for such collection in the case of
21 an employee's suspension or termination of employment or
22 death. Among the specifications for collection of wages and
23 expenses are specifications for the time of payment, the place
24 of payment, the type of payment, and the deductions permitted
25 from payment.

26 If there is a dispute over the wage payment, this bill
27 requires the employer to pay any wages or expenses conceded
28 to be due the employee. In the event the employer knowingly
29 fails to pay any wages or expenses due the employee, the bill
30 makes the employer liable for up to treble damages. The
31 employee may bring a suit for collection of such damages or
32 may request the commissioner of labor to take an assignment
33 for such damage claim. If the commissioner takes the
34 assignment, the commissioner may bring the suit on behalf
35 of the employee.

1 The commissioner of labor is empowered by the bill to enforce
 2 the provisions of this bill. Among the commissioner's duty
 3 are the duties to investigate employee claims for unpaid wages
 4 and expenses, to take assignments of such claims and bring
 5 civil actions to collect the claim, and to assess the employer
 6 with a civil money penalty for violation of the provisions
 7 of this Act. Appeal procedures from formal actions of the
 8 commissioner are enumerated.

9 The bill further specifies certain record-keeping
 10 requirements an employer must meet. However, casual employers
 11 are exempt from such requirements, unless such employers have
 12 been found in violation of this Act.

13 The bill also provides for enforcement of wage and expense
 14 claims through reciprocity.

15
 16
 17

FISCAL NOTE
 HOUSE FILE 351

Date Prepared March 5, 1975

Requested by Representative Welden
 Prepared in regard to H.F. 351, An Act relating to the payment of
 wages and expenses. Following is the fiscal effect in dollars of
 the legislative proposal as required by Joint Rule 16:

It is estimated that the cost to implement HF 351
 would be approximately \$60,000 the first year. This
 estimate would include an administrator, two invest-
 igators, one secretary, and related travel and office
 expenses.

The above estimate is based on an estimated 800 total
 claims with the assumption that approximately 400
 of these claims will need some type of investigation
 done on them. Also, the above estimate does not in-
 clude (if needed) additional office space.

Source: Bureau of Labor

FILED
 MARCH 5, 1975

GERRY D. RANKIN
 Legislative Fiscal Director

LSB AT4
 ms/jw/5

H-3225

1 Amend House File 351 as follows:

2 1. Page 1, by striking everything in lines 32
3 through 35 inclusive.

4 2. Page 2, by striking everything in lines 1
5 through 4 inclusive.

6 3. Page 2, line 5, by striking the number "7"
7 and inserting in lieu thereof the number "6".

8 4. Page 4, line 21, by striking the words
9 "per stirpes".

10 5. Page 6, line 5, by inserting after the word
11 "shall" the words "after being notified by the
12 commissioner".

13 6. Page 6, by striking everything in lines 20
14 through 25 inclusive.

15 7. Page 6, line 26, by striking the letter "e"
16 and inserting in lieu thereof the letter "d".

17 8. Page 6, by striking everything in lines 31
18 through 35 inclusive and inserting in lieu thereof
19 the following:

20 "2. The commissioner may notify an employer
21 to keep records under subsection one (1) of this
22 section if a written complaint by an employee of
23 the employer has been filed with the commissioner
24 or if the employer has paid a claim for unpaid
25 wages or nonreimbursed authorized expenses. The
26 commissioner shall notify an employer to keep
27 records under subsection one (1) of this section
28 if the employer has paid a claim for unpaid wages
29 or nonreimbursed authorized expenses and liquidated
30 damages under section eleven (11) of this Act or
31 if the employer has been assessed a civil money
32 penalty under section thirteen (13) of this Act."

33 9. Page 7, by striking everything in lines 1
34 through 4 inclusive and inserting in lieu thereof
35 the following:

36 "3. Furnish, upon request by an employee and
37 within seven days after receipt of such request,
38 the employee with an itemized statement of earn-
39 ings and deductions made from wages for each pay
40 period in which the deductions were made and with
41 an explanation of how the wages and deductions were
42 computed."

A - Adopted 3/6 (54)
B - Adopted as amended by
2236 3/6 (54)

H-3225 FILED
MARCH 5, 1975

BY KOGLER of Mahaska

HOUSE FILE 351

3

H-3237

1 Amend the Koogler amendment H-3225 to House
2 File 351 as follows:
3 1. By adding after the period in line 42, the
4 following: "However, an employer need honor only
5 one such request in any calendar year, unless the
6 rate of earnings, hours, or deductions are
7 changed during the calendar year. Each such
8 change shall entitle an employee to a further
9 request for an itemized statement.
10 The commissioner may, upon request of the
11 employer and in exceptional circumstances, extend
12 this seven-day period for furnishing an itemized
13 statement."

H-3237³ FILED - *Amended out of order 3/5* BY SCHROEDER of Pottawattamie
MARCH 5, 1975 (548)

HOUSE FILE 351

H-3234

1 Amend the Koogler amendment H-3225, filed March
2 5, 1975, to House File 351, page 6, as follows:
3 1. By striking all of lines 10 through 42 and
4 inserting in lieu thereof the following:
5 "5. Page 6, line 5, by inserting after the word
6 'employer' the words 'who has been assessed liquid-
7 ated damages by a court of law pursuant to section
8 11 of this Act, or who has been found in a court of
9 law to be civilly liable pursuant to section 13 of
10 this Act'.
11 6. Page 6, by striking lines 31 through 35.
12 7. Page 7, by striking all of lines 1 through
13 4."

H-3234 FILED, LOST BY WEST of Marshall
MARCH 6, 1975

HOUSE FILE 351

H-3235

1 Amend House File 351, page 8, line 7, by
2 inserting after the period the following: "No
3 additional personnel shall be employed to
4 enforce the provisions of this Act prior to
5 July 1, 1976."

H-3235 FILED, ADOPTED, BY JORDAN of Linn
RECONSIDERED, LOST (559)
MARCH 6, 1975

H-3193

- 1 Amend House File 351 as follows:
 2 1. Page 1, line 9, by striking the words "a
 3 natural person" and inserting in lieu thereof the *A. Law 3/5 (528)*
 4 words "more than ten natural persons".
 5 2. Page 1, by striking everything in lines 32 *B. Bill of*
 6 through 35, inclusive. *order by*
 7 3. Page 2, by striking lines 1 through 4, inclu- *adoption of*
 8 sive, and by renumbering the following subsection *3225. 3/6*
 9 accordingly.
 10 4. Page 6, by striking everything in lines 31
 11 through 35, inclusive.
 12 5. Page 7, by striking everything in lines 1
 13 through 4, inclusive.

H-3193 FILED
 MARCH 4, 1975

BY BORTELL of Madison
 CRABB of Crawford
 DAGGETT of Adams
 STEPHENS of Plymouth
 DANKER of Pottawattamie

H-3231

- 1 Amend the House amendment to House File 351,
 2 H-3225, as follows:
 3 1. Page 1, line 37, by striking the word
 4 "seven" and inserting in lieu thereof the word
 5 "ten".
 6 2. Page 1, line 42, by inserting after the
 7 period the words "However, an employer shall not
 8 be required to furnish such itemized statement
 9 upon a second request by the same employee for the
 10 same pay period."

H-3231 FILED - *Bill of order by* BY SMALL of Johnson
 MARCH 5, 1975 *adoption of 3236 3/5/548*

H-3232

- 1 Amend House File 351 as follows:
 2 Page 6, by inserting after line 2 the following:
 3 "d. Gratuities received by an employee from
 4 customers of the employer."

H-3232 FILED - *Adopted 3/6 (553)* BY HORN of Linn
 MARCH 5, 1975

H-3186

1 Amend House File 351, page 1, line 15, by insert-
2 ing after the period the following:
3 "For the purposes of this Act, the following
4 persons engaged in agriculture shall not be deemed
5 employees:
6 a. The spouse of the employer and relatives of
7 either the employer or spouse residing on the premises
8 of the employer, and
9 b. Any person engaged in agriculture as an owner-
10 operator or tenant-operator or spouse or relatives of
11 either residing on the premises of such owner-operator
12 or tenant-operator, while exchanging labor with an
13 employer, or spouse, or relatives of either residing
14 on the premises of such employer, for the mutual
15 benefit of any or all of such persons."

H-3186 FILED *Adopted 3/6 (544)*
MARCH 3, 1975

BY DEN HERDER of Sioux

H-3187

1 Amend House File 351 as follows:
2 1. Page 11, by striking all of line 35.
3 2. Page 12, by striking all of lines 1 and 2.
4 3. Page 12, line 3, by striking the numeral
5 "2" and inserting in lieu thereof the numeral "1".

H-3187 FILED *Adopted 3/6 (541)*
MARCH 3, 1975

BY SCHROEDER of Pottawattamie

H-3192

1 Amend House File 351 as follows:
2 1. Page 1, by striking everything in lines 32
3 through 35, inclusive.
4 2. Page 2, by striking everything in lines 1
5 through 4, inclusive.
6 3. Page 2, line 5, by striking the number "7" and
7 inserting in lieu thereof the number "6".
8 4. Page 6, lines 32 and 33, by striking the words
9 "employees for less than sixty employment days" and
10 inserting in lieu thereof the words "ten or less full-
11 time employees".

H-3192 FILED *Adopted 3/6 (541)*
MARCH 4, 1975 *page 3225 3/6*

BY BORTELL of Madison
CRABB of Crawford
DAGGETT of Adams
DANKER of Pottawattamie
STEPHENS of Plymouth

Amend House File 351 as follows:

- 1 2. Page 1, lines 9 through 11, by striking the A - Adopted 3/5 (52)
- 3 words ", or who is an officer or manager of such
- 4 employer and who knowingly permits or causes such
- 5 employer to violate the provisions of this Act".
- 6 2. Page 1, line 14, by inserting after the word B - Lost 3/5 (529)
- 7 "mean" the words "an independent contractor or".
- 8 3. Page 1, line 16, by inserting after the word C - Lost 3/6 (544)
- 9 "means" the word "nondeferred".
- 10 4. Page 1, by striking everything in lines 32 D - 3225 substituted 3/6
- 11 through 35, inclusive.
- 12 5. Page 2, by striking everything in lines 1
- 13 through 4, inclusive, and by renumbering the follow-
- 14 ing subsection accordingly.
- 15 6. Page 2, line 5, by striking the word "five" E - Lost 3/6 (552)
- 16 and inserting in lieu thereof the word "one".
- 17 7. Page 2, line 13, by striking the word
- 18 "twice".
- 19 8. Page 2, line 22, by striking the word "six" F - adopted 3/6 (551)
- 20 and inserting in lieu thereof the word "twelve".
- 21 9. Page 2, line 32, by inserting after the word G - adopted 3/6 (551)
- 22 "shall" the words "be sent to the employee by mail
- 23 or".
- 24 10. Page 5, line 25, by inserting after the word H - Lost 3/6 (552)
- 25 "wages" the words ", unless made pursuant to a
- 26 written agreement with or a policy of the employer".
- 27 11. Page 6, line 5, by inserting after the word D - 3225 substituted 3/6
- 28 "employer" the words "who has paid a claim for
- 29 unpaid wages and liquidated damages under section
- 30 eleven (11) of this Act or who has been assessed
- 31 a civil money penalty under section thirteen (13)
- 32 of this Act".
- 33 12. Page 6, by striking everything in lines 31
- 34 through 35.
- 35 13. Page 7, by striking everything in lines 1
- 36 through 4, inclusive.
- 37 14. Page 7, line 15, by striking the word I - Lost 3/6 (554)
- 38 "knowingly" and inserting in lieu thereof the word
- 39 "willfully".
- 40 15. Page 7, line 19, by striking the word
- 41 "knowingly" and inserting in lieu thereof the word
- 42 "willfully".
- 43 16. Page 7, by striking everything after the J - Lost 3/6 (554)
- 44 period in line 23 and all of lines 24 through 27.
- 45 17. Page 8, line 29, by striking the words "one" K - Lost 3/6 (555)
- 46 year" and inserting in lieu thereof the words "ninety
- 47 days".
- 48 18. Page 10, lines 19 and 20, by striking the D - 3225 substituted 3/6
- 49 words ", other than section seven (7) of this Act,".
- 50 19. Page 10, lines 23 through 26, by striking the

Page 2

- 1 words "Any employer who violates the provisions of
- 2 section seven (7) of this Act or the rules promulgated
- 3 under it shall be subject to a civil money penalty of
- 4 not more than five hundred dollars for each violation."
- 5 20. Page 11, line 21, by striking the words "Also, L - Lost 3/6 (555)
- 6 an".
- 7 21. Page 11, by striking everything in lines 22
- 8 through 28, inclusive. M - adopted 3/6 (561)
- 9 22. Page 11, line 29, by striking the number "6"
- 10 and inserting in lieu thereof the number "5".

H-3217

1 Amend the Lipsky, et al, amendment H-3212 to
2 House File 351 as follows:
A 3 1. Page 1, line 46, by inserting after the
4 word "employer" the word "willfully".
5 2. Page 2, by striking all of lines 38 thru
B 6 44 and inserting in lieu thereof the following:
7 "Sec. _____. NEW SECTION. RECORD KEEPING.
8 Any employer who is found liable for damages, by
9 a court of law, pursuant to section 4 of this Act
10 shall:
11 1. Notify its employees in writing at the time
12 of hiring what wages and regular paydays are designa-
13 ted by the employer.
14 2. Notify, at least one pay period prior to the
15 initiation of any changes, its employees of any
16 changes in the arrangements specified in subsection
17 one (1) of this section that reduce wages or alter
18 the regular paydays. The notice shall either be in
19 writing or posted at a place where employee notices
20 are routinely posted.
21 3. Make available to its employees, either in
22 writing or through a notice posted at a place where
23 employee notices are routinely posted, employment
24 agreements and policies with regard to vacation pay,
25 sick leave, reimbursement for expenses, retirement
26 benefits, severance pay, and other comparable matters.
27 4. Furnish, upon request by an employee and with-
28 in seven days after receipt of such request, the
29 employee with an itemized statement of earnings and
30 deductions made from wages for each pay period in
31 which the deductions were made and with an explana-
32 tion of how the wages and deductions were computed.
33 5. Establish, maintain, and preserve for three
34 calendar years the payroll records showing the hours
35 worked, wages earned, and deductions made for each
36 employee and any employment agreements entered into
37 between an employer and employee."

H-3217 FILED

BY WEST of Marshall

H-3217A ADOPTED, (525)

H-3217B ~~LOST~~ *Adopted (526)*

MARCH 5, 1975

H-3215

1 Amend House File 351 by striking from the title
2 page all of line 3.

H-3215 FILED, WITHDRAWN (522)
MARCH 5, 1975

BY DRAKE of Muscatine

H-3223

1 Amend House File 351, page 13, by inserting
2 after line 15 the following new section:
3 "Sec. _____. This Act shall take effect on
4 January 1, 1976."

H-3223 FILED - *Loss 3/6 (562)*
MARCH 5, 1975

BY CRAWFORD of Story

H-3212

1 Amend House File 351 by striking everything after
2 the enacting clause and inserting in lieu thereof the
3 following:

4 "Section 1. NEW SECTION. DEFINITIONS. As used in
5 this Act, unless the context otherwise requires:

6 1. 'Employer' includes any individual, partnership,
7 association, joint stock company, trust, corporation,
8 the administrator or executor of the estate of a
9 deceased individual, or the receiver, trustee, or
10 successor of any of the same, employing any person.

11 2. 'Employee' includes any individual employed by
12 an employer but shall not include:

13 a. Any individual employed by the United States,
14 or by the state or any of its political subdivision
15 thereof;

16 b. Any individual who renders service gratuitously
17 for a nonprofit organization as this term is defined
18 by regulation of the commissioner.

19 c. An independent contractor.

20 3. 'Wages' means compensation for labor or services
21 rendered by an employee, whether the amount is determined
22 on a time, task, piece, commission, or other basis of
23 calculation.

24 4. 'Commissioner' means the labor commissioner.

25 Sec. 2. NEW SECTION. TIME OF PAYMENT.

26 1. All employers shall pay to their employees all
27 wages due them at least twice during each calendar
28 month, on regular paydays designated in advance by the
29 employer, in lawful money of the United States or by
30 checks or warrants payable at face value upon demand,
31 and shall furnish each employee with statement of
32 deductions each pay period.

33 2. By written agreement with the employee, an
34 employer may establish regular paydays less frequently
35 than twice each month.

36 Sec. 3. NEW SECTION. TERMINATION OF EMPLOYMENT.

37 When an employee quits or resigns, or whenever an
38 employer discharges an employee, the employer shall pay
39 such an employee all wages due him for all prior work.
40 The final wage payment shall be made on or before the
41 date on which he would have been paid had his employ-
42 ment not been terminated. Payment shall be made
43 either through the regular pay channels or by
44 certified mail if the employee requests payment by mail.

45 Sec. 4. NEW SECTION. PENALTY PAYABLE TO WORKER.

46 If an employer fails to pay an employee wages as
47 required, the employer shall be additionally liable to
48 the employee for damages in the amount of five percent
49 of unpaid wages for each day except Sunday and legal
50 holidays upon which the failure continues after the

1 day payment is required or in an amount equal to
2 unpaid wages, whichever is smaller.

3 Sec. 5. NEW SECTION. WITHHOLDING OF WAGES.

4 An employer may not withhold any portion of an
5 employee's wages unless:

6 1. The employer is required or empowered to do so
7 by state or federal law or by court order, or

8 2. The employer has a written authorization by the
9 employee for deductions for a lawful purpose.

10 Sec. 6. NEW SECTION. ENFORCEMENT, RULES AND
11 REGULATIONS. The commissioner shall enforce and
12 administer this Act and may issue, pursuant to
13 chapter seventeen A (17A) of the Code, any rule
14 necessary to carry out the provisions of this Act.

15 Sec. 7. NEW SECTION. RIGHT OF ENTRY. The
16 commissioner or his authorized representative may, only
17 after a formal complaint has been filed, enter and
18 inspect such places, question such employees, and
19 investigate such facts, conditions, or matters as he
20 may deem appropriate, to determine whether any person
21 has violated any provision of this Act or any rule
22 promulgated under this Act.

23 Sec. 8. NEW SECTION. AUTHORITY TO TAKE ASSIGN-
24 MENTS OF WAGE CLAIMS.

25 1. Whenever the commissioner determines that wages
26 have not been paid and that the unpaid wages constitute
27 an enforceable claim, the commissioner shall, upon the
28 request of the employee, take an assignment in trust
29 for the assigning employee of the wages and any claim
30 for damages, not to exceed five hundred dollars in
31 the case of any one claim, and may bring any legal
32 action necessary to collect the claim. Upon an
33 assignment, the commissioner may settle and adjust
34 the claim to the same extent as the assigning employee.

35 2. The commissioner may join various claimants
36 in one preferred claim or lien and also join them in
37 one cause of action.

38 Sec. 9. NEW SECTION. PENALTY. Any employer who
39 willfully violates any provision of this Act or who
40 fails to comply with any other requirements of this
41 Act shall be, upon conviction, guilty of a misdemeanor
42 and be punished by a fine of not less than twenty-
43 five dollars nor more than one hundred dollars for
44 each separate offense."

H-3200

- 1 Amend House File 351 as follows:
- 2 1. Page 2, by striking from line 1 the words
- 3 "any part" and inserting in lieu thereof the
- 4 following:
- 5 "not less than 8 hours".

H-3200 FILED - *Filed out of order by* BY WELDEN of Hardin
MARCH 4, 1975 *page of 3225. 3/6* KREAMER of Polk
BORTELL of Madison
MILLEN of Van Buren
TOFTE of Winneshiek

H-3201

- 1 Amend House file 351 as follows:
- 2 1. By striking from pages 10 and 11 all of
- 3 section 13.
- 4 2. By renumbering the sections.

H-3201 FILED - *Last 3/6 (556)* BY WELDEN of Hardin
MARCH 4, 1975 KREAMER of Polk
BORTELL of Madison
MILLEN of Van Buren
McELROY of Fremont
TOFTE of Winneshiek

H-3203

- 1 Amend House File 351 as follows:
- 2 Page 3, by adding after line 26 the following
- 3 new subsection:
- 4 "8. If the amount of the wages involved does,
- 5 not exceed \$10 in a day and \$20 total in a calendar
- 6 week, payment may be made as mutually agreed upon
- 7 between the employer and the employee and the pro-
- 8 visions of this section shall not be applicable."

H-3203 FILED - *Last 3/6 (551)* BY WELDEN of Hardin
MARCH 4, 1975 KREAMER of Polk
BORTELL of Madison
MILLEN of Van Buren
VARLEY of Adair
McELROY of Fremont
TOFTE of Winneshiek

H-3207

- 1 Amend House File 351 as follows:
- 2 1. Page 4, by striking all of lines 1 through
- 3 35.
- 4 2. Page 5, by striking all of lines 1 through
- 5 14.
- 6 3. By renumbering the sections.

H-3207 FILED - *Adopted 3/6 (551)* BY JESSE of Polk
MARCH 4, 1975 BITTLE of Polk
OAKLEY of Clinton

H-3196

1 Amend House File 351 page 6, line 25, by insert-
2 ing after the period the following: "However, an
3 employer need honor only one such request in any cal-
4 endar year, unless the rate of earnings, hours, or
5 deductions are changed during the calendar year. Each
6 such change shall entitle an employee to a further
7 request for an itemized statement."

H-3196 FILED - *Billed out of order by* BY SCHROEDER of Pottawattamie
MARCH 4, 1975 *adoption of 3/25 2/6*

H-3198

1 Amend House File 351 as follows:
2 1. Page 10, line 22, by striking "one thousand"
3 and inserting in lieu thereof "one hundred".
4 2. Page 10, line 25, by striking "five hundred"
5 and inserting in lieu thereof "one hundred".

H-3198 FILED - *Adopted 2/6 (557)* BY DAGGETT of Adams
MARCH 4, 1975 *Reconsidered and* DANKER of Pottawattamie
adopted 3/6 (561)

H-3199

1 Amend House File 351, page 7, by adding after
2 line 13 the following new paragraph:
3 "Legal action by any employee to recover any
4 amount of disputed wages or expenses of less than
5 \$1,000 shall be first initiated in magistrate court
6 before any complaint is filed with the commissioner.
7 The employee may appeal the decision of the magis-
8 trate court to the commissioner. Upon receipt of
9 written complaint by the employee, the commissioner
10 shall proceed as set out in section 11 of this Act."

H-3199 FILED - *Lost 2/6 (554)* BY WELDEN of Hardin
MARCH 4, 1975 KREAMER of Polk
STROMER of Hancock
BORTELL of Madison
MILLEN of Van Buren
VARLEY of Adair
McELROY of Fremont
WYCKOFF of Benton
TOFTE of Winneshiek
MILLER of Buchanan
OAKLEY of Clinton

H-3202

1 Amend House File 351, page 3, by striking
2 everything after the period in line 16 and all of
3 lines 17 and 18.

H-3202 FILED BY WELDEN of Hardin
MARCH 4, 1975 KREAMER of Polk
BORTELL of Madison
MILLEN of Van Buren
McELROY of Fremont
TOFTE of Winneshiek

H-3218

1 Amend the West amendment H-3214, to House File
 2 351, as follows:
 3 1. Page 1, by striking lines 27 through 32 and
 4 inserting in lieu thereof the following:
 5 "11. Page 6, line 5, by inserting after the
 6 word 'employer' the words 'who has been assessed
 7 liquidated damages by a court of law pursuant to
 8 section 11 of this Act, or who has been found in a
 9 court of law to be civilly liable pursuant to section
 10 13 of this Act.' "
 11 2. Page 1, by striking lines 48 and 49 and
 12 inserting in lieu thereof the following:
 13 "18. Page 10, by striking lines 19 and 20 and
 14 inserting in lieu thereof the following:
 15 'Any employer who willfully violates the pro-
 16 visions of this Act or the rules'."

H-3218 FILED - *Revised out of order by* BY WEST of Marshall
 MARCH 5, 1975 *page of 3225 3/6 (549)*

H-3222

1 Amend House File 351 as follows:
 2 1. Page 2, line 19, by striking the words "twice
 3 during each calendar month" and inserting in lieu
 4 thereof the words "in monthly, semimonthly, or
 5 biweekly installments".
 6 2. Page 3, lines 14 and 15, by striking the words
 7 "under section seven (7) of this Act".
 8 3. Page 3, lines 16, 17, and 18, by striking the
 9 words "However, such variance shall not permit an
 10 employee to be paid less frequently than once a month
 11 for wages earned in the preceding month's period."
 12 4. Page 6, line 20, by striking the word "seven"
 13 and inserting in lieu thereof the word "ten".
 14 5. Page 6, line 25, by inserting after the period
 15 the words "However, an employer shall not be required
 16 to furnish such itemized statement upon a second
 17 request by the same employee for the same pay period."

4
adapted
 3/6 (550)

8 - withdrawn
 3/6 (550)

H-3222 FILED BY SMALL of Johnson
 MARCH 5, 1975

H-3224

1 Amend House File 351, page 11, line 11, by
 2 striking the words "the size of the employer's
 3 business,".

H-3224 FILED - *Last 3/6 (558)* BY BITTLE of Polk
 MARCH 5, 1975

HOUSE FILE 351

H-3236

- 1 Amend the amendment (H-3225) to House File 351
2 as follows:
3 1. Line 36, by striking the words "upon request
4 by an employee and".
5 2. By striking lines 37 and 38 and inserting in
6 lieu thereof the words "to an employee within ten
7 working days a printed, itemized statement when
8 requested by the employee, which statement shall list
9 the earn-".
10 3. Line 42, by adding after the period the
11 following: "However, an employer need honor only
12 one such request in any calendar year, unless the
13 rate of earnings, hours, or deductions are changed
14 during the calendar year. Each such change shall
15 entitle an employee to a further request for an
16 itemized statement."

H-3236 FILED, ADOPTED
MARCH 6, 1975

BY SCHROEDER of Pottawattamie
HOWELL of Floyd
CLARK of Keokuk

HOUSE FILE 351

H-3240

- 1 Amend House File 351, page 5, line 24, by striking
2 the word "losses".

H-3240 FILED, ADOPTED BY (552)
UNANIMOUS CONSENT
MARCH 6, 1975

BY CONNORS of Polk

1 Amend House File 351 as follows:

2 1. Page 7, line 15, by inserting before the word
3 "When" the number "1."

4 2. Page 7, by inserting after line 27 the
5 following:

6 "2. If an employee brings an action or if the
7 commissioner brings an action on behalf of the employee
8 to show that an employer has failed, knowingly or
9 otherwise, to pay wages or reimburse expenses and
10 is unable to show such failure, the employee shall
11 be liable for court costs and may be declared liable
12 to the employer for such attorney's fees or part of
13 such fees which are incurred by the employer in the
14 action and which are determined to have been usual
15 and necessary. If the commissioner brings this action
16 in bad faith pursuant to subsection two (2) of sec-
17 tion eleven (11) of this Act and is unable to show
18 the employer's failure to pay wages or reimburse
19 expenses, such court costs and attorney's fees shall
20 be equally prorated between the employee on whose
21 behalf the action was brought and the commissioner.
22 Any costs or fees prorated against the commissioner
23 shall be payable by the state comptroller from the
24 support appropriations to the department of labor."

H-3206 FILED - *Withdrawn 3/6 (554)*
MARCH 4, 1975

BY SCHROEDER of Pottawattamie

HOUSE FILE 351

H-3208

1 Amend House File 351 as follows:

2 1. Page 6, line 6, by striking the words "Notify
3 its employees in writing" and inserting in lieu thereof
4 the words "Furnish, upon request by an employee".

5 2. Page 6, line 7, by inserting before the word
6 "what" the words ", the employee with a written
7 statement of".

8 3. Page 6, line 8, by inserting before the word
9 "at" the words "upon request of an employee and".

10 4. Page 6, line 9, by striking the words "its
11 employees" and inserting in lieu thereof the words
12 "the employee".

13 5. Page 6, line 14, by striking the words "to
14 its employees" and inserting in lieu thereof the words
15 ", upon request of an employee, to the employee".

H-3208 FILED - *Withdrawn 3/6 (553)*
MARCH 4, 1975

BY KOOGLER of Mahaska
HARPER of Davis

HOUSE FILE 351

H-3204

- 1 Amend House File 351 as follows:
- 2 1. Page 1, by striking all of line 13 after
- 3 the word "task" and all of line 19, and inserting
- 4 in lieu thereof the following:
- 5 " ,or piece work basis."

H-3204 FILED - *Lost 3/6 (544)*
MARCH 4, 1975

BY WELDEN of Hardin
KREAMER of Polk
BORTELL of Madison
MILLEN of Van Buren
TOFTE of Winneshiek

H-3205

- 1 Amend House File 351 as follows:
- 2 1. Page 4, by striking lines 3 through 35,
- 3 and page 5 by striking lines 1 through 14, and
- 4 inserting in lieu thereof the following:
- 5 "1. If an employee dies and has earned wages
- 6 that are not yet paid, such unpaid wages shall be
- 7 paid to the surviving spouse, if any, notwithstand-
- 8 ing anything to the contrary in chapter six hundred
- 9 thirty-three (633) of the Code."

H-3205 FILED - *Built out of order 3/6 (551)*
MARCH 4, 1975

BY WELDEN of Hardin
KREAMER of Polk
BORTELL of Madison
MILLEN of Van Buren
VARLEY of Adair
McELROY of Fremont
WYCKOFF of Benton
TOFTE of Winneshiek
MILLER of Buchanan

HOUSE FILE 351

H-3213

- 1 Amend the Lipsky, et al amendment H - 3212,
- 2 to House File 351, filed March 4, 1975 as follows:
- 3 1. Page 1, by striking all of lines 13, 14
- 4 and 15. *A adapted 3/5 (524)*
- 5 2. Page 1, line 48, by striking the word
- 6 "five" and inserting in lieu thereof the word "one". *B - Lost 3/5 (525)*

H-3213 FILED
MARCH 4, 1975

BY EGENES of Story
DRAKE of Muscatine

HOUSE FILE 351

By COMMITTEE ON LABOR AND
INDUSTRIAL RELATIONS

(As Amended and Passed by the House)

amended
Passed House, Date 5-6-75 (1563) Passed Senate, Date 4-15-75 (943)
Vote: Ayes 73 Nays 25 Vote: Ayes 31 Nays 18
Approved 6-3-75

A BILL FOR

1 An Act relating to the payment of wages and expenses by an
2 employer and providing a civil money penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

*Denotes House Amendment
**Denotes lines stricken
Page 4 stricken by House Amendment

1 Section 1. NEW SECTION. SHORT TITLE. This Act shall
2 be known and may be referred to as the "Iowa Wage Payment
3 Collection Law".

4 Sec. 2. NEW SECTION. DEFINITIONS. As used in this Act:

5 1. "Commissioner" means the labor commissioner or a
6 designee.

7 2. "Employer" means any person, as defined in chapter
8 four (4) of the Code, who in this state employs for wages
9 a natural person.

**10

11 3. "Employee" means a natural person who is employed in
12 this state for wages by an employer. However, employee does
13 not mean a licensed person employed on a contractual basis
*14 for professional services. For the purposes of this Act, the
*15 following persons engaged in agriculture shall not be deemed
*16 employees:

*17 a. The spouse of the employer and relatives of either
*18 the employer or spouse residing on the premises of the
*19 employer, and

*20 b. Any person engaged in agriculture as an owner-operator
*21 or tenant-operator or spouse or relatives of either residing
*22 on the premises of such owner-operator or tenant-operator,
*23 while exchanging labor with an employer, or spouse, or
*24 relatives of either residing on the premises of such employer,
*25 for the mutual benefit of any or all of such persons.

26 4. "Wages" means compensation owed by an employer for:

27 a. Labor or services rendered by an employee, whether
28 determined on a time, task, piece, commission, or other basis
29 of calculation.

30 b. Vacation, holiday, sick leave, and severance payments
31 which are due an employee under an agreement with the employer
32 or under a policy of the employer.

33 c. Any payments to the employee or to a fund for the
34 benefit of the employee, including but not limited to payments
35 for medical, health, hospital, welfare, pension, or profit-

H.F. 351

36. sharing, which are due an employee under an agreement with
37. the employer or under a policy of the employer. However,
38. the assets of an employee in a fund for the benefit of the
39. employee, whether such assets were originally paid into the
40. fund by an employer or employee, are not wages.

41. 5. "Days" means calendar days.

**42.

**1.

*2. 6. "Liquidated damages" means the sum of five percent
3. multiplied by the amount of any wages that were not paid or
4. of any authorized expenses that were not reimbursed on a
5. regular payday or on another day pursuant to section three
6. (3) of this Act multiplied by the total number of days,
7. discounting Sundays, legal holidays, and the first seven days
8. after the regular payday on which wages were not paid or
9. expenses were not reimbursed. However, such sum shall not
10. exceed twice the amount of the unpaid wages and shall not
11. accumulate when an employer is subject to a petition filed
12. in bankruptcy.

13. Sec. 3. NEW SECTION. MODE OF PAYMENT.

14. 1. An employer shall pay all wages due its employees,
*15. less any lawful deductions specified in section five (5) of
*16. this Act, at least in monthly, semimonthly, or biweekly
*17. installments on regular paydays which are at consistent
18. intervals from each other and which are designated in
19. advance by the employer. A regular payday shall not be
*20. more than twelve days, excluding Sundays and legal holidays,
21. after the end of the period in which the wages were earned.

22. 2. The wages paid under subsection one (1) of this
23. section shall be paid in United States currency or by written
24. instrument issued by the employer and negotiable on demand
25. at full face value for such currency, unless the employee
26. has agreed in writing to receive a part of or all wages in
27. kind or in other form.

28. 3. The wages paid under subsection one (1) of this section
*29. shall be sent to the employee by mail or be paid at the
30. employee's normal place of employment during normal
31. employment hours or at a place and hour mutually agreed
32. upon by the employer and employee.

33. 4. The wages paid under subsection one (1) of this section

1. may be paid to a designee of the employee who is so designated
2. in writing and may be sent to the employee by any reasonable
3. means requested by the employee in writing.

4. 5. If an employee is absent from the normal place of
5. employment on the regular payday, the employer shall, upon
6. demand of the employee made within the first seven days
7. following the regular payday, pay the wages which were due
8. on that regular payday. However, if demand is not made within
9. this seven-day period, the employer shall, upon demand of
10. the employee, pay the wages which were due on a regular payday
11. within the first seven days following the day on which demand
12. is made.

13. 6. An employer and employee may, upon written agreement
*14. which shall be maintained as a record, vary the provisions
15. of subsection one (1) of this section.

**16.

17. 7. Expenses by the employee which are authorized by the
18. employer shall either be reimbursed in advance of expenditure
19. or be reimbursed not later than thirty days after the
20. employee's submission of an expense claim. If the employer
21. refuses to pay all or part of each claim, the employer shall
22. submit to the employee a written justification of such refusal
23. within the same time period in which expense claims are paid
24. under this subsection.

25. Sec. 4. NEW SECTION. EMPLOYMENT SUSPENSION OR TERMINATION-
26. HOW WAGES ARE PAID. When the employment of an employee is
27. suspended or terminated, the employer shall pay all wages
28. earned by the employee up to the time of the suspension or
29. termination not later than the next regular payday as provided
30. in section three (3) of this Act. Any wages representing
31. vacation payments shall accrue during employment in proportion
32. of the vacation allowed for the calendar year to the portion
33. of the year actually worked.

**1.

*2. Sec. 5. NEW SECTION. DEDUCTIONS FROM WAGES.

3. 1. An employer shall not withhold or divert any portion
4. of an employee's wages unless:

5. a. The employer is required or may do so by state or
6. federal law or by order of a court of competent jurisdiction;
7. or

8. b. The employer has written authorization from the employee
9. to so deduct for any lawful purpose accruing to the benefit
10. of the employee.

*11. 2. The following shall not be deducted from an
12. employee's wages:

13. a. Cash shortage in a common money till, cash box, or
14. register operated by two or more employees or by an employee
15. and an employer.

16. b. Losses due to acceptance by an employee of checks which
17. are subsequently dishonored so long as the employee is given
18. the discretion to accept or reject such checks and the employee
19. does not abuse the discretion given.

20. c. Losses due to breakage, defective or faulty workmanship,
21. lost or stolen property, damage to property, default of
22. customer credit, or nonpayment for goods or services rendered

1. so long as such losses are not attributable to the employee's
2. willful or intentional disregard of the employer's interests.
- *3. d. Gratuities received by an employee from customers
- *4. of the employer.
- *5. Sec. 6. NEW SECTION. NOTICE AND RECORD-KEEPING REQUIREMENTS.
- *6. 1. An employer shall after being notified by the
- *7. commissioner:
 8. a. Notify its employees in writing at the time of hiring
 9. what wages and regular paydays are designated by the employer.
 10. b. Notify, at least one pay period prior to the initiation
 11. of any changes, its employees of any changes in the arrange-
 12. ments specified in subsection one (1) of this section that
 13. reduce wages or alter the regular paydays. The notice shall
 14. either be in writing or posted at a place where employee
 15. notices are routinely posted.
 16. c. Make available to its employees, either in writing
 17. or through a notice posted at a place where employee notices
 18. are routinely posted, employment agreements and policies with
 19. regard to vacation pay, sick leave, reimbursement for expenses,
 20. retirement benefits, severance pay, and other comparable
 21. matters.
- **22.
- *23. d. Establish, maintain, and preserve for three calendar
24. years the payroll records showing the hours worked, wages
25. earned, and deductions made for each employee and any
26. employment agreements entered into between an employer and
27. employee.
- *28. 2. The commissioner may notify an employer to keep
- *29. records under subsection one (1) of this section if a written
- *30. complaint by an employee of the employer has been filed with
- *31. the commissioner or if the employer has paid a claim for unpaid
- *32. wages or nonreimbursed authorized expenses. The commissioner
- *33. shall notify an employer to keep records under subsection one (1)
- *34. of this section if the employer has paid a claim for unpaid
- *35. wages or nonreimbursed authorized expenses and liquidated damages

H.F. 351

- *36. under section ten (10) of this Act or if the employer has been
- *37. assessed a civil money penalty under section twelve (12) of
- *38. this Act.

* 1. 3. Furnish, to an employee within ten working days a
* 2. printed, itemized statement when requested by the employee,
* 3. which statement shall list the earnings and deductions made from
* 4. wages for each pay period in which the deductions were made and
* 5. with an explanation of how the wages and deductions were computed.
* 6. However, an employer need honor only one such request in any
* 7. calendar year, unless the rate of earnings, hours, or deductions
* 8. are changed during the calendar year. Each such change shall
* 9. entitle an employee to a further request for an itemized
* 10. statement.

* 11. Sec. 7. NEW SECTION. WAGE DISPUTES. If there is a dispute
12. between an employer and employee concerning the amount of
13. wages or expense reimbursement due, the employer shall, without
14. condition and pursuant to section three (3) of this Act, pay
15. all wages conceded to be due and reimburse all expenses
16. conceded to be due. Payment of wages or reimbursement of
17. expenses under this section shall not relieve the employer
18. of any liability for the balance of wages or expenses claimed
19. by the employee.

* 20. Sec. 8. NEW SECTION. DAMAGES RECOVERABLE BY AN EMPLOYEE.
21. When it has been shown that an employer has knowingly failed
22. to pay an employee wages or reimburse expenses pursuant to
23. section three (3) of this Act, whether as the result of a
24. wage dispute or otherwise, the employer shall be liable to
25. the employee for any wages or expenses that are so knowingly
26. failed to be paid or reimbursed, plus liquidated damages,
27. court costs, and such attorney's fees which are incurred in
28. recovering the unpaid wages and are determined to have been
29. usual and necessary. Otherwise, the employer shall be liable
30. only for any unpaid wages or expenses, court costs, and such
31. attorney's fees which are incurred in recovering the unpaid
32. wages or expenses and are determined to have been usual and
33. necessary.

* 34. Sec. 9. NEW SECTION. GENERAL POWERS AND DUTIES OF THE
35. COMMISSIONER.

H.F. 351

36. 1. The commissioner shall enforce, administer, and insure
37. compliance with the provisions of this Act. The commissioner
38. may hold hearings and investigate charges of violations of
39. this Act.
40. 2. The commissioner may, consistent with due process of
41. law, enter any place of employment to inspect records, to

1 question the employer and employees, and to investigate such
2 facts, conditions or matters as are deemed appropriate in
3 determining whether any person has violated the provisions
4 of this Act. However, such entry by the commissioner shall
5 only be in response to a written complaint.

6 3. The commissioner may employ such qualified personnel
7 as are necessary for the enforcement of this Act. Such
8 personnel shall be employed pursuant to chapter nineteen A
9 (19A) of the Code.

10 4. The commissioner shall promulgate, pursuant to chapter
11 seventeen A (17A) of the Code, such rules as are necessary
12 to carry out the provisions of this Act.

*13 Sec. 10. NEW SECTION. SETTLEMENT OF CLAIMS AND SUITS
14 FOR WAGES.

15 1. Upon the written complaint of the employee involved,
16 the commissioner may determine whether wages have not been
17 paid and may constitute an enforceable claim. If for any
18 reason the commissioner decides not to make such determination,
19 the commissioner shall so notify the complaining employee within
20 fourteen days of receipt of the complaint. The commissioner
21 shall otherwise notify the employee of such determination
22 within a reasonable time and if it is determined that there
23 is an enforceable claim, the commissioner shall, with the
24 consent of the complaining employee, take an assignment in
25 trust for the wages and for any claim for liquidated damages
26 without being bound by any of the technical rules respect-
27 ing the validity of the assignment. However, the commissioner
28 shall not accept any complaint for unpaid wages and liquidated
29 damages after one year from the date the wages became due
30 and payable.

31 2. The commissioner with the assistance of the office
32 of the attorney general if the commissioner requests such
33 assistance, shall, unless a settlement is reached under this
34 subsection, commence a civil action in any court of competent
35 jurisdiction to recover for the benefit of any employee any

1 wage and liquidated damages' claims that have been assigned
2 to the commissioner for recovery. With the consent of the
3 assigning employee, the commissioner may also settle a claim
4 on behalf of the assigning employee. Proceedings under this
5 subsection and subsection one (1) of this section that precede
6 commencement of a civil action shall be conducted informally
7 without any party having a right to be heard before the com-
8 missioner. The commissioner may join various claimants in
9 one claim for the purpose of settling or litigating their
10 claims.

11 3. The provisions of subsection one (1) and two (2) of
12 this section shall not be construed to prevent an employee
13 from settling or bringing an action for damages under section
*14 eight (8) of this Act if the employee has not assigned the
15 claim under subsection one (1) of this section.

16 4. Any recovery of attorney's fees, in the case of actions
17 brought under this section by the commissioner, shall be re-
18 mitted by the commissioner to the treasurer of state for
19 deposit in the general fund of the state. Also, the
20 commissioner shall not be required to pay any filing fee or
21 other court costs.

22 5. An employer shall not discharge or in any other manner
23 discriminate against any employee because such employee has
24 filed a complaint, assigned a claim, or brought an action
25 under this section or has cooperated in bringing any action
26 against an employer.

*27 Sec. 11. NEW SECTION. WAGE CLAIMS BROUGHT UNDER
28 RECIPROCITY.

29 1. The commissioner may enter into reciprocal agreements
30 with the labor department or corresponding agency of any other
31 state or its representatives for the collection in such other
32 states of claims or judgments for wages and other demands
33 based upon claims assigned to the commissioner.

34 2. The commissioner may, to the extent provided for by
35 any reciprocal agreement entered into by law or with an agency

1 of another state as provided in this section, maintain actions
2 in the courts of such other state for the collection of claims
3 for wages, judgments and other demands and may assign such
4 claims, judgments and demands to the labor department or
5 agency of such other state for collection to the extent that
6 such an assignment may be permitted or provided for by the
7 laws of such state or by reciprocal agreement.

8 3. The commissioner may, upon the written consent of the
9 labor department or other corresponding agency of any other
10 state or its representatives, maintain actions in the courts
11 of this state upon assigned claims for wages, judgments and
12 demands arising in such other state in the same manner and
13 to the same extent that such actions by the commissioner are
14 authorized when arising in this state. However, such actions
15 may be maintained only in cases in which such other state
16 by law or reciprocal agreement extends a like comity to cases
17 arising in this state.

*18 Sec. 12. NEW SECTION. CIVIL PENALTIES.

19 1. Any employer who violates the provisions of this Act,
*20 other than section six (6) of this Act, or the rules
21 promulgated under it shall be subject to a civil money penalty
*22 of not more than one hundred dollars for each violation.

*23 Any employer who violates the provisions of section six
24 (6) of this Act or the rules promulgated under it shall be
*25 subject to a civil money penalty of not more than one hundred
26 dollars for each violation. The commissioner may recover
27 such civil money penalty according to the provisions of
28 subsections two (2) through five (5) of this section. Any
29 civil money penalty recovered shall be deposited in the general
30 fund of the state.

31 2. The commissioner may propose that an employer be
32 assessed a civil money penalty by serving the employer with
33 notice of such proposal in the same manner as an original
34 notice is served under the rules of civil procedure. Upon
35 service of such notice, the proposed assessment shall be

1 treated as a contested case under chapter seventeen A (17A)
2 of the Code. However, an employer must request a hearing
3 within thirty days of being served.

4 3. If an employer does not request a hearing pursuant
5 to subsection two (2) of this section or if the commissioner
6 determines, after an appropriate hearing, that an employer
7 is in violation of this Act, the commissioner shall assess
8 a civil money penalty which is consistent with the provisions
9 of subsection one (1) of this section and which is rendered
10 with due consideration for the penalty amount in terms of
11 the size of the employer's business, the gravity of the
12 violation, the good faith of the employer, and the history
13 of previous violations.

14 4. An employer may seek judicial review of any assessment
15 rendered under subsection three (3) of this section by
16 instituting proceedings for judicial review pursuant to chapter
17 seventeen A (17A) of the Code. However, such proceedings
18 must be instituted in the district court of the county in
19 which the violation or one of the violations occurred and
20 within thirty days of the day on which the employer was
21 notified that an assessment has been rendered. Also, an
22 employer must, upon instituting such proceedings, deposit
23 the amount assessed with the clerk of the district court.
24 Any moneys so deposited shall either be returned to the
25 employer or be forwarded to the commissioner for deposit in
26 the general fund of the state, depending on the outcome of
27 the judicial review, including any appeal to the supreme
28 court.

*29 5. After the time for seeking judicial review has expired
30 or after all judicial review has been exhausted and the
31 commissioner's assessment has been upheld, the commissioner
32 shall refer any unpaid assessments to the attorney general
33 for recovery in a civil action.

*34 Sec. 13.

**35

**1

**2

*3 1. This Act shall not authorize the commissioner or any
4 other person to take any assignment of wages or commence any
5 action that is based on an act committed prior to the effective
6 date of this Act.

*7 Sec. 14. Section seventy-nine point one (79.1), unnumbered
8 paragraphs one (1) and two (2), Code 1975, are amended to
9 read as follows:

10 Salaries specifically provided for in an appropriation
11 Act of the general assembly shall be in lieu of existing
12 statutory salaries, for the positions provided for in any
13 such Act, and all salaries shall be paid ~~in-equal-monthly,~~
14 ~~semi-monthly-or-biweekly-installments~~ according to the
15 provisions of this Act and shall be in full compensation
16 of all services, except as otherwise expressly provided.
17 All employees of the state including highway maintenance
18 employees of the state department of transportation shall
19 earn two weeks' vacation per year during the first year of
20 employment and through the fourth year of employment, and
21 three weeks' vacation per year during the fifth and through
22 the eleventh year of employment, and four weeks' vacation
23 per year during the twelfth year and all subsequent years
24 of employment, with pay. One week vacation shall be equal
25 to the number of hours in the employee's normal work week.
26 Vacation allowances shall be accrued ~~on-a-pay-period,~~ ~~monthly,~~
27 ~~or-quarterly-basis~~ according to the provisions of this Act
28 as provided by the rules of the Iowa merit employment
29 department. Said vacations shall be granted at the discretion
30 and convenience of the head of the department, agency or
31 commission, except that in no case may an employee be granted
32 vacation in excess of the amount earned by him. In the event
33 that the employment of an employee of the state shall-be is
34 ~~terminated for-any-reason-other-than-a-discharge-for-good~~
35 ~~cause,~~ ~~he-shall-be-paid-a-vacation-allowance-for-any-vacation~~

1 which he may have earned prior to such termination, and which
2 he has not yet taken. -- For the purposes of this section, death
3 of an employee shall be considered a termination of employment
4 which shall require payment of such vacation allowances as
5 might be payable for any other termination the provisions of
6 this Act relating to such termination shall apply.

7 If said termination of employment shall be by reason of
8 the death of the employee, such vacation allowance shall be
9 paid to the estate of the deceased employee if such estate
10 shall be open for probate. -- If no estate be opened, the
11 allowance shall be paid to the surviving spouse, if any, or
12 to the legal heirs if no spouse survives.

*13 Sec. 15. Sections four hundred seventy-seven point fifty-
14 one (477.51) and four hundred seventy-seven point fifty-two
15 (477.52), Code 1975, are repealed.

S-3515

1 Amend House File 351, as amended and passed by
2 the House and reprinted, as follows:

3 By striking everything after the enacting clause
4 and inserting in lieu thereof the following:

5 "Section 1. NEW SECTION. DEFINITIONS. As used
6 in this Act, unless the context otherwise requires:

7 1. "Employer" includes any individual, partnership,
8 association, joint stock company, trust, corporation,
9 the administrator or executor of the estate of a
10 deceased individual, or the receiver, trustee, or
11 successor of any of the same, employing any person.

12 2. "Employee" includes any individual employed
13 by an employer but shall not include:

14 a. Any individual employed by the United States,
15 or by the state or any of its political subdivisions
16 thereof;

17 b. Any individual who renders service gratuitously
18 for a nonprofit organization as this term is defined
19 by regulation of the commissioner.

20 3. "Wages" means compensation for labor or services
21 rendered by an employee, whether the amount is
22 determined on a time, task, piece, commission, or
23 other basis of calculation.

24 4. "Commissioner" means the labor commissioner.

25 Sec. 2. NEW SECTION. TIME OF PAYMENT.

26 1. All employers shall pay to their employees
27 all wages due them at least once during each calendar
28 month, on regular paydays designated in advance by
29 the employer, in lawful money of the United States
30 or by checks or warrants payable at face value upon
31 demand, and shall furnish each employee with a state-
32 ment of deductions each pay period.

33 2. The commissioner may, upon application showing
34 good and sufficient reasons, permit an employer to
35 establish regular paydays less frequently than once
36 each month.

37 Sec. 3. NEW SECTION. TERMINATION OF EMPLOYMENT.

38 When an employee quits or resigns, or whenever an
39 employer discharges an employee, the employer shall
40 pay such an employee all wages due him for all prior
41 work. The final wage payment shall be made on or
42 before the date on which he would have been paid had
43 his employment not been terminated. Payment shall
44 be made either through the regular pay channels or
45 by certified mail if the employee requests payment
46 by mail.

47 Sec. 4. NEW SECTION. PENALTY PAYABLE TO WORKER.

48 If an employer fails to pay an employee wages as
49 required, the employer shall be additionally liable
50 to the employee for damages in the amount of five

1 percent of unpaid wages for each day except Sunday
2 and legal holidays upon which the failure continues
3 after the day payment is required or in an amount
4 equal to unpaid wages, whichever is smaller.

5 Sec. 5. NEW SECTION. WITHHOLDING OF WAGES. An
6 employer may not withhold any portion of an employee's
7 wages unless:

8 1. The employer is required or empowered to do
9 so by state or federal law or by court order, or

10 2. The employer has a written authorization by
11 the employee for deductions for a lawful purpose.

12 Sec. 6. NEW SECTION. ENFORCEMENT, RULES AND
13 REGULATIONS. The commissioner shall enforce and
14 administer this Act and may issue, pursuant to chapter
15 seventeen A (17A) of the Code, any rule necessary
16 to carry out the provisions of this Act.

17 Sec. 7. NEW SECTION. RIGHT OF ENTRY. The
18 commissioner or his authorized representative may,
19 only after a formal complaint has been filed, enter
20 and inspect such places, question such employees,
21 and investigate such facts, conditions, or matters
22 as he may deem appropriate, to determine whether any
23 person has violated any provision of this Act or any
24 rule promulgated under this Act.

25 Sec. 8. NEW SECTION. AUTHORITY TO TAKE ASSIGNMENTS
26 OF WAGE CLAIMS.

27 1. Whenever the commissioner determines that wages
28 have not been paid and that the unpaid wages constitute
29 an enforceable claim, the commissioner shall, upon
30 the request of the employee, take an assignment in
31 trust for the assigning employee of the wages and
32 any claim for damages, not to exceed five hundred
33 dollars in the case of any one claim, and may bring
34 any legal action necessary to collect the claim.
35 Upon an assignment, the commissioner may settle and
36 adjust the claim to the same extent as the assigning
37 employee.

38 2. The commissioner may join various claimants
39 in one preferred claim or lien and also join them
40 in one cause of action.

41 Sec. 9. NEW SECTION. PENALTY. Any employer who
42 willfully violates any provision of this Act or who
43 fails to comply with any other requirements of this
44 Act shall be, upon conviction, guilty of a misdemeanor
45 and be punished by a fine of not less than twenty-
46 five dollars nor more than one hundred dollars for
47 each separate offense."

S-3480

- 1 Amend House File 351, as amended and passed by
2 the House and reprinted, as follows:
- 3 1. Page 2, line 10, by striking the word "twice".
 - 4 2. Page 2, line 21, by inserting after the period
5 the words "An employer and employee may, upon written
6 agreement which shall be maintained as a record, vary
7 the provisions of this subsection."
 - 8 3. Page 3, line 1, by striking the word "paid"
9 and inserting in lieu thereof the word "delivered".
 - 10 4. Page 3, line 2, by striking the word "and"
11 and inserting in lieu thereof the word "or".
 - 12 5. Page 3, line 3, by inserting after the period
13 the words "A designee under this subsection shall
14 not also be an assignee or buyer of wages under
15 section five hundred thirty-nine point four (539.4)
16 of the Code nor a garnisher of the employee under
17 chapter six hundred forty-two (642) of the Code,
18 unless the designee complies with the provisions of
19 section five hundred thirty-nine point four (539.4)
20 and chapter six hundred forty-two (642) of the Code."
 - 21 6. Page 3, line 7, by inserting after the word
22 "wages" the words ", less any lawful deductions
23 specified in section five (5) of this Act,".
 - 24 7. Page 3, by striking everything in lines 13
25 through 15, inclusive, and by renumbering the
26 following subsection accordingly.
 - 27 8. Page 3, line 18, by inserting after the word
28 "employer" the words "and incurred by the employee".
 - 29 9. Page 3, line 28, by inserting after the word
30 "earned" the words ", less any lawful deductions
31 specified in section five (5) of this Act,".
 - 32 10. Page 3, by striking everything in lines 30
33 through 33, inclusive, and inserting in lieu thereof
34 the following:
35 "in section three (3) of this Act. Vacations
36 which are due an employee under an agreement with
37 the employer or under a policy of the employer shall
38 accrue in proportion to the fraction of the year for
39 which the employee was actually employed by the
40 employer."
 - 41 11. Page 5, line 5, by striking the word "may"
42 and inserting in lieu thereof the words "permitted
43 to"
 - 44 12. Page 5, line 16, by inserting after the
45 word "employee" the words "on behalf of the
46 employer".
 - 47 13. Page 5, line 20, by striking the words
48 "defective or faulty workmanship,".
 - 49 14. Page 6, line 7, by inserting after the word
50 "commissioner" the words "pursuant to subsection

- 1 two (2) of this section".
2 15. Page 6, by striking everthing in lines 16
3 through 18, inclusive, and inserting in lieu thereof
4 the following:
5 "C. Make available to its employees upon written
6 request, a written statement enumerating employment
7 agreements and policies with".
8 16. Page 6, line 20, by striking the word "and"
9 and inserting in lieu thereof the word "or".
10 17. Page 6, line 21, by striking the period and
11 inserting in lieu thereof the following:
12 "with respect to wages. Notice of such avail-
13 ability shall be given to each employee in writing
14 or by a notice posted at a place where employee
15 notices are routinely posted."
16 18. Page 6, by striking everything in lines 28
17 through 32, inclusive, and inserting in lieu thereof
18 the words "2. The commissioner".
19 19. Page 6, line 33, by striking the words "keep
20 records under" and inserting in lieu thereof the words
21 "comply with".
22 20. Page 6a, by inserting after the period the
23 words "However, a court may, when rendering a judg-
24 ment for wages or nonreimbursed authorized expenses
25 and liquidated damages or upholding a civil money
26 penalty assessment, order that an employer shall not
27 be required to keep records or that an employer
28 shall be required to keep records for a particular
29 period of time."
30 21. Page 7, line 1, by striking the word "Furnish,"
31 and inserting in lieu thereof the words "An employer'
32 shall furnish".
33 22. Page 7, line 2, by striking the word "printed"
34 and inserting in lieu thereof the word "written".
35 23. Page 7, line 16, by inserting after the word
36 "due" the words ", less any lawful deductions speci-
37 fied in section five (5) of this Act".
38 24. Page 9, line 8, by striking the word
39 "claimants" and inserting in lieu thereof the word
40 "assignments".
41 25. Page 10, lines 19 and 20, by striking the words
42 ", other than section six (6) of this Act,".
43 26. Page 10, by striking everything in lines 23
44 through 26, inclusive, and inserting in lieu thereof
45 the words "The commissioner may recover".
46 27. Page 11, line 22, by striking the word "must,"
47 and inserting in lieu thereof the words "may be required,
48 at the discretion of the district court and" and by
49 inserting before the word "deposit" the word "to".
50 28. Page 12, line 8 by striking the words "and

Page 3

- 1 two (2)" and by striking the word "are" and inserting
2 in lieu thereof the word "is".
3 29. Page 13, by striking everything in lines 7
4 through 12, inclusive.

S-3434

1 Amend House File 351, page 2, line 10, by
2 striking the words "exceed twice" and insert in
3 lieu thereof the words "be more than".

S-3434 FILED - *Repealed out of order 4/14 (930)* BY LEONARD C. ANDERSEN
APRIL 1, 1975

HOUSE FILE 351

S-3487

1 Amend House File 351 as follows: a
2 1. Page 5, line 15, by inserting after the word
3 "employer" the words "unless such shortage shall be
4 the act of that employee which that employee has
5 admitted in writing".
6 2. Page 7, line 21, by striking the word "know- b
7 ingly" and inserting in lieu thereof the word "inten-
8 tionally".
9 3. Page 7, line 25, by striking the word "know-
10 ingly" and inserting in lieu thereof the word "inten-
11 tionally".
12 4. Page 7A, line 41, by inserting after the word c
13 "records" the words "concerning wages and payrolls".
14 5. Page 10, line 2, by inserting after the word d
15 "state" the words "to the extent permitted by the
16 laws of that state".

S-3487 FILED *a - lost 4/14 (931)* BY LUCAS J. DE KOSTER
APRIL 9, 1975 *b - adopted " (932)*
c - adopted " "
d - adopted " "

S-3514

1 Amend the Committee on Labor and Industrial
2 Relations amendment S-3480 to House File 351 as
3 amended and passed and reprinted by the House,
4 as follows:
5 1. Page 2, line 27, by striking the words
6 "keep records" and inserting in lieu thereof the
7 words "comply with the provisions of subsection
8 one (1) of this section".
9 2. Page 2, line 28, by striking the words
10 "keep records" and inserting in lieu thereof the
11 words "comply with the provisions of subsection
12 one (1) of this section".

S-3514 FILED - *(adopted 4/14 (929))* BY COMMITTEE ON LABOR
APRIL 11, 1975 AND INDUSTRIAL RELATIONS
CLOYD ROBINSON, CHAIRMAN

S-3517

- 1 Amend House File 351, as amended and passed by
- 2 the House and reprinted, as follows:
- 3 1. Page 5, by inserting after line 10, the
- 4 following:
- 5 "c. The employer and one full-time employee
- 6 have agreed in writing signed by both parties that
- 7 the employee will be responsible for cash shortages
- 8 and losses. Not more than one such agreement shall
- 9 be in effect per establishment."
- 10 2. Page 5, by striking everything in lines 11 and
- 11 12 and inserting in lieu thereof the following:
- 12 "2. Except as provided in subsection one (1) of
- 13 this section, the following shall not be deducted
- 14 from an employee's wages:"

S-3517 FILED AND LOST BY JAMES W. GRIFFIN, SR.
APRIL 14, 1975 (931)

S-3519

- 1 Amend House File 351 as amended and passed by
- 2 the House and reprinted, page 5, line 21, by insert-
- 3 ing after the words "stolen property" the words
- 4 "other than property specifically assigned to an
- 5 employee".

S-3519 FILED - *Withdrawn 4/15* BY CALVIN O. HULTMAN
APRIL 14, 1975 (942)

HOUSE FILE 351

S-3520

- 1 Amend House File 351, as amended and passed by
- 2 the House and reprinted, page 3 by striking all of
- 3 lines 30 through 33 and inserting in lieu thereof
- 4 "in section three (3) of this Act."

S-3520 FILED - BY CALVIN O. HULTMAN
APRIL 14, 1975 LUCAS J. DE KOSTER
RULED OUT OF ORDER (930)

S-3521

- 1 Amend House File 351 as amended and passed by
- 2 the House and reprinted, page 8, line 29, by striking
- 3 the words "one year", and inserting in lieu thereof
- 4 the words "ninety days".

S-3521 FILED - *Withdrawn 4/15* BY CALVIN O. HULTMAN
APRIL 14, 1975 (943)

S-3529

1 Amend the Committee on Labor and Industrial
2 Relations amendment S-3480 to House File 351 as
3 amended, passed and reprinted by the House, as follows:
4 1. Page 1, by striking lines 47 and 48.
5 2. By renumbering the remaining paragraphs in
6 accordance with this amendment.

S-3529 FILED AND LOST BY WILLIAM E. GLUBA
APRIL 14, 1975 (929) ROBERT M. CARR

S-3530

1 Amend the Committee on Labor and Industrial
2 Relations amendment S-3480 to House File 351 as
3 amended and passed and reprinted by the House, page 2,
4 by striking lines 30 through 34 and inserting in lieu
5 thereof the following:
6 "21. Page 7, by striking all of lines 1 through
7 10 and inserting in lieu thereof the following:
8 "3. Within ten working days of a request by an
9 employee, an employer shall furnish to the employee a
10 written, itemized statement listing the earnings and
11 deductions made from the wages for each pay period
12 in which the deductions were made together with an
13 explanation of how the wages and deductions were com-
14 puted. An employer need honor only one such request
15 in any calendar year unless the rate of earnings, hours
16 or deductions are changed during the calendar year.
17 Each change shall entitle an employee to a further
18 request for an itemized statement."

S-3530 FILED AND ADOPTED (930) BY ELIZABETH SHAW
APRIL 14, 1975

HOUSE FILE 351

S-3539

1 Amend House File 351 as amended and passed by
2 the House and reprinted as follows:
3 Page 5, line 21, by inserting after the first
4 comma the words "unless such tools and equipment are
5 specifically assigned to and their receipt acknow-
6 ledged in writing by the employee from whom the
7 deduction is made,".

S-3539 FILED AND ADOPTED BY CALVIN O. HELTMAN
APRIL 15, 1975 (942)

HOUSE FILE 351

S-3531

1 Amend House File 351 as amended, passed and reprinted
2 by the House, as follows:
3 1. Page 8, line 15, by striking the word "written".
4 2. Page 8, line 17, by inserting after the period
5 the following: "The commissioner may require that such
6 complaint be written, affirmed by oath, and signed on
7 forms supplied by the commissioner."
8 3. Page 8, by striking lines 24 through 30 and
9 inserting in lieu thereof the following:
10 "consent of the complaining employee:
11 a. Take an assignment in trust for the wages and for
12 any claim for liquidated damages without being bound by
13 any of the technical rules respecting the validity of
14 the assignment; or,
15 b. Take an assignment for the wages and for any claim
16 for liquidated damages and pay the complaining employee
17 the amount determined by the commissioner to be due the
18 employee for the wages from funds appropriated to the
19 bureau of labor for that purpose.
20 However, the commissioner shall not accept any
21 complaint for unpaid wages and liquidated damages
22 after one year from the date the wages became due and
23 payable.
24 4. Page 9, line 2, by inserting after the word
25 "recovery" the words "or to recover for the benefit of
26 the state any wage and liquidated damages' claims that
27 have been assigned to the commissioner and for which
28 the assigning employee has been paid".

S-3531 FILED - *Filed out of* BY RICHARD R. RAMSEY
APRIL 14, 1975 *order 4/15 (943)*

S-3537

1 Amend House File 351 as amended, passed and
2 reprinted by the House, page 5, line 15, by insert-
3 ing after the period the sentences: "However, the
4 employer and a full-time employee who is the manager
5 of an establishment may agree in writing signed by
6 both parties that the employee will be responsible
7 for a cash shortage that occurs within forty-five
8 days prior to the most recent regular pay day. Not
9 more than one such agreement shall be in effect per
10 establishment."

S-3537 FILED AND ADOPTED (942) BY LUCAS J. DE KOSTER
APRIL 15, 1975

S-3526

- 1 Amend House File 351, as amended and passed by the
- 2 House and reprinted, as follows:
- 3 1. Page 8, line 15, by striking the word
- 4 "written".
- 5 2. Page 8, line 17, by inserting after the
- 6 period the following:
- 7 "The commissioner may require that such complaint
- 8 be written, affirmed by oath, and signed on forms
- 9 supplied by the commissioner."
- 10 3. Page 8, line 23, by striking the comma.
- 11 4. Page 8, line 24, by striking the comma and the
- 12 word "an" and inserting in lieu thereof the words
- 13 ":
- 14 a. Take".
- 15 5. Page 8, line 27, by inserting after the word
- 16 "assignment" the words "; or
- 17 b. Take an assignment for the wages and for any
- 18 claim for liquidated damages and pay the complaining
- 19 employee the amount determined by the commissioner
- 20 to be due the employee from funds appropriated to the
- 21 bureau of labor for that purpose."
- 22 6. Page 9, line 2, by inserting after the word
- 23 "recovery" the words "or to recover for the benefit
- 24 of the state any wage and liquidated damages' claims
- 25 that have been assigned to the commissioner and for
- 26 which the assigning employee has been paid."

S-3526 FILED - Withdrawn 4/15 (942) BY RICHARD R. RAMSEY
APRIL 14, 1975

S-3527

- 1 Amend the Committee on Labor and Industrial
- 2 Relations amendment S-3480 to House file 351 as
- 3 amended and passed and reprinted by the House, page 1,
- 4 by striking lines 35 through 40 and inserting in lieu
- 5 thereof the following:
- 6 "in section three (3) of this Act. If vacations
- 7 are due an employee under an agreement with the em-
- 8 ployer or a policy of the employer establishing pro-
- 9 rata vacation accrued, the increment shall be in
- 10 proportion to the fraction of the year which the
- 11 employee was actually employed."

S-3527 FILED AND ADOPTED (928) BY ELIZABETH SHAW
APRIL 14, 1975

HOUSE FILE 351

S-3523

1 Amend the Committee on Labor and Industrial
2 Relations amendment S-3480 to House File 351 as
3 amended and passed by the House and reprinted,
4 page 1, by striking all of lines 35 through 40 and
5 inserting in lieu thereof the following:
6 "in section three (3) of this Act."

S-3523 FILED AND LOST BY CALVIN O. HULTMAN
APRIL 14, 1975 (928) LUCAS J. DE KOSTER

S-3524

1 Amend the Nystrom amendment (S-3515) to House
2 File 351, as amended and passed by the House and
3 reprinted, as follows:
4 Page 2, by striking everything in lines 27
5 through 40, inclusive, and inserting in lieu
6 thereof the following:
7 "1. An employee may complain to the commissioner
8 that his or her employer has violated the provisions
9 of this Act. The commissioner may require that the
10 complaint be in writing, affirmed by oath, and signed
11 by the complainant on forms supplied by the commis-
12 sioner.
13 2. Whenever the commissioner determines that
14 wages have not been paid and that the unpaid wages
15 constitute an enforceable claim, the commissioner may,
16 upon the request of the employee, for a period of one
17 year from the date the wages became due and payable:
18 a. Take an assignment in trust for the assigning
19 employee of the wages and any claim for damages; or
20 b. Take an assignment of the wages and any claim
21 for damages due the employee, and pay the employee
22 the amount determined by the commissioner to be due
23 the employee from funds appropriated to the bureau
24 of labor for that purpose.
25 3. Upon receipt of an assignment, the commissioner
26 shall bring any legal action necessary to collect
27 the claim. The commissioner also may settle and
28 adjust the claim to the same extent as the assigning
29 employee. For the purpose of bringing a legal action
30 or settling a claim, the commissioner may join
31 various complainants in one preferred claim or lien
32 and also join them in one cause of action."

S-3524 FILED AND LOST (927) BY RICHARD R. RAMSEY
APRIL 14, 1975

S-3525

1 Amend House File 351 as amended, passed and reprinted
2 by the House, page 1, line 9, by striking the words
3 "a natural person" and inserting in lieu thereof the
4 following: "twenty-five or more natural persons".

S-3525 FILED AND LOST (930) BY CALVIN O. HULTMAN
APRIL 14, 1975 W. R. RABEDEAUX

1 Amend House File 351, as amended and passed by
2 the House and reprinted, as follows:

3 1. Page 1, by striking everything in lines 20
4 through 25, inclusive, and inserting in lieu thereof
5 the following:

6 "b. Any person engaged in agriculture as an
7 owner-operator or tenant-operator and the spouse or
8 relatives of either who reside on the premises while
9 exchanging labor with the operator or for other mutual
10 benefit of any and all such persons."

11 2. Page 1, line 12, by striking the words
12 "However, employee" and inserting in lieu thereof the
13 word "Employee".

14 3. Page 1A, line 37, by striking the word
15 "However,".

16 4. Page 1A, line 38, by striking the word "the"
17 and inserting in lieu thereof the word "The".

18 5. Page 2, line 7, by striking the word "dis-
19 counting" and inserting in lieu thereof the word
20 "excluding".

21 6. Page 5, line 17, by striking the words "so
22 long as the employee is" and inserting in lieu thereof
23 the words "if the employee has been".

24 7. Page 7, by striking all of lines 27 through
25 33 and inserting in lieu thereof the following:

26 "court costs and any attorney's fees incurred
27 in recovering the unpaid wages and determined to have
28 been usual and necessary. In other instances the
29 employer shall be liable only for unpaid wages or
30 expenses, court costs and usual and necessary attor-
31 ney's fees incurred in recovering the unpaid wages or
32 expenses."

33 8. Page 7A, by striking lines 36 and 37 and
34 inserting in lieu thereof the following:

35 "1. The commissioner shall administer and enforce
36 the provisions of this Act. The commissioner".

37 9. Page 8, by striking line 11 and inserting
38 in lieu thereof the words "seventeen A (17A) of the
39 Code, any rules necessary".

40 10. Page 8, by striking all of lines 16 through
41 30 and inserting in lieu thereof the following:

42 "the commissioner may determine whether alleged
43 unpaid wages may constitute an enforceable claim. The
44 commissioner shall make his determination and notify
45 the complaining employee within a reasonable time.
46 If it is determined that an enforceable claim exists,
47 the commissioner shall, with the consent of the employee,
48 take an assignment on trust for the wages and any claim
49 for liquidated damages without being bound by the
50 technical rules respecting the validity of the assign-

Page 2

1 ment. No complaint for unpaid wages and liquidated
2 damages shall be entertained by the commissioner more
3 than one year from the date the wages become due and
4 payable."

5 11. Page 11, by striking lines 32 and 33 and
6 inserting in lieu thereof the words "shall request
7 the attorney general to recover the assessed penalties
8 in a civil action."

HOUSE FILE 351

S-3538

1 Amend House File 351, as amended and passed by
2 the House and reprinted, as follows:

3 1. Page 2, line 19, by inserting after the
4 period the following:

5 "However, if any of these wages due its employees
6 are determined on a commission basis, the employer
7 may, upon agreement with the employee, pay only a
8 credit against such wages. If such credit is paid,
9 the employer shall, at regular intervals, pay any
10 difference between a credit paid against wages
11 determined on a commission basis and such wages
12 actually earned on a commission basis. These regular
13 intervals shall not be separated by more than twelve
14 months."

15 2. Page 3, line 30, by inserting after the period
16 the following:

17 "However, if any of these wages are the difference
18 between a credit paid against wages determined on
19 a commission basis and such wages actually earned on
20 a commission basis, the employer shall pay such
21 difference not more than thirty days after the date of
22 suspension or termination."

S-3538 FILED AND ADOPTED
APRIL 15, 1975 (941)

BY CLOYD ROBINSON
LUCAS J. DE KOSTER

H-3584

1 Amend House File 351, as amended and passed by
2 the House and reprinted, as follows:

3 1. Page 1, line 12, by striking the words
4 "However, employee" and inserting in lieu thereof the
5 word "Employee".

6 2. Page 1, by striking everything in lines 20
7 through 25, inclusive, and inserting in lieu thereof
8 the following:

9 "b. Any person engaged in agriculture as an
10 owner-operator or tenant-operator and the spouse or
11 relatives of either who reside on the premises while
12 exchanging labor with the operator or for other mutual
13 benefit of any and all such persons."

14 3. Page 1A, line 37, by striking the word
15 "However,".

16 4. Page 1A, line 38, by striking the word "the"
17 and inserting in lieu thereof the word "The".

18 5. Page 2, line 7, by striking the word "dis-
19 counting" and inserting in lieu thereof the word
20 "excluding".

21 6. Page 2, line 10, by striking the word "twice".

22 7. Page 2, line 19, by inserting after the
23 period the following:

24 "However, if any of these wages due its employees
25 are determined on a commission basis, the employer
26 may, upon agreement with the employee, pay only a
27 credit against such wages. If such credit is paid,
28 the employer shall, at regular intervals, pay any
29 difference between a credit paid against wages
30 determined on a commission basis and such wages
31 actually earned on a commission basis. These regular
32 intervals shall not be separated by more than twelve
33 months."

34 8. Page 2, line 21, by inserting after the period
35 the words "An employer and employee may, upon written
36 agreement which shall be maintained as a record, vary
37 the provisions of this subsection."

38 9. Page 3, line 1, by striking the word "paid"
39 and inserting in lieu thereof the word "delivered".

40 10. Page 3, line 2, by striking the word "and"
41 and inserting in lieu thereof the word "or".

42 11. Page 3, line 3, by inserting after the period
43 the words "A designee under this subsection shall
44 not also be an assignee or buyer of wages under
45 section five hundred thirty-nine point four (539.4)
46 of the Code nor a garnisher of the employee under
47 chapter six hundred forty-two (642) of the Code,
48 unless the designee complies with the provisions of
49 section five hundred thirty-nine point four (539.4)
50 and chapter six hundred forty-two (642) of the Code."

- 1 12. Page 3, line 7, by inserting after the word
- 2 "wages" the words ", less any lawful deductions
- 3 specified in section five (5) of this Act,".
- 4 13. Page 3, by striking everything in lines 13
- 5 through 15, inclusive, and by renumbering the
- 6 following subsection accordingly.
- 7 14. Page 3, line 18, by inserting after the word
- 8 "employer" the words "and incurred by the employee".
- 9 15. Page 3, line 28, by inserting after the word
- 10 "earned" the words ", less any lawful deductions
- 11 specified in section five (5) of this Act,".
- 12 16. Page 3, by striking everything in lines 30
- 13 through 33, inclusive, and inserting in lieu thereof
- 14 the following:
- 15 "in section three (3) of this Act. If vacations
- 16 are due an employee under an agreement with the em-
- 17 ployer or a policy of the employer establishing pro-
- 18 rata vacation accrued, the increment shall be in
- 19 proportion to the fraction of the year which the
- 20 employee was actually employed."
- 21 17. Page 3, line 30, by inserting after the period
- 22 the following:
- 23 "However, if any of these wages are the difference
- 24 between a credit paid against wages determined on
- 25 a commission basis and such wages actually earned on
- 26 a commission basis, the employer shall pay such
- 27 difference not more than thirty days after the date of
- 28 suspension or termination."
- 29 18. Page 5, line 5, by striking the word "may"
- 30 and inserting in lieu thereof the words "permitted
- 31 to".
- 32 19. Page 5, line 15, by inserting after the period the
- 33 sentences: "However, the employer and a full-time employee
- 34 who is the manager of an establishment may agree in
- 35 writing signed by both parties that the employee will
- 36 be responsible for a cash shortage that occurs within
- 37 forty-five days prior to the most recent regular pay
- 38 day. Not more than one such agreement shall be in
- 39 effect per establishment."
- 40 20. Page 5, line 16, by inserting after the
- 41 word "employee" the words "on behalf of the
- 42 employer".
- 43 21. Page 5, line 17, by striking the words "so
- 44 long as the employee is" and inserting in lieu thereof
- 45 the words "if the employee has been".
- 46 22. Page 5, line 20, by striking the words
- 47 "defective or faulty workmanship,".
- 48 23. Page 5, line 21, by inserting after the first
- 49 comma the words "unless such tools and equipment are
- 50 specifically assigned to and their receipt acknow-

1 ledged in writing by the employee from whom the
2 deduction is made,".

3 24. Page 6, line 7, by inserting after the word
4 "commissioner" the words "pursuant to subsection
5 two (2) of this section".

6 25. Page 6, by striking everything in lines 16
7 through 18, inclusive, and inserting in lieu thereof
8 the following:

9 "C. Make available to its employees upon written
10 request, a written statement enumerating employment
11 agreements and policies with".

12 26. Page 6, line 20, by striking the word "and"
13 and inserting in lieu thereof the word "or".

14 27. Page 6, line 21, by striking the period and
15 inserting in lieu thereof the following:

16 "with respect to wages. Notice of such avail-
17 ability shall be given to each employee in writing
18 or by a notice posted at a place where employee
19 notices are routinely posted."

20 28. Page 6, by striking everything in lines 28
21 through 32, inclusive, and inserting in lieu thereof
22 the words "2. The commissioner".

23 29. Page 6, line 33, by striking the words "keep
24 records under" and inserting in lieu thereof the words
25 "comply with".

26 30. Page 6A, by inserting after the period the
27 words "However, a court may, when rendering a judg-
28 ment for wages or nonreimbursed authorized expenses
29 and liquidated damages or upholding a civil money
30 penalty assessment, order that an employer shall not
31 be required to comply with the provisions of sub-
32 section one (1) of this section or that an employer
33 shall be required to comply with the provisions of
34 subsection one (1) of this section for a particular
35 period of time."

36 31. Page 7, by striking all of lines 1 through
37 10 and inserting in lieu thereof the following:

38 "3. Within ten working days of a request by an
39 employee, an employer shall furnish to the employee a
40 written, itemized statement listing the earnings and
41 deductions made from the wages for each pay period
42 in which the deductions were made together with an
43 explanation of how the wages and deductions were com-
44 puted. An employer need honor only one such request
45 in any calendar year unless the rate of earnings, hours
46 or deductions are changed during the calendar year.
47 Each change shall entitle an employee to a further
48 request for an itemized statement."

49 32. Page 7, line 16, by inserting after the word
50 "due" the words ", less any lawful deductions speci-

- 1 filed in section five (5) of this Act".
2 33. Page 7, line 21, by striking the word "know-
3 ingly" and inserting in lieu thereof the word "inten-
4 tionally".
5 34. Page 7, line 25, by striking the word "know-
6 ingly" and inserting in lieu thereof the word "inten-
7 tionally".
8 35. Page 7, by striking all of lines 27 through
9 33 and inserting in lieu thereof the following:
10 "court costs and any attorney's fees incurred
11 in recovering the unpaid wages and determined to have
12 been usual and necessary. In other instances the
13 employer shall be liable only for unpaid wages or
14 expenses, court costs and usual and necessary attor-
15 ney's fees incurred in recovering the unpaid wages or
16 expenses."
17 36. Page 7A, by striking lines 36 and 37 and
18 inserting in lieu thereof the following:
19 "1. The commissioner shall administer and enforce
20 the provisions of this Act. The commissicner".
21 37. Page 7A, line 41, by inserting after the word
22 "records" the words "concerning wages and payrolls".
23 38. Page 8, by striking line 11 and inserting
24 in lieu thereof the words "seventeen A (17A) of the
25 Code, any rules necessary".
26 39. Page 9, line 8, by striking the word
27 "claimants" and inserting in lieu thereof the word
28 "assignments".
29 40. Page 10, line 2, by inserting after the word
30 "state" the words "to the extent permitted by the
31 laws of that state".
32 41. Page 10, lines 19 and 20, by striking the words
33 ", other than section six (6) of this Act,".
34 42. Page 10, by striking everything in lines 23
35 through 26, inclusive, and inserting in lieu thereof
36 the words "The commissioner may recover".
37 43. Page 11, line 22, by striking the word "must,"
38 and inserting in lieu thereof the words "may be required,
39 at the discretion of the district court and" and by
40 inserting before the word "deposit" the word "to".
41 44. Page 11, by striking lines 32 and 33 and
42 inserting in lieu thereof the words "shall request
43 the attorney general to recover the assessed penalties
44 in a civil action."
45 45. Page 12, line 8 by striking the words "and
46 two (2)" and by striking the word "are" and inserting
47 in lieu thereof the word "is".
48 46. Page 13, by striking everything in lines 7
49 through 12, inclusive.

HOUSE FILE 351

AN ACT

RELATING TO THE PAYMENT OF WAGES AND EXPENSES BY AN EMPLOYER
AND PROVIDING A CIVIL MONEY PENALTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. SHORT TITLE. This Act shall be known and may be referred to as the "Iowa Wage Payment Collection Law".

Sec. 2. NEW SECTION. DEFINITIONS. As used in this Act:

1. "Commissioner" means the labor commissioner or a designee.
2. "Employer" means any person, as defined in chapter four (4) of the Code, who in this state employs for wages a natural person.
3. "Employee" means a natural person who is employed in this state for wages by an employer. Employee does not mean a licensed person employed on a contractual basis for professional services. For the purposes of this Act, the following persons engaged in agriculture shall not be deemed employees:
 - a. The spouse of the employer and relatives of either the employer or spouse residing on the premises of the employer, and
 - b. Any person engaged in agriculture as an owner-operator or tenant-operator and the spouse or relatives of either who reside on the premises while exchanging labor with the operator or for other mutual benefit of any and all such persons.
4. "Wages" means compensation owed by an employer for:
 - a. Labor or services rendered by an employee, whether determined on a time, task, piece, commission, or other basis of calculation.
 - b. Vacation, holiday, sick leave, and severance payments which are due an employee under an agreement with the employer or under a policy of the employer.
 - c. Any payments to the employee or to a fund for the

benefit of the employee, including but not limited to payments for medical, health, hospital, welfare, pension, or profit-sharing, which are due an employee under an agreement with the employer or under a policy of the employer. The assets of an employee in a fund for the benefit of the employee, whether such assets were originally paid into the fund by an employer or employee, are not wages.

5. "Days" means calendar days.

6. "Liquidated damages" means the sum of five percent multiplied by the amount of any wages that were not paid or of any authorized expenses that were not reimbursed on a regular payday or on another day pursuant to section three (3) of this Act multiplied by the total number of days, excluding Sundays, legal holidays, and the first seven days after the regular payday on which wages were not paid or expenses were not reimbursed. However, such sum shall not exceed the amount of the unpaid wages and shall not accumulate when an employer is subject to a petition filed in bankruptcy.

Sec. 3. NEW SECTION. MODE OF PAYMENT.

1. An employer shall pay all wages due its employees, less any lawful deductions specified in section five (5) of this Act, at least in monthly, semimonthly, or biweekly installments on regular paydays which are at consistent intervals from each other and which are designated in advance by the employer. However, if any of these wages due its employees are determined on a commission basis, the employer may, upon agreement with the employee, pay only a credit against such wages. If such credit is paid, the employer shall, at regular intervals, pay any difference between a credit paid against wages determined on a commission basis and such wages actually earned on a commission basis. These regular intervals shall not be separated by more than twelve months. A regular payday shall not be more than twelve days, excluding Sundays and legal holidays, after the end of the period in which the wages were earned. An employer and employee may, upon written agreement which shall be maintained as a record, vary the provisions of this subsection.

2. The wages paid under subsection one (1) of this section shall be paid in United States currency or by written instrument issued by the employer and negotiable on demand at full face value for such currency, unless the employee has agreed in writing to receive a part of or all wages in kind or in other form.

3. The wages paid under subsection one (1) of this section shall be sent to the employee by mail or be paid at the employee's normal place of employment during normal employment hours or at a place and hour mutually agreed upon by the employer and employee.

4. The wages paid under subsection one (1) of this section may be delivered to a designee of the employee who is so designated in writing or may be sent to the employee by any reasonable means requested by the employee in writing. A designee under this subsection shall not also be an assignee or buyer of wages under section five hundred thirty-nine point four (539.4) of the Code nor a garnisher of the employee under chapter six hundred forty-two (642) of the Code, unless the designee complies with the provisions of section five hundred thirty-nine point four (539.4) and chapter six hundred forty-two (642) of the Code.

5. If an employee is absent from the normal place of employment on the regular payday, the employer shall, upon demand of the employee made within the first seven days following the regular payday, pay the wages, less any lawful deductions specified in section five (5) of this Act, which were due on that regular payday. However, if demand is not made within this seven-day period, the employer shall, upon demand of the employee, pay the wages which were due on a regular payday within the first seven days following the day on which demand is made.

6. Expenses by the employee which are authorized by the employer and incurred by the employee shall either be reimbursed in advance of expenditure or be reimbursed not later than thirty days after the employee's submission of an expense claim. If the employer refuses to pay all or part

of each claim, the employer shall submit to the employee a written justification of such refusal within the same time period in which expense claims are paid under this subsection.

Sec. 4. NEW SECTION. EMPLOYMENT SUSPENSION OR TERMINATION-HOW WAGES ARE PAID. When the employment of an employee is suspended or terminated, the employer shall pay all wages earned, less any lawful deductions specified in section five (5) of this Act, by the employee up to the time of the suspension or termination not later than the next regular payday as provided in section three (3) of this Act. However, if any of these wages are the difference between a credit paid against wages determined on a commission basis and such wages actually earned on a commission basis, the employer shall pay such difference not more than thirty days after the date of suspension or termination. If vacations are due an employee under an agreement with the employer or a policy of the employer establishing pro-rata vacation accrued, the increment shall be in proportion to the fraction of the year which the employee was actually employed.

Sec. 5. NEW SECTION. DEDUCTIONS FROM WAGES.

1. An employer shall not withhold or divert any portion of an employee's wages unless:

- a. The employer is required or permitted to do so by state or federal law or by order of a court of competent jurisdiction; or
- b. The employer has written authorization from the employee to so deduct for any lawful purpose accruing to the benefit of the employee.

2. The following shall not be deducted from an employee's wages:

- a. Cash shortage in a common money till, cash box, or register operated by two or more employees or by an employee and an employer. However, the employer and a full-time employee who is the manager of an establishment may agree in writing signed by both parties that the employee will be responsible for a cash shortage that occurs within forty-five days prior to the most recent regular payday. Not more than

one such agreement shall be in effect per establishment.

b. Losses due to acceptance by an employee on behalf of the employer of checks which are subsequently dishonored if the employee has been given the discretion to accept or reject such checks and the employee does not abuse the discretion given.

c. Losses due to breakage, lost or stolen property, unless such tools and equipment are specifically assigned to and their receipt acknowledged in writing by the employee from whom the deduction is made, damage to property, default of customer credit, or nonpayment for goods or services rendered so long as such losses are not attributable to the employee's willful or intentional disregard of the employer's interests.

d. Gratuities received by an employee from customers of the employer.

Sec. 6. NEW SECTION. NOTICE AND RECORD-KEEPING REQUIREMENTS.

1. An employer shall after being notified by the commissioner pursuant to subsection two (2) of this section:

a. Notify its employees in writing at the time of hiring what wages and regular paydays are designated by the employer.

b. Notify, at least one pay period prior to the initiation of any changes, its employees of any changes in the arrangements specified in subsection one (1) of this section that reduce wages or alter the regular paydays. The notice shall either be in writing or posted at a place where employee notices are routinely posted.

c. Make available to its employees upon written request, a written statement enumerating employment agreements and policies with regard to vacation pay, sick leave, reimbursement for expenses, retirement benefits, severance pay, or other comparable matters with respect to wages. Notice of such availability shall be given to each employee in writing or by a notice posted at a place where employee notices are routinely posted.

d. Establish, maintain, and preserve for three calendar years the payroll records showing the hours worked, wages

earned, and deductions made for each employee and any employment agreements entered into between an employer and employee.

2. The commissioner shall notify an employer to comply with subsection one (1) of this section if the employer has paid a claim for unpaid wages or nonreimbursed authorized expenses and liquidated damages under section ten (10) of this Act or if the employer has been assessed a civil money penalty under section twelve (12) of this Act. However, a court may, when rendering a judgment for wages or nonreimbursed authorized expenses and liquidated damages or upholding a civil money penalty assessment, order that an employer shall not be required to comply with the provisions of subsection one (1) of this section or that an employer shall be required to comply with the provisions of subsection one (1) of this section for a particular period of time.

3. Within ten working days of a request by an employee, an employer shall furnish to the employee a written, itemized statement listing the earnings and deductions made from the wages for each pay period in which the deductions were made together with an explanation of how the wages and deductions were computed. An employer need honor only one such request in any calendar year unless the rate of earnings, hours or deductions are changed during the calendar year. Each change shall entitle an employee to a further request for an itemized statement.

Sec. 7. NEW SECTION. WAGE DISPUTES. If there is a dispute between an employer and employee concerning the amount of wages or expense reimbursement due, the employer shall, without condition and pursuant to section three (3) of this Act, pay all wages conceded to be due and reimburse all expenses conceded to be due, less any lawful deductions specified in section five (5) of this Act. Payment of wages or reimbursement of expenses under this section shall not relieve the employer of any liability for the balance of wages or expenses claimed by the employee.

Sec. 8. NEW SECTION. DAMAGES RECOVERABLE BY AN EMPLOYEE.

When it has been shown that an employer has intentionally failed to pay an employee wages or reimburse expenses pursuant to section three (3) of this Act, whether as the result of a wage dispute or otherwise, the employer shall be liable to the employee for any wages or expenses that are so intentionally failed to be paid or reimbursed, plus liquidated damages, court costs and any attorney's fees incurred in recovering the unpaid wages and determined to have been usual and necessary. In other instances the employer shall be liable only for unpaid wages or expenses, court costs and usual and necessary attorney's fees incurred in recovering the unpaid wages or expenses.

Sec. 9. NEW SECTION. GENERAL POWERS AND DUTIES OF THE COMMISSIONER.

1. The commissioner shall administer and enforce the provisions of this Act. The commissioner may hold hearings and investigate charges of violations of this Act.

2. The commissioner may, consistent with due process of law, enter any place of employment to inspect records concerning wages and payrolls, to question the employer and employees, and to investigate such facts, conditions or matters as are deemed appropriate in determining whether any person has violated the provisions of this Act. However, such entry by the commissioner shall only be in response to a written complaint.

3. The commissioner may employ such qualified personnel as are necessary for the enforcement of this Act. Such personnel shall be employed pursuant to chapter nineteen A (19A) of the Code.

4. The commissioner shall promulgate, pursuant to chapter seventeen A (17A) of the Code, any rules necessary to carry out the provisions of this Act.

Sec. 10. NEW SECTION. SETTLEMENT OF CLAIMS AND SUITS FOR WAGES.

1. Upon the written complaint of the employee involved, the commissioner may determine whether wages have not been paid and may constitute an enforceable claim. If for any

reason the commissioner decides not to make such determination, the commissioner shall so notify the complaining employee within fourteen days of receipt of the complaint. The commissioner shall otherwise notify the employee of such determination within a reasonable time and if it is determined that there is an enforceable claim, the commissioner shall, with the consent of the complaining employee, take an assignment in trust for the wages and for any claim for liquidated damages without being bound by any of the technical rules respecting the validity of the assignment. However, the commissioner shall not accept any complaint for unpaid wages and liquidated damages after one year from the date the wages became due and payable.

2. The commissioner with the assistance of the office of the attorney general if the commissioner requests such assistance, shall, unless a settlement is reached under this subsection, commence a civil action in any court of competent jurisdiction to recover for the benefit of any employee any wage and liquidated damages' claims that have been assigned to the commissioner for recovery. With the consent of the assigning employee, the commissioner may also settle a claim on behalf of the assigning employee. Proceedings under this subsection and subsection one (1) of this section that precede commencement of a civil action shall be conducted informally without any party having a right to be heard before the commissioner. The commissioner may join various assignments in one claim for the purpose of settling or litigating their claims.

3. The provisions of subsection one (1) and two (2) of this section shall not be construed to prevent an employee from settling or bringing an action for damages under section eight (8) of this Act if the employee has not assigned the claim under subsection one (1) of this section.

4. Any recovery of attorney's fees, in the case of actions brought under this section by the commissioner, shall be remitted by the commissioner to the treasurer of state for deposit in the general fund of the state. Also, the

commissioner shall not be required to pay any filing fee or other court costs.

5. An employer shall not discharge or in any other manner discriminate against any employee because such employee has filed a complaint, assigned a claim, or brought an action under this section or has cooperated in bringing any action against an employer.

Sec. 11. NEW SECTION. WAGE CLAIMS BROUGHT UNDER RECIPROCITY.

1. The commissioner may enter into reciprocal agreements with the labor department or corresponding agency of any other state or its representatives for the collection in such other states of claims or judgments for wages and other demands based upon claims assigned to the commissioner.

2. The commissioner may, to the extent provided for by any reciprocal agreement entered into by law or with an agency of another state as provided in this section, maintain actions in the courts of such other state to the extent permitted by the laws of that state for the collection of claims for wages, judgments and other demands and may assign such claims, judgments and demands to the labor department or agency of such other state for collection to the extent that such an assignment may be permitted or provided for by the laws of such state or by reciprocal agreement.

3. The commissioner may, upon the written consent of the labor department or other corresponding agency of any other state or its representatives, maintain actions in the courts of this state upon assigned claims for wages, judgments and demands arising in such other state in the same manner and to the same extent that such actions by the commissioner are authorized when arising in this state. However, such actions may be maintained only in cases in which such other state by law or reciprocal agreement extends a like comity to cases arising in this state.

Sec. 12. NEW SECTION. CIVIL PENALTIES.

1. Any employer who violates the provisions of this Act or the rules promulgated under it shall be subject to a civil

money penalty of not more than one hundred dollars for each violation. The commissioner may recover such civil money penalty according to the provisions of subsections two (2) through five (5) of this section. Any civil money penalty recovered shall be deposited in the general fund of the state.

2. The commissioner may propose that an employer be assessed a civil money penalty by serving the employer with notice of such proposal in the same manner as an original notice is served under the rules of civil procedure. Upon service of such notice, the proposed assessment shall be treated as a contested case under chapter seventeen A (17A) of the Code. However, an employer must request a hearing within thirty days of being served.

3. If an employer does not request a hearing pursuant to subsection two (2) of this section or if the commissioner determines, after an appropriate hearing, that an employer is in violation of this Act, the commissioner shall assess a civil money penalty which is consistent with the provisions of subsection one (1) of this section and which is rendered with due consideration for the penalty amount in terms of the size of the employer's business, the gravity of the violation, the good faith of the employer, and the history of previous violations.

4. An employer may seek judicial review of any assessment rendered under subsection three (3) of this section by instituting proceedings for judicial review pursuant to chapter seventeen A (17A) of the Code. However, such proceedings must be instituted in the district court of the county in which the violation or one of the violations occurred and within thirty days of the day on which the employer was notified that an assessment has been rendered. Also, an employer may be required, at the discretion of the district court and upon instituting such proceedings, to deposit the amount assessed with the clerk of the district court. Any moneys so deposited shall either be returned to the employer or be forwarded to the commissioner for deposit in the general fund of the state, depending on the outcome of the judicial

review, including any appeal to the supreme court.

5. After the time for seeking judicial review has expired or after all judicial review has been exhausted and the commissioner's assessment has been upheld, the commissioner shall request the attorney general to recover the assessed penalties in a civil action.

Sec. 13.

1. This Act shall not authorize the commissioner or any other person to take any assignment of wages or commence any action that is based on an act committed prior to the effective date of this Act.

Sec. 14. Section seventy-nine point one (79.1), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Salaries specifically provided for in an appropriation Act of the general assembly shall be in lieu of existing statutory salaries, for the positions provided for in any such Act, and all salaries shall be paid ~~in-equal-monthly, semi-monthly-or-biweekly-installments~~ according to the provisions of this Act and shall be in full compensation of all services, except as otherwise expressly provided. All employees of the state including highway maintenance employees of the state department of transportation shall earn two weeks' vacation per year during the first year of employment and through the fourth year of employment, and three weeks' vacation per year during the fifth and through the eleventh year of employment, and four weeks' vacation per year during the twelfth year and all subsequent years of employment, with pay. One week vacation shall be equal to the number of hours in the employee's normal work week. Vacation allowances shall be accrued ~~on-a-pay-period, monthly, or-quarterly-basis~~ according to the provisions of this Act as provided by the rules of the Iowa merit employment department. Said vacations shall be granted at the discretion and convenience of the head of the department, agency or commission, except that in no case may an employee be granted vacation in excess of the amount earned by him. In the event that the employment of an employee of the state shall be is

~~terminated for-any-reason-ether-than-a-discharge-for-good cause, he shall be paid a vacation allowance for any vacation which he may have earned prior to such termination, and which he has not yet taken. For the purposes of this section, death of an employee shall be considered a termination of employment which shall require payment of such vacation allowances as might be payable for any other termination~~ the provisions of this Act relating to such termination shall apply.

Sec. 15. Sections four hundred seventy-seven point fifty-one (477.51) and four hundred seventy-seven point fifty-two (477.52), Code 1975, are repealed.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 351, Sixty-sixth General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved 6/3, 1975

ROBERT D. RAY
Governor