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ROLL NUMBER

DESCRIPTION

1337

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1337

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1337

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: 01-23-2007

Recorder Job Number: 1644

Committee Clerk Signature

Lisa M Thomas

Minutes:

Chairman Keiser opened the hearing on HB 1337. HB 1337 relates to the state minimum wage.

Rep. Zaiser introduced the bill.

Rep. Zaiser: HB 1337 essentially raises the minimum wage from what it is now at \$5.15 per hour now, to \$7.25, which is essentially what the federal minimum wage is going to be. I have been working on this bill for three or four years. I started actually drafting this bill last February or March. This bill raises the minimum wage to \$7.25 per hour. Instead of businesses having to make up for a two dollar or three dollar jump, this will hopefully be the last time that businesses will have to compensate for that kind of raise in minimum wage. The other business friendly aspect of this bill is that the adjustment takes place in September for it to be affective in January. The first year it would jump beyond \$7.25 would be 2009. So the first adjustment would take place in September of 2008. We felt like the first adjustment was significant enough and it would be enough to swallow, that we didn't want to have one too soon. Most people would say that this bill is unfriendly to business. I would say perhaps in a short term. But in the long term, I believe that for North Dakota to really turn around, talking to Job Service, other businesses, the biggest problem we have is our work force. I am very

impressed with what the interim economic development committee put together in terms of economic development, my fear is and have been for a number of years, many of those may not come from tuition unless we can actually find people to work in those jobs. People are not coming to North Dakota. They are leaving North Dakota because the wages are so low. In the long run, higher moral, better paid workforce is better for the businesses. People that I talk to and that I know in business, if they have a happy employee, they are much more productive and they stay longer. If you start somebody out at \$5.15 per hour, you hire them and they stay for five months, he goes to another job where he can make twenty-five cents an hour more. Then you have to retrain somebody. I think this would minimize that kind of activity. The other aspect, going back to the workforce, I truly believe now with the advent of technology, North Dakota, no longer is at a major disadvantage being away from the major urban centers. With email, faxes and all the other technology, it makes no difference whether you are in Manhattan or one thousand miles away. I think there are a lot of people that are yearning to escape the urban core, New York City, Kansas City, Minneapolis, etc. I think it's good to promote this state as a worker friendly state. I think a proponent of that is the pay we provide. I also believe, the other component and how we treat our workers is going to be Worker's Compensation, how we treat injured workers. It's around the country that we don't treat our injured workers as well as other states. I believe this is one aspect that I want to address, the wages. I am going to pass out the end of my testimony. ***See attached memorandum.***

I think there are lots of folks that would like to live here and can't afford to live here because the pay isn't what they are used to. Granted, it's cheaper to live here, but living in Fargo is not a lot cheaper than living in Minneapolis. The wages however are disproportionate. I am going to end this testimony and stand for questions.

Rep. Ruby: Why do you feel that government needs to dictate businesses on what to pay for salary?

Rep. Zaiser: I don't necessarily feel that government has to dictate but I have seen that unless the government establishes that floor or minimum wage, businesses have not in many cases, have chosen to raise it themselves. If that is the case, that should not impact that many businesses. I have talked to people that are living in cars, living on couches, granted people make mistakes, but I think there is no way to get a great job without us helping them. If I had my druthers, it would be great if the private sector was paying nobody at \$5.15 per hour. Even at \$7.25, which is what the feds are going to go to, a family of three at that wage is still below the poverty line. I'm sure there is nobody in this room that makes less than \$7.25 per hour. But there are people who do and it's tough. I think there has to be some mechanism, just like poverty programs. I wish nobody needed them as well, and nobody needed help. I never thought that I would be in the health condition that I am in now, but I am as well.

Rep. Thorpe: It is apparent to us that you have a huge passion for this bill when in light of your recent tragedy that you are hear before us. My question is, in the United States, isn't it true that the majority of states have a minimum in their code that is considerably higher than the federal minimum?

Rep. Zaiser: I don't know if I could accurately say most of the states, but I think it's getting near fifty percent that are above \$5.15 per hour.

Rep. Thorpe: The last report I looked at on it I think there were twenty eight states that have a minimum above what the federal was.

Rep. Vigesaa: Do you believe that if we raise the floor up to the \$7.25 that those currently making \$7.25 will maybe want to go to \$9.25 and the people who are below them probably have less experience is now making what someone with experience has been?

Rep. Zaiser: I do believe that will occur. Yes, I also believe that across the scale, we are lower than nearly every state in the Union. If we are truly going to become an in-migration state, we maybe ought to be better than some other state in some aspect and maybe that is what is going to be the difference between lowering that family in New York doesn't want to live there because of the crime rate and so on. They would like to move out here, but they can't afford that pay cut. I know this is going to be a jump for all employers and it is going to cause inflation and products will go up. But wherever you go, products are going up. I myself am willing to pay more money for something so another person doesn't have to live in their car or eat macaroni and cheese four nights a week. I really think that it is a chance for this state to move forward. I think the economic development bill, you are always as good as your weakest link, and if we have an economic development that creates all of this opportunity, we don't have a work force and nobody wants to come to this state. It's not going to work, we've done this before. Minnesota, we always thought they wouldn't grow, and now they are really growing. They have a higher tax structure.

Rep. Nottestad: In Fargo, excluding waiters, how many businesses are paying minimum wage that you know of?

Rep. Zaiser: I would say there are probably, speculating, there are several people making minimum wage.

Rep. Nottestad: When you say several, do you mean like three?

Rep. Zaiser: People that I know, I cannot project how many.

Rep. Dosch: I have always believed that market conditions will set the minimum wage. I haven't paid minimum wage for years. We are hiring at \$7.00-\$7.50 per hour. Don't you feel, the larger communities are already paying the higher wages, what are your comments about

our small communities that are struggling to survive and every dollar counts and now we are telling these small communities that they have to pay more?

Rep. Zaiser: Frankly, I'm empathetic toward their concerns, but my response to that is that they have people who are making so little, they have people who can hardly eat as well. This could be across the board. I understand that wages are lower in the more rural areas.

Rep. Ruby: If I started a small service company that I am the only employee, and I get to the point where I need a little help in a low skill position. But I'm a new company and I can't afford to pay high wage, if I create one job at \$5.15, is that a bad thing?

Rep. Zaiser: Creating a job is never a bad thing, but I would say you can't live at \$5.15 per hour.

Rep. Ruby: What if I found somebody that wants part time or secondary income or a kid working after school.

Rep. Zaiser: If it's part time, I can't project myself into that situation, all I can say I understand that there will be some difficulties. Like the balance equation, I have a bill in to help employers to help with their business and skills. This is America where we treat everybody equal.

Rep. Vig spoke in support of the bill.

Rep. Vig: I rise to show my support for HB 1337 and I signed on and we as a state need to change how we value our fellow workers. I wanted to stand up and show my support.

Rep. Amerman spoke in support of the bill.

Rep. Amerman: I got some wonderful advice last night from a great friend of mine. It said, stand up straight so people can see you, talk loud so people can hear you, and sit down, so people will like you. I signed on to this bill and fully support this bill. It's not new to the legislature. Rep. Dosch asked a good question about the small communities, it might be tougher there, and I believe that if a grocery store has to raise the minimum wage, he is

probably going to raise the price of products and I believe in the citizens and communities of this state and that they will pay a little more for a loaf of bread to help a family.

John Risch, United Transportation Union spoke in support of the bill. *See written testimony.*

Rep. Keiser: What is the new proposed minimum wage for the feds?

Risch: The federal minimum wage raises it in two steps. It would go from \$5.85 per hour to \$6.55 per hour, sixty days after it is signed by the President. A year later, it would then raise it to \$7.25 per hour. Again, it wouldn't cover many of the workers with our state minimum wage.

Rep. Keiser: You also mentioned that several states now have inflator clause and do you know the number of states that do that?

Risch: Washington state and perhaps, I don't want to guess.

Rep. Keiser: I think there are twenty nine states.

Sandra Updahl spoke in support of the bill.

Updahl: I am in support of this bill. As a consumer of a hospitality industry and a mother of two sons who are servers at local restaurants. I have four points I would like to suggest. As a consumer, when I go into a restaurant to pay for the goods. Why am I also expected to pay for that person's salary with my tip? Number two, is it right for someone to work a forty hour week and get paid a little over one hundred dollars, I saw my sons do that. This is America, this is not right. Number three, is it right for a young mother to work two jobs to make her ends meet? Does she have the energy to take care of her children after a ten or twelve hour day? Number four, these are individuals who will get paid better and put their money back into our economy. I currently work with a girl named Jenny. Jenny works at our non-profit association from eight to five. At five o'clock, Jenny goes to work at a restaurant from five until eleven at night. Many of you go to this place, it's called Minerva's. Do you tip well? Jenny is tired, she's sick a lot. But

why does she work two jobs? We don't pay a minimum wage, we pay her well. The reason she came to us is because she could not make it on a minimum salary.

Rep. Amerman: Over the years, one of my pet peeves has always been the tips for wages. What you said is exactly my sentiment, when I tip someone it is for friendly, good service and I could never figure out why I had to tip so they could bring those low wages up to the minimum wage. I'm glad I'm not the only one who hasn't been thinking that way. Do you know how much difference there is between what she makes with tips?

Updahl: There are some nights that she goes to work and makes only the minimum wage because nobody has tipped her. There are some nights she goes home with fifty or sixty dollars. It all depends on who tips and who doesn't.

Rep. Amerman: Are the tips better when the session is going on?

Updahl: She works at the restaurant that many of you go to. She says legislators are the poorest tippers. FYI! That is why I'm passionate at this.

Rep. Thorpe: Do employers not pool tips and split them so they can help bring up the wage for their other staff?

Updahl: That is correct.

Rep. Thorpe: Do you think that is fair?

Updahl: I think what the bottom line is that the establishment is expecting us to carry the weight for all of those employees.

Rep. Johnson: Would you be in favor of raising prices if we raise minimum wage?

Updahl: I don't know if I feel good about that. I think we are look at for-profit establishments. What is there bottom line at the end of the year, I would have to see that first.

Mary Splichal, Chairwoman of American Assoc. of University Women spoke in support of the bill. *See written testimony.*

Rep. Keiser: You made the comment that there is no negative impact and I just read they are evenly split, amazingly, but very honestly, fifty percent who documented, say there is a big negative impact and fifty percent say there is no impact, so how do they base the conclusion?

Splichal: As I understand, the information that I got from the association, they got the information from the first four years after the minimum wage was increased, so I don't know what they base it on now, but they are basing it on history.

Nancy Sand, North Dakota Education Assoc spoke in support of the bill.

Sand: I support not just this bill, but the concept of taking a look at increasing the minimum wage here. You have another bill coming up HB 1454 and two others in the Senate on this same issue. Obviously there is interest on a wide variety of constituency and I believe that it is bipartisan. In the school districts of North Dakota we have a number of support personal who receives hourly wages. Some of these folks would benefit by this bill. We believe that investing in the people is an investment in the economy. The people, who are receiving the lower wages, turn that money back into the community in the form of rent, in the form of groceries and day to day living. It is difficult in North Dakota for businesses to come in when we don't have a large labor force. We have a low unemployment rate which is wonderful. But if we want to attract people into the state to come for jobs, wages make a big difference.

Rep. Keiser: For the schools that are below minimum wage, are they primarily rural, or are they a mixture of rural and urban?

Sand: We regularly do what is called a salary incentive survey in the school districts. We don't have this year's information.

Dave Kemnitz, President of the AFL-CIO. *See handout.*

Kemnitz: I went to our website and they have a link for the economic policy institute had some valuable information and that this bill speaks to \$7.25 per hour and the info I handed out is

geared to the federal level, but it is \$7.25 per hour. The premise is that if you work, you shouldn't be poor, law makers have put it together and made sure that full time year around work would provide an income at or above the poverty line and now we are far below that. When they raised the wage in 1996-1997, it directly improved the wages of nine percent of the work force, almost ten million workers. As these stats show there is a vastly more people involved in this federally, but locally we could apply the same concept.

Rep. Thorpe: On the businesses that are employing these folks at the bottom of the wage scale, it was mentioned about rural North Dakota businesses being impacted. How many do you know of that went out of business when the gas price went to \$3.00 per gallon?

Kemnitz: I don't know of any that went out of business. Some profits went well and the rest struggled.

Rep. Thorpe: Those business have a business plan that if hamburger goes up, tomatoes, whatever, it is in their business plan to deal with increased cost. What would make labor any different?

Kemnitz: Some of that price increase is added on through the till and very easily. In the restaurant, maybe you have to change the menu. For the worker, I know a woman that may be in her seventies and quit a job that she worked at for seven years because she had not received a raise in seven years. She went to another job. Minimum wage raise might have helped her.

Cheryl Bergian, Executive Director of the North Dakota Human Rights Coalition spoke in support of the bill.

Bergian: We work to effect change so that all people in North Dakota enjoy full human rights and it is a basic human right and dignity to earn enough to pay for the cost of living for a worker and their family.

Chairman Keiser allowed for opposition to HB 1337 at this time.

Bill Shalhoob, North Dakota Chamber of Commerce, spoke in opposition to the bill. See *written testimony*.

Rep. Zaiser: From a business standpoint, do you think it would be preferable to have minimum wage go up by twenty cents per year vs. on dollar every five years?

Shalhoob: We are struggling with something that I don't believe in to begin with. Wages are marketplace driven. The best place to find out where they are going to be is in the marketplace, depending on education depending on that. If you want opportunity and they go out and get education, I have not been anywhere near minimum wage for three or four years. In our community, I can't do it. Understanding that this is going to happen, I think that the longer the periods between gives you a chance to adjust.

Rep. Zaiser: Basically then, time to adjust is beneficial, so then I am basically hearing you say it is more advantageous to give them a scenario and the feds are going to raise it now and then and we raise it twenty cents a year vs. two dollars every ten years.

Shalhoob: I believe the federal is one dollar per year for two years. I was responding in terms of raising it twenty cents per year for ten years vs. taking an increase every year, my preference would be to take an increase every year, vs. every month.

Rep. Zaiser: Do you then change your menus when gas prices go up?

Shalhoob: Gas is not a cost, it doesn't affect my business. Suppliers may charge a delivery charge, and you have to decide if that is significant enough to consider raising all of your prices. Like every other business.

Rep. Zaiser: Were you here when the gal that had two sons working in the hospitality industry?

Shalhoob: I was.

Rep. Zaiser: What do you think about those folks that have to have two and three jobs to survive? I don't know if you have two or three jobs.

Shalhoob: I have four or five or six jobs. The difference is I choose to have them and I am probably identified as being Type A and I'm a little concerned about what your question is.

Rep. Thorpe: I think we are getting into a philosophical ideology here. My question is for the industry you represent, do you think that it is better for the tax payers of North Dakota to subsidize; apparently you are trying to hold the wages down. I understand, but at the same time, if they are not making a living, and they have to go to social services to pick up a check on the way home, the tax payer is subsidizing, do you think the tax payers of North Dakota should subsidize your industry?

Shalhoob: I am speaking for the Chambers of Commerce and the general business community. I am not speaking for the Hospitality Assoc. In terms of the HA in my businesses, we don't own anything anymore that takes tips and I don't have a single employee under seven something an hour. I do not take advantage of the tip credit or things like that.

Rep. Amerman: There are several other bills out there on minimum wage; does the Chamber support any of them?

Shalhoob: We will be offering the same hog house amendment to all of the bills.

Rep. Amerman: In North Dakota, WSI is run and operates on the premiums paid by all the businesses into that organization. Is that a correct statement?

Shalhoob: Yes, it is.

Rep. Amerman: And recently, the director went from one hundred and fifty some thousand dollars up to one hundred and sixty some thousand with a raise. What was the Chamber of Commerce stance on that?

Shalhoob: There was not. That was a market move made by a board of directors. If individual members as a chamber and organization, we didn't have a problem and it was not our place to comment on that. If individual businesses make enough in premiums, I imagine that they took it up with the board of directors. We don't necessarily object nor would we expect our members to be generally in the compliance with the board of directors of a local chamber.

Rep. Keiser: We don't have a copy of your hog house amendment.

Shalhoob: I understand. What we are proposing is a hog house amendment that ties the base wage numbers of \$5.15 per hour exactly to the federal guidelines, which today, is \$5.15 per hour. That would tie that to the federal wages. So when the federal wage moves to \$6.25, North Dakota's four thousand workers will also be taken into the federal guidelines.

Rep. Amerman: On your amendment, when minimum wage, current and future, is there anything that would prevent the state to pass law to go over that?

Shalhoob: This legislature is free in the next session to introduce a minimum wage bill that would change that number.

Rep. Zaiser: Given the scenario, the feds wouldn't increase minimum wage for another ten or fifteen years and there was a huge gap again between the cost of living increase and what they are being paid, would you not come back at that time and oppose an increase?

Shalhoob: I believe that the first time in my memory we are supporting a minimum wage increase by offering this amendment. We are not against and increase to \$7.25. We just stood up there and said "let's move it."

Nicki Weissman, North Dakota Hospitality Association, spoke in opposition to the bill. See *written testimony*.

Mike Rud, North Dakota Retailers Association, spoke in opposition to the bill.

Rud: We have over one thousand members and none of our members are against raising the minimum wage, I would just support what the chamber is looking to do. The right idea is to follow the federal guidelines and move forward with that and not have the increases. That could be pretty dangerous in the rural areas.

Kim Levine, East 40 Chophouse, spoke in opposition to the bill.

Levine: We are opposed to HB 1337 for a couple of reasons. We currently don't have many employees other than servers who are paid below \$5.15 per hour. If the minimum wage were to go up it would affect not only those servers but my ones that are at five to seven dollars. As a fraction of the minimum wage. Most of my staff is probably under ten dollars an hour, so it would affect pretty much everyone on my staff. Menu increases, we are affected by gas prices and we get surcharges on that. They are not huge and we tend to suck it up. As an owner we don't have a very large profit margin. Ours is five to ten percent. Seven is good, five is probably more accurate. For us to bump everyone up two bucks an hour will devastate our business and we probably wouldn't be able to operate. If we had to raise all of our menu prices we would lose more of our customers. One of the speakers was saying that she hadn't gotten a raise in a seven years. I had one of my servers ask me if they could have a raise and one of the other servers said, "We make our own raises".

Rep. Ruby: How many people that work in the five to six dollar range, are raising their families on that wage?

Levine: There are probably six or seven maybe three of four and a couple of them are highschoolers and the others are nineteen years old. There is maybe one that has a child.

Rep. Amerman: How do we rate for tipping up at your place?

Levine: Not sure.

Rep. Dietrich: What is the average wages that your servers make including tips?

Levine: My server wages are \$3.45 per hour. Tips included maybe \$10-20 dollars per hour.

Rep. Dietrich: How many hours do they work?

Levine: Fifteen to twenty hours per week.

Rep. Keiser: If we raise it, you will have to raise your prices, can you guess how much impact it will have on your prices?

Levine: Right now we run about a thirty percent labor cost. So about a couple dollars per item, maybe three dollars per item.

Rep. Vigesaa: I did the math, thinking of my own rural business. I agree that it would have to be passed on. On twelve employees that work forty hours a week, for one year at two dollars more per hour, is forty-nine thousand nine hundred and twenty dollars. That is what a two dollar increase would cost.

Rep. Dietrich: *to Maren Daily of Job Services*, can you tell me what hours those wages were based on?

Daily: Our data and how we collect wages from businesses, is total aggregate wages. We do not mend a per hour break down of that.

Rep. Dietrich: It would be fair to say that the wages that you show for 2004 and 2005 could be based on any amount of hours?

Daily: It could. There are industry averages.

The hearing was closed. No action was taken at this time.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1337

House Industry, Business and Labor

Check here for Conference Committee

Hearing Date: 30 January 2007

Recorder Job Number: 2240

Committee Clerk Signature

Jan Furdell

Minutes:

Chairman Kaiser opened discussion of HB 1337. This would set the state minimum wage at \$7.25, but would provide for an adjustment annually for inflation. It would begin in September 2008. The purpose of it philosophically was to help ND turnaround in terms of attracting people to our state and that ND is interconnected and the minimum wage here and minimum wage other places is related. It would affect 4000 people. This applies to the state minimum wage not the federal minimal wage. There are 4000 people currently regulated under the state minimum wage everyone else is regulated under the federal minimum wage. This would help those 4000 people. Twenty-nine states have a state minimum wage. That's the heart of the bill. There is concern that the indexing was done with the CPI.

Representative Zaiser: The first adjustment wouldn't be until January 2009. The adjustment would take place in September and that would allow businesses to budget for the increase. I don't know if there is a subsidy. It would affect more than 4000 people because there are some people between the minimum wage and \$7.25. I think economic development is as much tied to workers as it is to industry. I think ND has had a history of difficulty finding workers. I don't think we have ever been the lead in terms of recruiting new businesses or employees. There is a lot I like in terms of economic development in this bill. To make that work, we're going to have to pay people more money. I think there are a lot of people living in

the middle of Kansas City or Manhattan or wherever that might ND and that they feel they can move out here and make enough money to make a living. If they are paid such a low rate, they won't make that move. In response to the argument that it will hurt small town ND, I think that everybody is going to be subject to this wage in the state so I think this will not have that impact. It just goes up gradually.

Vice Chairman Johnson: I'm not going to support your bill. I have two basic philosophies that are contrary to this. One of them is tying anything to the COLA, to me that's an escalating spiral. It keeps going up whether it should go up or shouldn't go up. Another thing I believe in is that the free market system works. I think you would be hard pressed to find anybody at minimum wage in Dickinson. It would be very difficult because the wage scale has been going up as there has been demand for workers. The system works. One of the companies in Dickinson gave a flat \$2 an hour raise to try to become more competitive. I think the system works the way it is.

Representative Amerman: To an extent I agree with Representative Johnson and many on the Committee that free market does take care a lot of this. But there is always a segment of our citizens out there that need the government the most and sometimes we ignore them. It's still there and they are the ones that need it the most. The other reason is there are four minimum wage bills. I think this is the best one.

Representative Kasper: When I look at the differences between 1337 and 1454, there is one part of 1454 that I like much better, that's why I'm going to vote against 1337. 1454 allows the commission to make some exceptions. Those would likely be in the smaller cities.

Representative Thorpe: Ever since I became a member of the Legislature back in 1991, we have talked about minimum wage. If you look at inflation we all know where that's at. It's way out of whack. I sat on the Economic Development Committee this last interim and all the business people come and said we can't workers. My theory is that if you going to offer me a

job that won't pay me a living, why would I go there? I know there is a tremendous amount of part-time employment in this state. I suspect a good share of that is at the minimum wage.

Those people need a chance to earn a living too. It makes good sense to me. You ask how we ask what we can do for state employees and we generally give them a raise close to what inflation is. If we can do that, why can we not help people at this end? I think this is a tremendously good bill and with the COLA in there we don't have to spend our time discussing recession.

Representative Ruby: We talk about the inflationary cost of business where any service or product they buy has gone up. The minimum wage floor hasn't gone up, but the cost they have to pay through the years for employees has certainly gone up. The people that came in to the Economic Development Interim Committee that couldn't find workers weren't looking for minimum wage jobs. They were looking for people at \$10 – \$15 an hour and probably higher. They couldn't find people to work for those jobs. The problem is then fixing itself without government intervention and dictating to business what they have to pay. We don't dictate what they have pay for fuel or office equipment or any other part of their business, but for some reason we want to dictate what they have to pay for employees. I think the market is taking care of it.

Representative Amerman: I move Do Pass and Rerefer to Appropriations.

Representative Gruchalla: I second. I work with a lot of the Special Olympic people. A lot of them are in this category. A lot of them do not have the capability to go in and ask for a raise. They could use a little more.

Representative Clark: We hear a lot about the numbers of people who are trying to make a living on the minimum wage. I can tell you that at one time or another all of my children worked for the minimum wage and they used their money for all the important things like music, cell phones and things of that nature. I think we are looking at numbers that are not

very accurate. I think we may be doing some harm some businesses. I'm not going to support this bill.

Representative Zaiser: I do believe in competition. I think the money may be the difference between a family coming from Kansas City or a kid or for a wife for a \$40,000 per year job. The other element is there is a segment of people that are being hurt by this. There aren't that many. Try living on the minimum wage for two months. There's an element that get hurt. I think it's good for those few individuals that are suffering.

Representative Dietrich: I also served on the Economic Development Interim Committee. The shortage of workers found in the study that was presented were people that work in the oil fields, the higher paying IT jobs and those types of jobs. The minimum jobs were in the smaller towns in bars and grocery towns. While hunting I stopped at convenience stores and found that most of the workers were high school kids and that type of age group. I worry about compression where you push the minimum wage against wage earners that are \$9.00 an hour and the small business are forced to give those workers a raise upwards. We should tie our minimum wage to the federal.

Representative Nottestad: I will oppose the bill. I've lived in Grand Forks for over 40 years and I've seen the changes in the city with economic development coming in. As a result of that you do not find minimum wage jobs. There may be some but for the most part the better paying jobs coming in with economic development have pushed everything up from the bottom. I couldn't get a kid to clean my snow when I'm gone for a minimum wage. The second reason, my mother is still living alone since and for the last four years I've done the shopping in a smaller town. Thank goodness that grocery store is still there. I could shop in Grand Forks at a lower price, but that small town grocery store is important and the prices are higher. If we impose this minimum wage on them a lot of them may not make it. For that reason, I will oppose the bill.

Chairman Kaiser: I would point out that this bill has a fiscal note of a million plus on it.

Representative Thorpe: One of things brought up is worrying about small towns. We have a couple of small towns around Minot and I've had the opportunity to ask some of the people working there and most were at \$7.50. Back in '93 or '97 in the IBL committee decided the market place should drive the wage and we would see if that works. We still have people working the minimum wage jobs. I've seen the answer and I want this on the record. The answer I see is that in some of the larger cities are getting immigrants . . . (unable to hear).

A roll call vote was taken: Yes: 5, No: 7, Absent: 2 (Dosch and Vigesaa)

The motion failed.

Representative Nottestad: I move Do Not Pass

Representative Clark: I second.

A roll call vote was taken: Yes: 7, No: 5, Absent: 2 (Dosch and Vigesaa)

The Do Not Pass motion carried.

Chairman Kaiser: Representative Zaiser I want to compliment you. This is, from what I've seen, the best of the bills that were submitted.

FISCAL NOTE

Requested by Legislative Council

01/19/2007

REVISION

Bill/Resolution No.: HB 1337

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$99,853	\$830,118	\$117,803	\$1,083,974
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The state minimum wage would increase to \$7.25 on 8/1/07; 3% to \$7.45 on 1/1/09; 3% on 1/1/10 to \$7.65; 3% on 1/1/11 to \$7.85. Based on employee pay and hrs worked in 2006. Includes ND University System.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The expenditures are based on employee pay and hours worked and includes the ND University system.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Ken Purdy	Agency:	Human Resource Mgmt
Phone Number:	328-4739	Date Prepared:	01/19/2007

FISCAL NOTE
 Requested by Legislative Council
 01/12/2007

Bill/Resolution No.: HB 1337

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$567,386	\$225,389	\$592,917	\$235,531
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill increases the minimum wage from \$5.15 to \$7.25 as of August 1, 2007. It affects temp state employees (approx 250) and the client/resident employment at the St Hosp & Dev Ctr. The figures provided include that impact. The figures do NOT include any effect on the ND University System.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

258 Employees paid less than \$7.25/hr (all but 2 are temporary employees)

Avg wage of those employees is \$6.83/hr

It will require an average of \$0.42/hr to reach \$7.25 (HB 1337 Min Wage)

Assuming those 258 employees work full-time (not all do) the additional cost of the \$7.25 Min Wage will be:

258 employees * 2,080 hrs in a year * \$0.42 increase in avg wage = \$225,389/yr or \$450,778 for 2 years (2007-09 biennium).

Based on overall split of general and special funds among agencies, the cost would be half general funds and half other funds - \$225,389 general; 225,389 other.

In addition, State Hospital and Developmental Center determined the following increase in costs for the 2007-09 biennium (all general fund) for client/resident/ patient payroll at those institutions:

ND State Hospital \$ 264,233
Developmental Center \$ 77,764

2007-09 Total Summary	Total	General	Other
State	\$450,778	\$225,389	\$225,389
St Hosp	\$264,233	\$264,233	
Dev Ctr	\$ 77,764	\$ 77,764	
Total	\$792,775	\$792,775	\$225,389

2009-11 Biennium

HB 1337 provides an indexed minimum wage based on CPI Urban. Following estimate is based on 3% increase in CPI each year.

2009-11 Total Summary	Total	General	Other
State	\$471,062	\$235,531	\$235,531
St Hosp	\$276,123	\$276,123	
Dev Ctr	\$ 81,263	\$ 81,263	
Total	\$828,448	\$592,917	\$235,531

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.

Name:	Ken Purdy	Agency:	Human Resource Mgmt
Phone Number:	328-	Date Prepared:	01/18/2007

Date: 1-30-07
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1337

House Industry Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Amerman Seconded By Rep. Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Rep. Amerman	X	
Vice Chairman Johnson		X	Rep. Boe	X	
Rep. Clark		X	Rep. Gruchalla	X	
Rep. Dietrich		X	Rep. Thorpe	X	
Rep. Dosch			Rep. Zaiser	X	
Rep. Kasper		X			
Rep. Nottestad		X			
Rep. Ruby		X			
Rep. Vigesaa					

Total Yes 5 No 7

Absent 2

Floor Assignment Rep. Dietrich

If the vote is on an amendment, briefly indicate intent:

Date: 1-30-07
 Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1337

House Industry Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Rep. Nottestad Seconded By Rep. Clark

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman		X
Vice Chairman Johnson	X		Rep. Boe		X
Rep. Clark	X		Rep. Gruchalla		X
Rep. Dietrich	X		Rep. Thorpe		X
Rep. Dosch			Rep. Zaiser		X
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa					

Total Yes 7 No 5

Absent 2

Floor Assignment Rep. Dietrich

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 30, 2007 5:39 p.m.

Module No: HR-21-1591
Carrier: Dietrich
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1337: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO NOT PASS** (7 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING).
HB 1337 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

HB 1337

#1

MEMORANDUM

DATE: December 31, 2001

TO: North Dakota media

FROM: Representative Steve Zaiser

RE: Minimum wage legislation

CONTACT INFORMATION: Rep. Steve Zaiser at 701-293-0517, if by email at szaiser@cable.net or szaiser@nd.gov

Zaiser Proposing New and Bold Minimum Wage Proposal

I am proposing a new and bold proposal that will bring North Dakota's minimum wage to \$7.25 per hour, which is an amount equal to the proposed and essentially approved federal minimum wage legislation. My bill also provides a means by which minimum wage in North Dakota will no longer fall behind the federal minimum wage.

I have been a supporter of new minimum wage legislation in North Dakota for several years, particularly since I had the opportunity to do something about it when I was first elected to the state legislature in 2002. During my freshman year in 2003, I chose to learn the ropes prior introducing legislation so vitally important to many North Dakotans.

I waited until my second session in 2005 to draft minimum wage legislation for introduction and thus consideration for a real change. In that 2005 session, a more senior colleague of mine in our Democratic caucus had also drafted a minimum wage legislation bill. He strongly desired to submit the bill for consideration so I decided to yield to him, his seniority and party unity and thus withdrew my bill so that we would have only one minimum wage bill up for consideration even though our bills were quite different.

My colleague's 2005 bill to raise the minimum wage failed in the House, I vote short of a straight along party line vote with all Democrats supportive of raising the state's minimum wage and one Republican offering support. My next thought was to use the 2005 vote as a foundation for leading an initiated measure effort for an increase in minimum wage planned for placement on the 2006 ballot. I quickly became cognizant of the time required to lead a successful initiated measure effort while at the same time running for re-election to my legislative seat was too much so I decided to drop my effort to continue pursuing the initiated measure.

Consequently, I focused my efforts on winning re-election and subsequently the opportunity to introduce the minimum wage legislation I had already drafted. I had begun drafting the legislation during the winter-spring of 2006. The results of my work on this bill evolved as it went through iterations prior to my coming up with a final product this fall that was solid, somewhat innovative and bold.

The Key elements of the bill are as follows:

- If this Minimum Wage bill is passed, it would become law when other North Dakota newly passed legislation become law and into effect. At that time, it will increase the minimum wage to \$7.25 per hour. This minimum wage will become effective at a

date similar to the date the national minimum wage becomes law. National minimum wage legislation to increase the minimum wage to \$7.25 per hour has been essentially been agreed upon by the Democratically controlled congress and the Bush administration. The national minimum wage increase legislation has been sweetened up for employers by adding some benefits for small business owners to compensate for the minimum wage increase. I am in agreement with what has been proposed to assist employers in compensating for the minimum wage increase, especially the small privately owned businesses that usually do not get tax exemptions. The ancillary elements added to the proposed and essentially agreed upon national minimum wage legislation make the wage increases more viable for small business owners, especially those whose personnel costs are most impacted by the increase in minimum wage. Those small business owner benefits make the small businesses better able to adapt to the increased minimum wage. As I earlier indicated, the proposed minimum wage legislation that has been essentially agreed upon by both parties with some benefits thrown in to compensate small businesses for increased personnel costs they will incur and need endure. This appears to be more and more like a win-win situation for both the employers and employees. All of this clearly points to an increase in minimum wage as a win-win situation for employers and employees alike.

- In January of 2009, the minimum wage in North Dakota would be adjusted for inflation using the consumer price index as the adjustment parameter. Each year thereafter, the minimum wage adjusted according to the consumer price index as determined in September allowing businesses adequate time to make budget adjustments knowing what the minimum wage would be increased to effective January of the following year.

Two significant benefits of this bill are: 1) If approved, ND will start sometime in mid 2007 having a minimum wage no higher or no lower than that of the federal minimum wage of \$7.25 per hour. and 2) Having a cost of living index attached to the bill which would establish an annual adjustment to the minimum wage that is commensurate with our economy would prevent minimum wage workers from once again falling significantly behind wage increases received by others higher on the food chain.

A full time job at \$7.25 per hour for a forty hour a week job on an annual basis will earn \$15,080; that translates into \$1,256 / mo. or \$290 / week. Could you live on that? If this and/or the federal minimum wage were adopted, a single worker with a family of two would still fall short of the US poverty level (\$16,500) so you can see that this is not exactly going to enable such a family to live "high on the hog." The US Poverty Line for a 3- person family is \$20,750 so you can see that an increased minimum wage will not skyrocket a person on minimum wage into affluence.

Over the years, North Dakota has gotten the reputation for being a low-wage state and thus, in my opinion, has attracted primarily low-wage businesses. That is, of course with the exception of the high-tech jobs that have been created because of US Senator Byron Dorgan's Red River Corridor Initiative and some of the energy jobs created throughout the state.

It is my belief that if North Dakota were to become a state not considered a low-wage state, build a plentiful workforce assisted by offering higher and generally better wages, was more sensitive to and was more responsive to the needs of injured workers, North Dakota appears to be poised to not only become an in-migration state but even one capable of luring or attracting better paying businesses or industries to North Dakota and its vast beauty. An employee and employer friendly North Dakota, if it were to become so, could create an almost exponential growth in technology related businesses. Such is reasonably realistic because of the growing ease of doing business from long distance as technology makes such opportunities viable.

The desire by some to leave the rat race of an intensely urban area/state, its crime problems, traffic congestion, and the increasing impact of air pollution could make North Dakota, if it is poised and ready, to become an alternative home location and the beneficiary of those desires of some to leave their present urban home in search of a more tranquil rural environment. But we must be poised and ready, have made some state legislation more progressive, accepting and tolerating folks of a different culture and/or lifestyle, to entice such moves to this vast and open beauty we call North Dakota.

Could it be true, turning a state known for its out-migration into one of a significant in-migration state? Yes, it could happen if we are ready to step up to the plate and make some changes in how employees are valued in the state instead of recirculating ideas from the past that have continually failed. "Build it (a quality workforce) and they (businesses) will come."

The House Minority leader and last session's Assistant Minority leader have agreed to sign onto this bill as co-sponsors as others I have visited with.



JOHN RISCH
North Dakota Legislative Director

**united
transportation
union**

750 Augsburg Avenue
Bismarck, ND 58504-7009
Office: 701-223-0061
Fax: 701-223-0061
E-mail: utu@bis.midco.net

**Testimony of John Risch
Before the House Industry, Business & Labor Committee
In Support of HB 1337
January 23, 2007**

Mr. Chairman and members of the committee, my name is John Risch. I am the elected North Dakota legislative director of the United Transportation Union. The UTU is the largest rail labor union in North America. Our membership includes conductors, engineers, switchmen, trainmen, and yardmasters.

We support this bill because a job should help you out of poverty, not keep you in it, and this bill is a step in the right direction.

I have served as Wage Conference Chairman under both a Republican and a Democratic labor commissioner. The minimum wage has a history of bipartisan support.

In 1990 an increase was passed by a Democratic Congress and signed by President Bush, Sr. In 1996 an increase was passed by a Republican Congress and signed by President Clinton. President Bush has now committed to do likewise if the current Democratic Congress passes a bill.

This being said, we need to take action here in North Dakota in a bipartisan manner because our wage provisions have broader coverage and states need to step up to the plate because the federal government so seldom acts. (See attached charts.)

The federal minimum wage, first enacted in 1938, was meant to put a firm floor under workers and their families, strengthen the depressed economy by increasing consumer purchasing power, create new jobs to meet rising demand and stop a "race to the bottom" of employers in regards to wages.

Those original goals were great, but in recent years the minimum wage has fallen dramatically in real dollars. (See charts.) The real value of the minimum wage peaked in 1968.

The problem with the minimum wage today is that it has been eroded by inflation. The minimum wage has not increased in ten years, losing 17 percent of its purchasing power since 1997 and is at its lowest rate in real (inflation-adjusted) dollars since 1955, which is why any of the proposals before this legislature need to automatically adjust for inflation.

Testimony of John Risch
HB 1337-Industry, Business & Labor
January 23, 2007

This automatic adjustment doesn't improve things for workers; what it does is keep them from falling further behind. It also allows for a gradual increase in the wage rate that employers can count on, preventing the need for large increases every decade.

The minimum wage can and should be increased to \$8 per hour and indexed to inflation. That's what's needed for a single full-time worker to meet basic needs such as food, housing, utilities and health care. It is also close to the 1968 minimum wage peak, adjusting for inflation.

Certainly employers can pay a minimum wage equivalent to what their counterparts paid almost 40 years ago. After the last minimum wage increase in 1997, the economy boomed with extraordinarily high growth, low inflation, low unemployment and declining poverty rates.

Successful businesses--large and small--have shown that good wages are good business. Higher wages reduce turnover, improve productivity and increase purchasing power.

In closing, North Dakota needs to raise the minimum wage because it is the right thing to do. It's the right thing because it rewards work and it is one action of government that helps the poor that is not open to loafers. It also helps employers who pay fair wages and are forced to compete against low-wage operators.

State Minimum Wage Rates

As of January 1, 2007

State	Minimum wage
Federal minimum wage	\$5.15
Alabama	None
Alaska	7.15
Arizona	None
Arkansas	6.25
California	6.75
Colorado	5.15
Connecticut	7.65
Delaware	6.15
District of Columbia	7.00
Florida	6.40 ¹
Georgia	5.15
Hawaii	7.25
Idaho	5.15
Illinois	6.50
Indiana	5.15
Iowa	5.15
Kansas	\$2.65
Kentucky	5.15
Louisiana	None
Maine	6.75 ²
Maryland	6.15
Massachusetts	7.50 ³
Michigan	6.95 ⁴

Minnesota	6.15
Mississippi	None
Missouri	5.15
Montana	5.15
Nebraska	5.15
Nevada	5.15
New Hampshire	5.15
New Jersey	7.15
New Mexico	5.15
New York	7.15
North Carolina	5.15
North Dakota	\$5.15
Ohio	4.25
Oklahoma	5.15
Oregon	7.50 ¹
Pennsylvania	5.15
Rhode Island	7.40
South Carolina	None
South Dakota	5.15
Tennessee	None
Texas	5.15
Utah	5.15
Vermont	7.25 ⁵
Virginia	5.15
Washington	7.63 ¹
West Virginia	5.85 ⁶
Wisconsin	5.70
Wyoming	5.15

NOTE: A state cannot reduce the requirements of the Fair Labor Standards Act (FLSA). Most states have adopted minimums, although many simply track the FLSA. Others are broader, for example, covering workers not covered under the FLSA or setting higher minimums than the federal rate. Some states set a state minimum lower than the federal rate. In that case, all workers in the state who are covered by the FLSA must receive the federal minimum. When state laws require a higher wage, employers must pay at least that higher rate to all workers covered by the state law, whether or not they also are covered by the federal law. Some minimum wage rates in this table apply only to large companies or employers with a certain dollar amount of receipts. Smaller companies may either have to pay a different minimum wage (which is not listed here) or there may be no minimum wage requirement at all.

- 1. Indexed to inflation—adjusted every Jan. 1.
- 2. Will rise to \$7.00 on 10/1/07.
- 3. Will rise to \$8.00 on 1/1/08.
- 4. Will rise to \$7.15 on 7/1/07; will rise to \$7.40 on 7/1/08.
- 5. Beginning 1/1/07, wage rate will rise every Jan. 1.
- 6. Will rise to \$6.55 on 7/1/07; will rise to \$7.25 on 7/1/08. Wage increase generally will not apply to FLSA-covered workers.

Source: AFL-CIO.

Federal Minimum Wage Rates, 1955–2006

Year	Value of the minimum wage	
	Current dollars	Constant (1996) dollars ¹
1955	\$0.75	\$4.39
1956	1.00	5.77
1957	1.00	5.58
1958	1.00	5.43
1959	1.00	5.39
1960	1.00	5.30
1961	1.15	6.03
1962	1.15	5.97
1963	1.25	6.41
1964	1.25	6.33
1965	1.25	6.23
1966	1.25	6.05
1967	1.40	6.58
1968	\$1.60	\$7.21
1969	1.60	6.84
1970	1.60	6.47
1971	1.60	6.20
1972	1.60	6.01
1973	1.60	5.65
1974	2.00	6.37
1975	2.10	6.12
1976	2.30	6.34
1977	2.30	5.95
1978	2.65	6.38
1979	2.90	6.27

1980	3.10	5.90
1981	\$3.35	\$5.78
1982	3.35	5.45
1983	3.35	5.28
1984	3.35	5.06
1985	3.35	4.88
1986	3.35	4.80
1987	3.35	4.63
1988	3.35	4.44
1989	3.35	4.24
1990	3.80	4.56
1991	4.25	4.90
1992	4.25	4.75
1993	4.25	4.61
1994	\$4.25	\$4.50
1995	4.25	4.38
1996	4.75	4.75
1997	5.15	5.03
1998	5.15	4.96
1999	5.15	4.85
2000	5.15	4.69
2001	5.15	4.56
2002	5.15	4.49
2003	5.15	4.39
2004	5.15	4.28
2005	5.15	4.14
2006	5.15	4.04

NOTES: On January 10, 2007, the House of Representatives voted, 315–116, to raise the minimum wage. If the Senate approves the bill, the minimum wage will increase to \$5.85 an hour 60 days after passage, then to \$6.55 an hour one year later, and finally to \$7.25 an hour two years after that.

1. Adjusted for inflation using the CPI-U (Consumer Price Index for All Urban Consumers).

Source: U.S. Department of Labor. Web: <http://www.dol.gov/esa/whd/flsa/>.



ND MINIMUM WAGE & WORK CONDITIONS SUMMARY

Effective Date:
August 1, 2001

State Capitol - 13th Floor 800 East Boulevard Avenue Bismarck, ND 58505-0340
Hours: M-F - 8:00a.m.-5:00p.m.
(701)328-2660 1-800-582-8032 Fax - (701)328-2031 TTY - 1-800-366-6888
e-mail - labor@state.nd.us web site - discovernd.com/labor

MINIMUM WAGE RATE: \$5.15 PER HOUR

Must be paid to all employees in every occupation in the state.

North Dakota does not have a Training Wage. **5**

TIP CREDIT

- Employers may utilize a tip credit of 33% of the minimum wage for tipped employees. With the tip credit applied, the minimum cash wage payable to a tipped employee is \$3.45 per hour. The employer must maintain written records verifying that tipped employees receive at least the full minimum wage for all hours worked each work week when the cash wage and tips are combined.
- A tipped employee is any service employee in an occupation in which he or she receives more than thirty dollars per month in tips.
Additional information on tips can be found on the reverse side of this poster.

OVERTIME

- Overtime pay must be paid at one and one-half times the employee's regular rate of pay for hours worked over forty in any work week.
- A work week is a seven consecutive-day period defined by the employer.
- Overtime is computed on a weekly basis, regardless of the length of the pay period.
- Overtime is based only on hours worked. Paid holidays, paid time off, or sick leave need not be counted in computing overtime hours.
- Compensatory time is not legal in private employment for non-exempt employees — overtime hours may not be "banked" and used for time off in another work week.
- Employees working more than one job under the control of the same employer must have all hours worked counted toward overtime.
Exemptions from overtime are listed on the reverse side of this poster. Formulas for calculating overtime are available in N.D. Admin. Code Section 46-03-01.

MEAL PERIODS

- A minimum 30-minute meal period must be provided in shifts exceeding five hours when there are two or more employees on duty.
- Employees may waive their right to a meal period upon agreement with the employer.
- Employees do not have to be paid for meal periods if they are completely relieved of their duties and the meal period is at least thirty minutes in length. Employees are not completely relieved if they are required to perform any duties during the meal period.
- Other breaks (such as 15 minute "coffee" breaks) are not required by law, but must be paid breaks if they are offered by the employer.

PAID TIME OFF

- Paid time off includes annual leave, earned time, personal days, or other provisions providing compensation for vacation. If sick leave is combined with such time into one balance, all of the hours are defined as paid time off. Sick leave is not defined as paid time off if it is kept in a separate balance.
- Once paid time off is made available for an employee's use, any unused portion of such time is considered wages upon separation from employment and must be paid at the regular rate of pay earned by the employee prior to separation.
- No employment contract or policy may provide for forfeiture of earned paid time off upon separation.
- An employment contract or policy may require an employee to take vacation by a certain date or lose the vacation ("use it or lose it"), provided that the employee is given a reasonable opportunity to take the vacation. The employer must demonstrate that the employee had notice of such contract or policy provision.

PAYDAYS & RECORD KEEPING

- Employees must be paid at least once each calendar month on the regular payday(s) designated in advance by the employer.
- Every employer must furnish to an employee each pay period a check stub or voucher indicating hours worked, rate of pay, required state and federal deductions, and any authorized deductions.
- When an employee is terminated from employment, separates from employment voluntarily, or is suspended from work as the result of an industrial dispute, unpaid wages or compensation become due and payable at the regular payday(s) established in advance by the employer for the period(s) worked by the employee.
- When an employer terminates an employee, the employer shall pay those wages to the employee by certified mail at an address designated by the employee or as otherwise agreed upon by both parties.

DEDUCTIONS FROM PAY

Legal deductions include:

- Required state and federal withholdings
- Documented payroll advances
- Court ordered deductions

All other deductions from pay must be specifically authorized in writing by the employee.

RIGHT TO WORK

An individual's right to work may not be denied or bridged due to membership or nonmembership in any labor union or labor organization.

EMPLOYMENT AT WILL

Employment relationships without a specific term exist at the will of both parties and can be terminated by either party upon notice to the other. No minimum length of notice (for example, a two-week notice) is required. Contracts specifying a term of employment can pre-empt the at-will provision.

EMPLOYMENT DISCRIMINATION

Employers may not discriminate against employees or applicants on the basis of: race, color, religion, sex, national origin, age, mental or physical disability, status with respect to marriage or public assistance, participation in lawful activity off the employer's premises during non-working hours which is not in direct conflict with the essential business-related functions of the employer, or opposition to such discrimination in the work place.

EMPLOYMENT RETALIATION

An employer may not discharge, discipline, threaten, discriminate, or penalize an employee regarding the employee's compensation, conditions, location, or privileges of employment because:

- The employee, or person acting on behalf of an employee, in good faith, reports a violation of federal, state, or local law, ordinance, regulation, or rule to an employer, a governmental body, or law enforcement official.
- The employee is requested by a public body or official to participate in an investigation, a hearing, or an inquiry.
- The employee refuses an employer's order to perform an action that the employee believes violates local, state, or federal law, ordinance, rule, or regulation. The employee must have an objective basis in fact for that belief and shall inform the employer that the order is being refused for that reason.

POSTING REQUIRED

Must be posted in a conspicuous place in a commonly frequented area in which employees work.

See REVERSE SIDE of this Poster for Additional Information.

Right to Join Union

EXEMPTIONS FROM OVERTIME

- An employee employed in a bona fide executive, administrative, or professional capacity.
 - Executive** - an employee whose primary duties consists of:
 - a. The management of the enterprise or recognized department or subdivision thereof;
 - b. Directing the work of two or more other employees therein; and
 - c. The authority to hire or fire other employees or whose suggestions will be given particular weight.
 - Administrative** - an employee whose primary duties consists of:
 - a. Office or non-manual work directly related to management policies or general business operations; and
 - b. Who customarily and regularly exercises discretion and independent judgment.
 - Professional** - an employee whose primary duties consists of:
 - a. Work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes;
 - b. Work requiring the consistent exercise of discretion and judgment in its performance; and
 - c. Work that is predominately intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work.
- An employee engaged in an agricultural occupation - growing, raising, preparing, or delivering agricultural commodities for market.
- An employee spending at least 51% of the employee's work-time providing direct care to clients of a shelter, foster care, or other such related establishment.
- An employee employed in domestic service who resides in the household in which employed.
- An employee providing companionship services (fellowship, care, or protection) to aged or disabled individuals. No more than 20% of the hours worked in the week may

- be household work (cleaning, laundry, or meal preparation).
- A mechanic paid on a commission basis off a flat rate schedule.
- A straight commission salesperson in retail automobile, trailer, boat, aircraft, truck, or farm implement dealerships unless that salesperson is required to be on the premises for more than forty hours per week.
- A computer professional exercising discretion and independent judgment when designing, developing, creating, analyzing, testing, or modifying computer programs or who is paid hourly at a rate of at least \$27.63.
- An employee who is customarily and regularly engaged away from the employer's premises for the purpose of making sales or taking orders. Work unrelated to outside sales may not exceed 20% of the hours worked in the week.
- An employee of a retail establishment if the employee's regular rate of pay exceeds 1.5 times the minimum hourly rate applicable if more than half of the employee's compensation for a period of not less than one month is derived from commission on goods or services sold.
- An employee employed as an announcer, news editor, or chief engineer by a radio or television station.
- An employee in an artistic profession that is original and creative in nature or where the work is dependent upon the invention, imagination, or talent of the employee.
- Motor carrier as applied to covered employees of motor common, contract, and private carriers specified by the Motor Carriers Act [49 U.S.C. 31502].
- A teacher, instructor, tutor, or lecturer engaged in teaching in a school or educational system.

TAXI DRIVER AND HEALTHCARE OVERTIME PROVISIONS

- Taxicab drivers must be paid overtime for all hours worked in excess of fifty hours in any work week.
- Hospitals and residential care establishments may adopt, by agreement with their employees, a fourteen-day overtime period, if the employees are paid at least time and one-half their regular rate for hours worked over eight in a day or eighty in a fourteen-day work period.

TIPS

- Gratuities offered to an employee by a customer belong to the employee and may not be retained by the employer.
- An employer who elects to use the tip credit must inform the employee in advance.
- Tip pooling is allowed only among the tipped employees. A vote of tipped employees to allow tip pooling must be taken, and fifty percent plus one of all tipped employees must approve it. The employer must maintain a written record of each vote on tip pooling, including names of employees voting and the vote totals. A vote on whether to pool tips is required if requested by one percent or more of the tipped employees. The tipped employees shall provide documentation verifying the request. Time spent in meetings called by the employees exclusively for tip issues is not work time. Gaming sites, which regularly have four or fewer tipped employees on duty, can require tip pooling among all tipped employees at the site. Pit bosses or supervisors at gaming sites are not tipped employees and cannot be part of the tip pool when performing functions of those positions other than dealing blackjack (twenty-one).

MEETINGS AND TRAINING TIME

Attendance at lectures, meetings, training programs and similar activities need not be counted as working time if all the following criteria are met:

- a. Attendance is outside of the employee's regular working hours.
- b. Attendance is in fact voluntary.

- c. The course, lecture, or meeting is not directly related to the employee's job.
- d. The employee does not perform any productive work during such attendance.

Training or education mandated by the state, federal government, or any political subdivision for a specific occupation need not be counted as work-time.

TRAVEL TIME

- The following types of travel time are not considered work time for which an employee must be compensated: 1) Ordinary travel from home to work, 2) Time spent as a passenger on an airplane, train, bus, or automobile outside of regular working hours, 3) Activities that are merely incidental use of an employer-provided vehicle for commuting home to work.
- The following types of travel time are considered work time for which an employee must be compensated: 1) Travel during regular work hours, 2) Travel on non-work days during regular work hours (regular work hours are those typically worked by an employee on work days), 3) Travel time from job site to job site or from office to job site, 4) The driver of a vehicle is working at anytime when required to travel by the employer, 5) One-day assignments performed at the employer's request (regardless of driver or passenger status).

ON-CALL

- When employees are required to remain on-call on the employer's premises or so close thereto that they cannot use the time effectively for their own purposes, they are considered to be working and must be compensated.
- When employees are on-call and are not required to remain on the employer's premises but are required to respond to a beeper or leave word at home or the employer's business where they may be reached, they are not considered to be working and need not be compensated.

BONUSES AND COMMISSIONS

- An earned bonus is an amount paid in addition to a salary, wage, or commission. An earned bonus is compensable when an employee performs the requirements set forth in a contract or an agreement between the parties.
- A commission is a fee or percentage given for compensation to an individual for completion of a sale, service, or transaction. Upon separation from employment, the past practices, policies, and entire employment relationship will be used to determine if the commission is earned and compensable.

ROOM AND BOARD

The reasonable value, not exceeding the employer's actual cost, of board, lodging, and other facilities customarily furnished by the employer for the employee's benefit may be treated as part of the wages, up to a maximum of eighteen dollars per day, if agreed to in writing. If the employee's acceptance of facilities is in fact voluntary.

UNIFORMS

An employer may require an employee to purchase uniforms if the cost of such uniforms does not bring that employee's wage below the hourly minimum wage for all hours worked during any pay period.

This poster summarizes provisions contained in the *ND Minimum Wage & Work Conditions Order* (N.D. Admin. Code Chapter 46-02-07), as well as selected provisions of N.D.C.C. Title 34 and N.D.C.C. Chapter 14-02.4.

**HB 1337- State Minimum Wage Bill – Increase to \$7.25 an hour
January 23, 2007**

Representative Keiser and members of the I, B & L Committee, my name is Mary Splichal. I am the membership chair of the Bismarck-Mandan Branch of the American Association of University Women (AAUW). I rise to speak on behalf of over 300 AAUW members in North Dakota and 100,000 national members.

AAUW is in favor of House Bill 1337. We believe the minimum wage is a working woman's issue. Of the 11.8 million workers who would receive a pay increase as a result of a Federal minimum wage increase, 58 percent are women. In fact, 1.4 million working mothers, including 623,000 single moms, would benefit from the increase. Women making minimum wage are also disproportionately women of color, 33 percent of female minimum wage workers are African American or Hispanic.

History clearly shows that raising the minimum wage has not had any negative impact on jobs, employment or inflation. In the four years immediately after the last federal minimum wage increase passed in 1996, the economy experienced its strongest growth in over three decades, adding more than 11 million new jobs.

Many people think only teenagers, starting out with their first job, will benefit from this proposed increase. Some say, no one still pays that, so what's the big deal. I found a woman who cooked for a daycare business and later was a caregiver for the babies in that same Bismarck business. She told me she earned \$5.15 an hour for over 4 years with one company and now earns \$6.25 an hour with another company. This woman is not a teenager. Between her and her husband, they hold down 4 jobs in order to pay their mortgage payments on a modest home and put food on the table. They can't imagine what they would do if they had children to feed.

Please pass HB 1337. AAUW believes raising the minimum wage is an important step toward increasing the economic security of working women and their families.

#4

Submitted
by AFL-CIO

Compliments of
North Dakota AFL-CIO

Economic Policy Institute

Economic Snapshots

A weekly presentation of downloadable charts and short analyses designed to graphically illustrate important economic issues. Updated every Wednesday. [See [Snapshots Archive](#).]

Snapshot for March 22, 2006.

If you work, then you shouldn't be poor

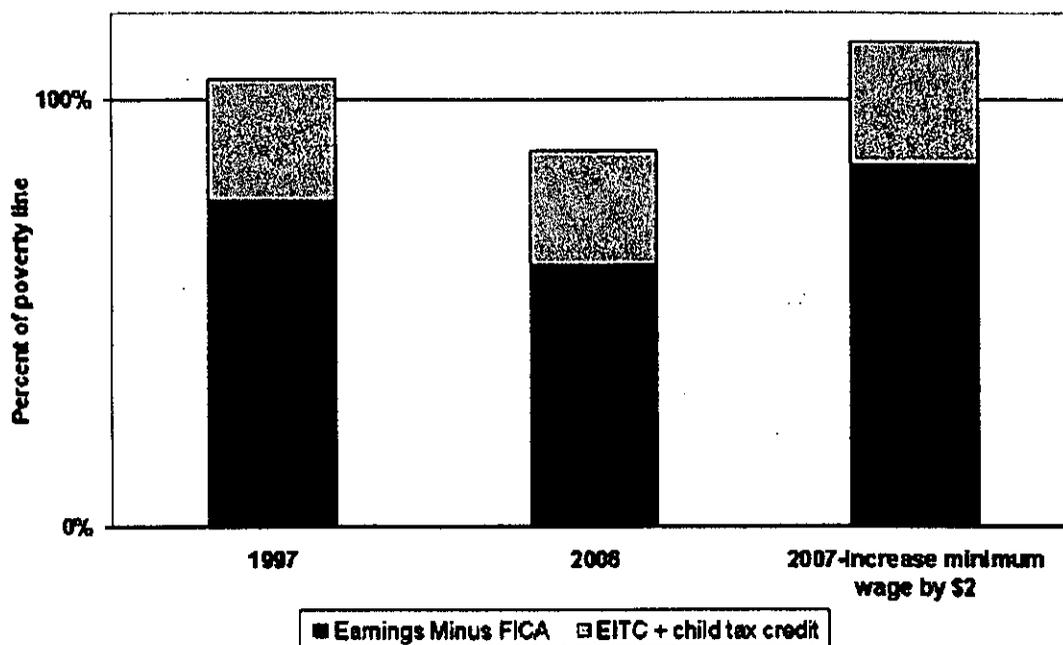
Guided by the sentiment that if you work you shouldn't be poor, lawmakers in the 1990s made improvements in two policies that, taken together, ensured that full-time, year-round work would provide an income at or above the poverty line. Raising the minimum wage from \$4.25 to \$5.15 in 1996-97 directly improved the wages of 9% of the workforce—almost 10 million workers—and indirectly raised the wages of millions more low-wage workers. Improvements in the Earned Income Tax Credit (EITC) and a new refundable Child Tax Credit also rewarded work and supplemented wages. After the minimum wage increase, the combination of full-time, year-round work and the above-mentioned federal tax credits resulted in a net income for a parent with two children equal to 105% of the poverty line in 1997.

Although there is broad agreement that, for a family to pay for the basic essentials, it actually requires an income level of around twice the poverty line (higher in some areas), improving the minimum wage and EITC still meant important progress for a substantial number of struggling families.

Nine years later, however, the system has broken down. The minimum wage has not kept pace with inflation and thus has lost 20% of its previous purchasing power. To exacerbate the problem, the EITC levels are linked to inflation, so for the last two years a person can work full-time, year-round at the minimum wage but still not be eligible for the maximum EITC. The combination of an out-of-date minimum wage and the existing federal tax credits mean that this same parent of two now only earns 89% of the poverty line.

Compliments of
North Dakota AFL-CIO

Minimum wage workers and the poverty threshold



Source: Author's analysis

A minimum wage increase from \$5.15 to \$7.25 would return the value of full-time work to just above its 1997 level and renew the nation's commitment to working families.

This week's *Snapshot* was written by EPI economist [Jeff Chapman](#).

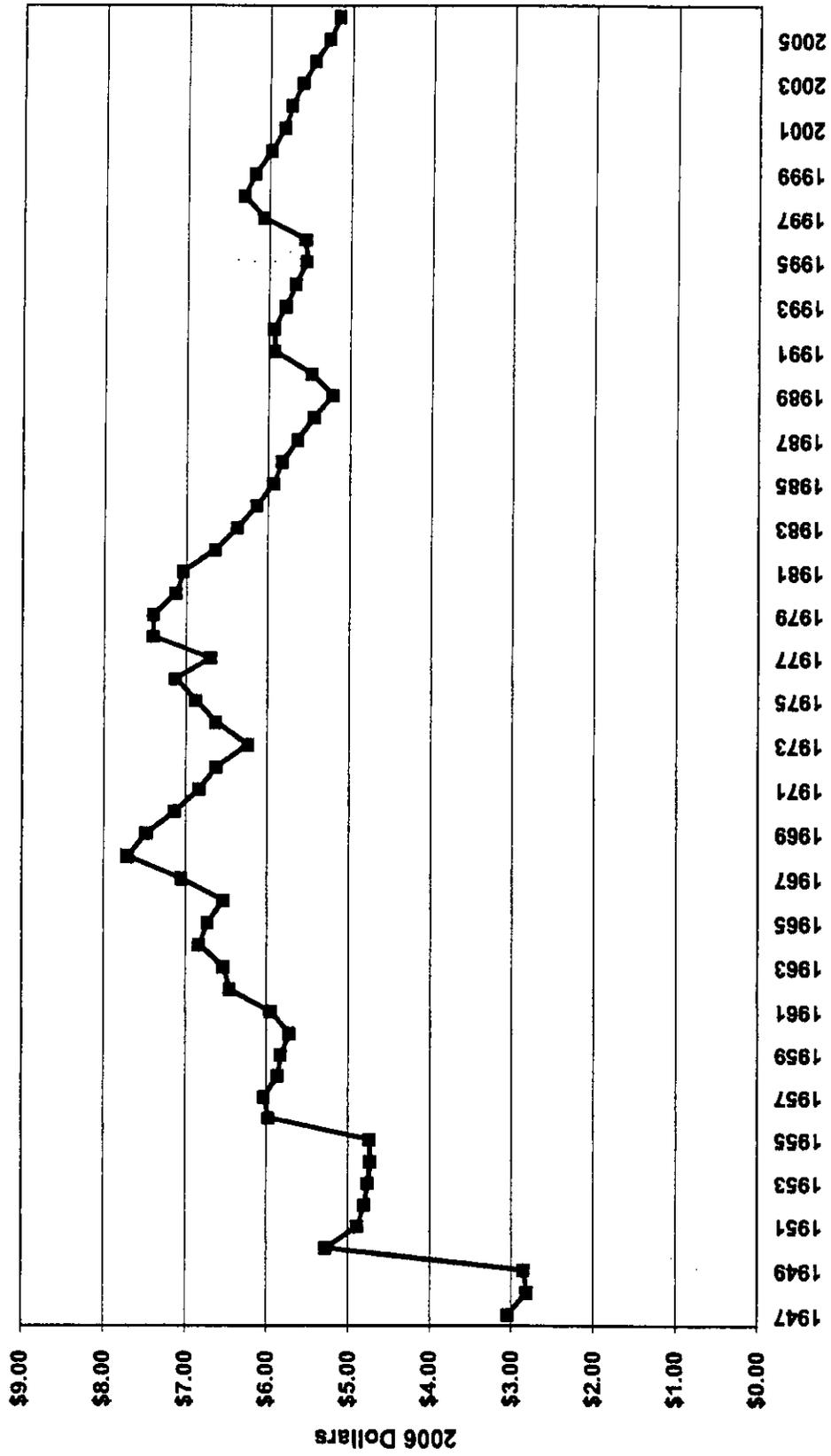
Check out the [archive](#) for past *Economic Snapshots*.

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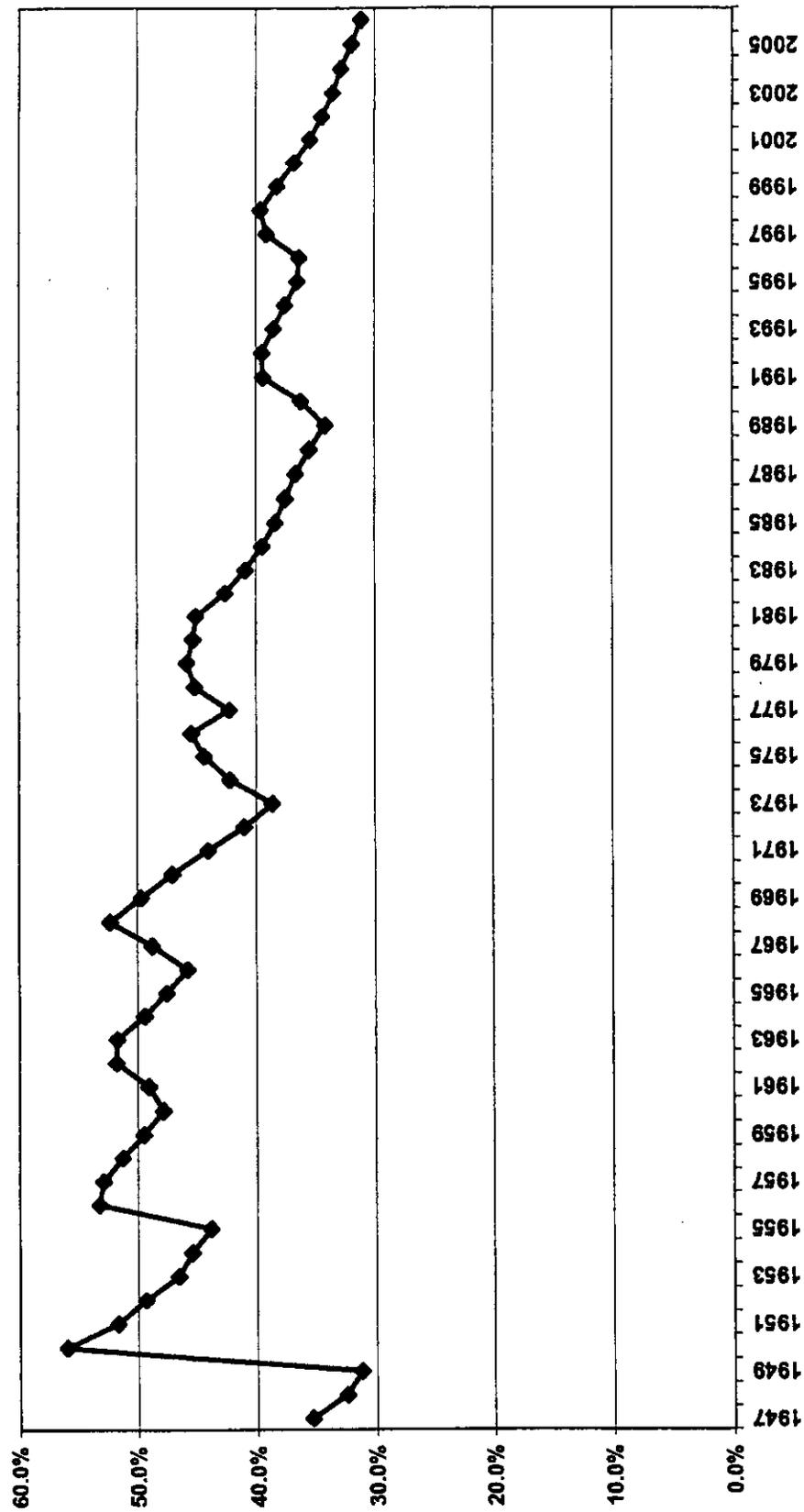
[Close this window](#)

Figure 1: Real value of the minimum wage, 1950-2006*



*through May 2006

Figure 2: The minimum wage relative to
the average wage, 1950-2006*



* Through May 2006

**Figure 4: Annual minimum wage earnings in
2005 dollars and the poverty level for family of three**

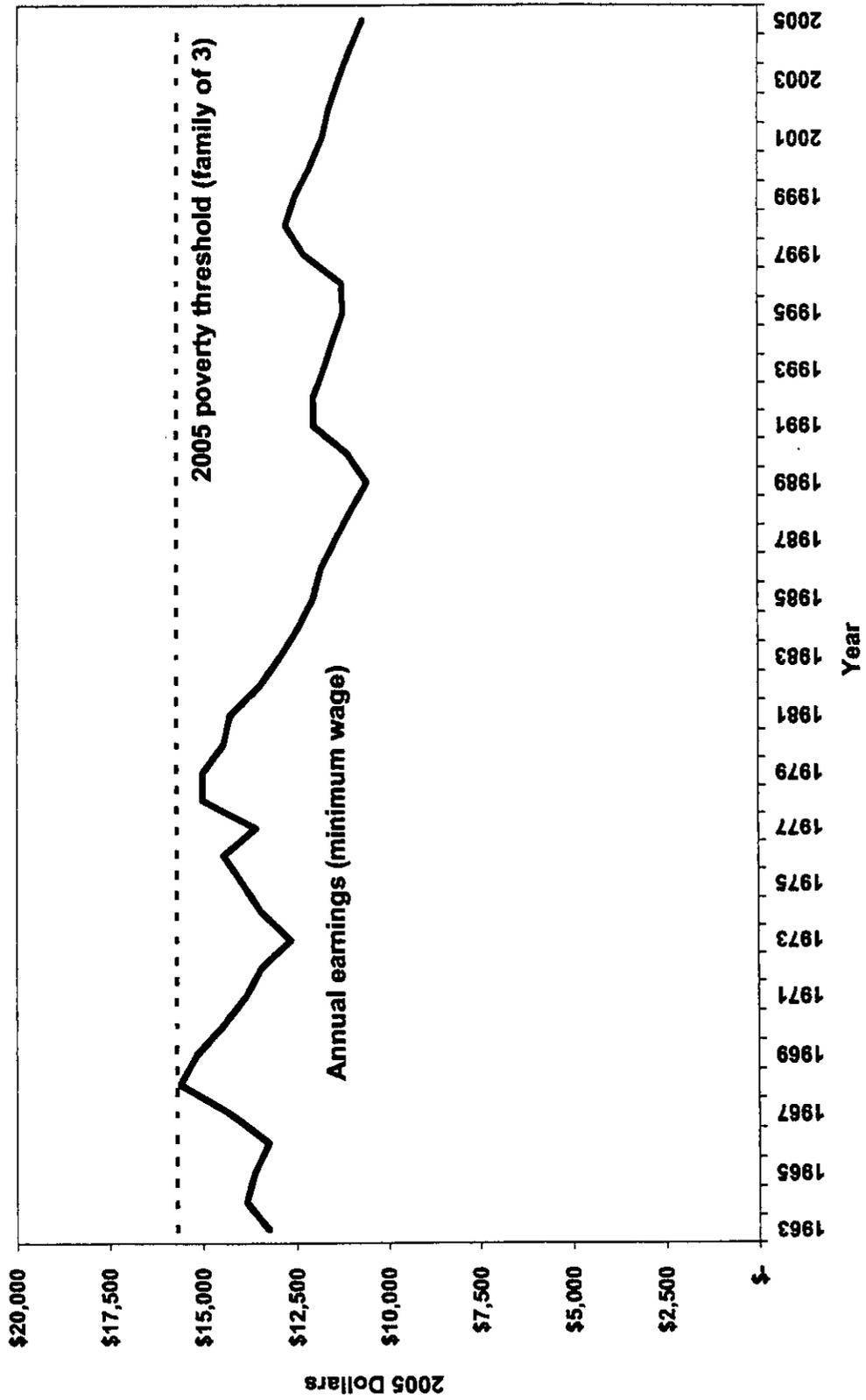


Table 3

Total workers affected by a federal minimum wage increase to \$7.25 by state**

UNITED STATES	9.8%	12,972,000		
NORTHEAST			SOUTH	
<i>New England</i>			<i>South Atlantic</i>	
Maine	*	*	Delaware	* *
New Hampshire	2.9%	19,000	Maryland	4.4% 117,000
Vermont	*	*	District of Columbia	* *
Massachusetts	*	*	Virginia	12.6% 449,000
Rhode Island	*	*	West Virginia	18.8% 133,000
Connecticut	*	*	North Carolina	16.1% 611,000
			South Carolina	18.3% 325,000
<i>Middle Atlantic</i>			Georgia	13.2% 526,000
New York	8.1%	661,000	Florida	6.6% 540,000
New Jersey	6.2%	252,000	<i>East South Central</i>	
Pennsylvania	14.5%	808,000	Kentucky	16.5% 295,000
			Tennessee	14.4% 350,000
MIDWEST			Alabama	17.5% 350,000
<i>East North Central</i>			Mississippi	18.5% 202,000
Ohio	15.5%	793,000	<i>West South Central</i>	
Indiana	12.3%	354,000	Arkansas	18.3% 221,000
Illinois	1.9%	108,000	Louisiana	19.0% 366,000
Michigan	12.7%	540,000	Oklahoma	16.6% 245,000
Wisconsin	11.2%	295,000	Texas	17.5% 1,771,000
<i>West North Central</i>			WEST	
Minnesota	5.3%	135,000	<i>Mountain</i>	
Iowa	18.4%	264,000	Montana	16.7% 68,000
Missouri	15.5%	405,000	Idaho	16.7% 106,000
North Dakota	16.4%	48,000	Wyoming	15.9% 39,000
South Dakota	18.1%	65,000	Colorado	9.6% 211,000
Nebraska	16.0%	136,000	New Mexico	17.6% 146,000
Kansas	19.1%	240,000	Arizona	14.9% 385,000
			Utah	16.4% 178,000
			Nevada	12.6% 146,000
			<i>Pacific</i>	
			Washington	* *
			Oregon	* *
			California	* *
			Alaska	* *
			Hawaii	* *

* Insufficient sample size to estimate. In these cases, higher state minimum wages lessen the impact of a federal increase.

** Includes both directly and indirectly affected workers.

Source: EPI analysis of 2005 Current Population Survey data

Table 3A

Workers directly affected by a federal minimum wage increase to \$7.25 by state

UNITED STATES	4.3%	5,607,000		
NORTHEAST			SOUTH	
<i>New England</i>			<i>South Atlantic</i>	
Maine	*	*	Delaware	* *
New Hampshire	2.5%	16,000	Maryland	2.4% 64,000
Vermont	*	*	District of Columbia	* *
Massachusetts	*	*	Virginia	4.8% 172,000
Rhode Island	*	*	West Virginia	8.4% 59,000
Connecticut	*	*	North Carolina	5.6% 211,000
			South Carolina	10.0% 179,000
<i>Middle Atlantic</i>			Georgia	5.2% 207,000
New York	3.9%	314,000	Florida	2.5% 207,000
New Jersey	3.2%	129,000		
Pennsylvania	5.5%	308,000	<i>East South Central</i>	
MIDWEST			Kentucky	7.5% 133,000
<i>East North Central</i>			Tennessee	6.2% 151,000
Ohio	6.6%	337,000	Alabama	6.3% 126,000
Indiana	5.0%	143,000	Mississippi	12.8% 139,000
Illinois	1.8%	103,000		
Michigan	*	*	<i>West South Central</i>	
Wisconsin	4.7%	124,000	Arkansas	9.4% 113,000
<i>West North Central</i>			Louisiana	14.2% 274,000
Minnesota	3.2%	81,000	Oklahoma	7.6% 113,000
Iowa	7.5%	107,000	Texas	8.5% 863,000
Missouri	6.8%	178,000	WEST	
North Dakota	7.2%	21,000	<i>Mountain</i>	
South Dakota	8.2%	29,000	Montana	8.2% 33,000
Nebraska	6.2%	53,000	Idaho	6.2% 39,000
Kansas	8.3%	105,000	Wyoming	7.1% 17,000
			Colorado	3.9% 85,000
			New Mexico	8.2% 68,000
			Arizona	5.7% 148,000
			Utah	7.5% 81,000
			Nevada	4.7% 54,000
			<i>Pacific</i>	
			Washington	* *
			Oregon	* *
			California	* *
			Alaska	* *
			Hawaii	* *

* Insufficient sample size to estimate. In these cases, higher state minimum wages lessen the impact of a federal increase.

Source: EPI analysis of 2005 Current Population Survey data

JAN 9 2009

Table 1

Characteristics of workers affected by minimum wage increase to \$7.25*

	Total Affected	Directly Affected**	Indirectly Affected***	Total workforce****
Number of workers (in millions)	13.0	5.6	7.4	130.3
Percent of workforce	10%	4%	6%	100%
Gender				
Male	41%	39%	42%	52%
Female	59%	61%	58%	48%
Race / ethnicity				
White	61%	61%	61%	69%
Black	16%	17%	16%	11%
Hispanic	18%	18%	18%	14%
Asian	2%	2%	2%	4%
Family Status				
Parent	26%	25%	28%	36%
Married Parent	17%	15%	18%	29%
Single Parent	10%	9%	10%	7%
Age				
16-19	21%	30%	15%	5%
20 and older	79%	71%	85%	95%
Work hours				
1-19 hours	17%	22%	13%	5%
20-34 hours	31%	36%	27%	13%
Full time (35 + hrs)	53%	43%	60%	82%
Industry				
Retail trade	23%	24%	23%	12%
Leisure and hospitality	23%	29%	18%	9%
Other	54%	47%	59%	79%
Occupation				
Sales	19%	21%	18%	11%
Service	37%	41%	33%	17%
Other	44%	38%	49%	72%

* Assuming a phase-in with the final step in 2009

** These are the workers earning between the state minimum wage and \$7.25

*** These are workers currently earning above \$7.25, likely to be affected by "spillover effects"

**** Includes workers not covered by minimum wage

Source: EPI analysis of 2005 Current Population Survey data



Testimony of Bill Shalhoob
North Dakota Chamber of Commerce
HB 1337
January 23, 2007

Mr. Chairman and members of the committee, my name is Bill Shalhoob and I am here today representing the ND Chamber of Commerce, the principle business advocacy group in North Dakota. Our organization is an economic and geographic cross section of North Dakota's private sector and also includes state associations, local chambers of commerce, development organizations, convention and visitors bureaus and public sector organizations. For purposes of this hearing we are also representing sixteen local chambers with a total membership of 7,236. A list of the specific chambers is attached.

The Chamber has a long history of opposing minimum wage mandates as being counterproductive to business growth and we still firmly hold that position. That being said, with a little background we would like the committee to consider an amendment to HB 1337. We understand current and future federal minimum wage guidelines have thresholds of a least two employees and at least \$500,000 in revenues. They further include any company, no matter how small, engaged in any type of interstate commerce. This would include any business delivering goods or services across any state line. In visiting with the Labor Commissioner, approximately 4,000 North Dakota workers are not covered by federal law. What is most appropriate as a process in this matter is having all of the information, including new federal guidelines, in place and having our Labor Commissioner call for a hearing and implement a new North Dakota minimum wage order. We are suggesting a hog house amendment which will quicken this process with the same result. We would propose tying the North Dakota minimum wage orders, current and future, to federal minimum wage orders. This would have the effect of enabling all employees in the state to benefit on exactly the same day and in the same amounts as they increase throughout the order. It will also preserve the tip credit and agricultural overtime credit as they presently exist since they are in administrative rule.

Thank you for the opportunity to appear before you today in opposition to HB 1337 as it exists and to have our amendment considered.

I would be happy to answer any questions.



**The following chambers are members of a coalition that support our 2007
Legislative Policy Statements:**

Beulah Chamber of Commerce - 107

Bismarck - Mandan Chamber of Commerce - 1080

Cando Area Chamber of Commerce - 51

Chamber of Commerce Fargo Moorhead - 1800

Crosby Area Chamber of Commerce - 50

Devils Lake Area Chamber of Commerce - 276

Dickinson Chamber of Commerce - 527

Greater Bottineau Area Chamber of Commerce - 153

Hettinger Area Chamber of Commerce - 144

Langdon Chamber of Commerce - 112

Minot Chamber of Commerce - 700

North Dakota Chamber of Commerce - 1058

Wahpeton Breckenridge Area Chamber of Commerce - 293

Watford City Area Chamber of Commerce - 84

Williston Chamber of Commerce - 401

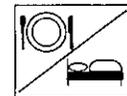
West Fargo Chamber of Commerce - 400

Total Businesses Represented = 7236 members

#26



ND's Restaurant, Lodging & Beverage Association



P.O. Box 428 • Bismarck, ND 58502 • Phone: 701-223-3313 • Fax: 701-223-0215
E-mail: ndha@btinet.net • www.ndhospitality.com

Industry, Business and Labor Committee
North Dakota House of Representatives
January 23, 2007

HB 1337

Mr. Chairman and committee members, my name is Nicki Weissman and I am the Executive Director of the North Dakota Hospitality Association. We have over 350 members in North Dakota who are engaged in the hospitality business, that is bars, restaurants, and hotels.

The North Dakota Hospitality Association opposes HB 1337.

In most, urban areas in the state wages currently, exceed the minimum wage, making the bill unnecessary in part. However, in rural areas the bill will have the unintended consequence of putting people out of work, losing their jobs. For example, an employer who is willing to provide work at \$5.15 or more may choose NOT to employ a young person at \$7.25 an hour.

The bill also takes a rapid approach to increase the minimum age, beyond what Congress is considering. It raises minimum wage to \$7.25 by August 1, 2007. In contrast, congress is looking at an increase to \$7.25 but over 2 years.

This rapid increase is also unfair because it gives the employer no opportunity to plan his or her business costs, employ appropriate budgeting for labor, or make other arrangements where he or she cannot afford the increased cost to his or her business. Such a dramatic increase may very well cost some businesses to close.

The automatic increase makes the bill even worse, because it mandates automatic increases in wages each year, based on the incorrect assumption that all businesses make more money than the year before.

The bill creates a domino affect where everyone will need to be increased, that means more taxes to pay, and more demands on the employer's capital which will be paid for by the consumer.

On the final note, the employers should decide when and where their employees should get a raise, not the government. I myself always like to have an increase, however if I haven't done the job, then I don't deserve the raise.

We encourage you for a DNP pass on bill # 1337.