

FISCAL NOTE
Requested by Legislative Council
01/10/2017

Bill/Resolution No.: HB 1263

- 1 A. **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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$1,600,000	\$2,400,000	\$1,600,000	\$2,400,000
Appropriations						

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

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities			
School Districts			
Townships			

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

This bill proposes to increase the North Dakota minimum wage to \$9.25 effective 1/1/2018. The minimum wage would also increase annually based on cost of living increases.

- 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.*

The estimated expenditures reflect the increase in wages paid to state employees. The fiscal impact of this bill is approximately \$4 million with the majority of the impact coming from Higher Education.

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.*
- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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Date Prepared: 01/13/2017

2017 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1263

2017 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1263
1/31/2017
27676

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

State's minimum wage.

Minutes:

Attachments, 1, 1A, 1B, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12

Chairman Keiser: Opens the hearing of HB 1263.

Rep M Nelson~District : Attachment 1, 1A 1B.

17:30

Rep Becker: I acknowledge your goal is to help lower income workers & your view on raising the minimum wage as one way to do that. Do you acknowledge that I also want to help the economy, help lower income workers? The reason I'm opposed this bill or any minimum wages because my belief does indicate that the concerns like wage compression, decreased benefits & increased unemployment are more harmful as a net loss versus how you view it. Can we start out with an acknowledgment that each want what is best for the citizens of ND?

Rep Nelson: I can agree with that.

Rep Dobervich: Tips, the people are paid minimum wage. Is there any thought of adding tip workers to this so that they would be making minimum wages as well, particularly in rural area where they are likely to tip less? Paying a living wage, customers are less likely to tip, what are your thoughts on that?

Rep Nelson: Law says you need to receive minimum wage. The employer by law, has to pay the difference if you don't receive enough tips to meet the equivalent of minimum wage.

Rep Ruby: You have inflationary increase in your bill, is it the possibility that inflation could be negative. In this bill, it doesn't allow that to be reduced by the percent. How do you justify that?

Rep Nelson: If there is a long enough deflationary period, if that comes into play, we can handle that at that time. There have been periods of deflation, but they were fairly short. The

trend has not been that minimum wage going up relative to everything else. It's hard to write for every situation. \$9.25 in ND is not a living wage.

Rep Ruby: I don't know if ever, that minimum wage was supposed to be a living wage. The government doesn't dictate what benefits for small businesses my give to employees. Why do you think the government should dictate wage?

Rep Nelson: During the inception, that's what it was & now we are seeing a trend away from that. It's more of a baseline. When we raise minimum wage, the workers who are just a little above will also see a rise, it's the social aspect of it. Data shows that employee turnover goes down when you raise minimum wage, efficiency productivity increase. Why should government dictate it, basically, if you don't want ND to empty out, you should get paid.

Rep Ruby: We will disagree the turnover. The employer will raise the wage if the employee is doing the work.

Rep Nelson: What I said is not my opinion, I was citing research.

Rep Ruby: Are minimum wage has stayed the same & yet the base wages have gone up without the government stepping in. Don't you think that system is equable trying to force all businesses on a mandated wage increase?

Rep Nelson: We had an unusual situation, the oil boom. They moved into ND for higher wages & moved out if they didn't receive it. We want to hit that happy medium. We have a certain amount of time left before you pass the point where you can do these things. We need to keep the base there keep things growing. Are we going to let things grow & claim that it's free market? When things get tough, they cut in the rural area.

Rep Louser: What about the employee making \$10 an hour, will he get a raise as well?

Rep Nelson: There is a tendency to happen, yes.

Rep Becker: The people working in rural areas for minimum wage are filling job slots. Other people are going to the bigger town allegedly for better paying jobs. I don't believe the unemployment rate is substantially different but more than that, I don't believe there is a dramatic number of jobs openings in the rural area that aren't being filled. The market forces wage increases. How do you see the free market not being effective in the rural areas compared to urban?

Rep Nelson: In rural areas, you see people have more than 1 job. Before the oil boom, ND was the highest percentage underemployed people in the nation. I know where there are people that work 5 jobs to make ends meet. That's present in the rural areas.

Rep Ruby: Did you see the fiscal note.

Rep Nelson: Yes.

Rep Ruby: The majority of impact is coming from higher education.

Rep Nelson: I assume that's what they are doing with their teaching assistances. The state of ND is paying minimum wages for those positions. It goes back to the way we do our fiscal notes because there are problems. Changing the minimum wage is multi-dimensional thing. I'm certain that the net to the state government is going to be positive.

Rep Ruby: Did you propose a staff reduction of 4 million dollars in the bill.

Rep Nelson: This is not an appropriation, but those effects will be there.

Rep Beadle: Looking at our neighbor state of Montana & there recent wage changes, do you have any data from Job Service that shows the correlation.

Rep Nelson: No.

Chairman Keiser: Obviously, you built in an inflator based on a formula but it's says specifically, under no circumstances may the commissioner decrease the minimum wage. We are adjusting this annually based on the previous year's date. We do object to incorporating an amendment that would increase or decrease based on?

Rep Nelson: In the end, I wouldn't have a big objection to that.

Chairman Keiser: You talked about subsection 3, on page 2, they took out differs from & when I read & interpreted that the commissioner has the authority to go above the rate we have. That is not your intent?

Rep Nelson: It's not my intention to eliminate those.

Waylon Hedegaard~President of the ND AFL-CIO: Attachment 2.

51:30

Rep Becker: You brought up economic policy institute. At first thought you would think that's an economic think tank. In actuality, it's a very progressive institute with one of its prime directives to get minimum wages raised & also look towards a living wage. We have to be careful on what we accept as citations.

The economic policy institute itself, recognizes that increasing the minimum wage does, if you don't take steps, does increase unemployment. The interesting thing about each of the steps, they suggest be taken to avoid increasing unemployment are a detriment to very workers that legislation like this is intended to help.

On step is to increase productivity to make thing balance out. It forces them to do more in the same amount of time. Another possibility is increases prices, which then for the lower wage earners, is difficult. It also does wage compression which is the idea that one does not advance with raises in the salary nearly as fast than one would otherwise would. It takes away the impetus to try, excel, gain or move up the ladder. It also employs decreased

benefits which hurts the lower wage earner more than anyone else. Then there is the decreased profit, means decreased share price for retirees. I'm not sure how you would respond to that.

The economic policy institute indicates that one or more of all these possibilities must be employed to avoid higher unemployment rate. How would you view anyone of these things as helping the lower wage income worker?

Hedegaard: Everybody thinks that the economic policy institute is a left wing institute. Everybody studying the minimum wage come at it in some point of view. They are not lying about their problems; they are indicating that there are potential problems there.

If you raise minimum wage by 10%, it effects the food industry the most. It will raise food & fast food by 4%, but overall it raises prices in the general industry by .04%. Most low wage workers usually don't get paid benefits. I would never say there isn't going to be effects, the question more would be, are the effects small enough to make the gains worthwhile.

Rep Lefor: Can you tell me of instances where head of households in ND making a minimum wage?

Hedegaard: I don't have statistics but in Bismarck, ND, it doesn't happen as often but rural areas there could be. I don't have solid numbers.

Rep Lefor: This is mostly in rural not urban areas in ND?

Hedegaard: That works for urban areas, when you get to rural areas, it's not the case.

Rep Ruby: What was the reasoning for this going to work for ND? That shortage of employees, required more increased wages in rural areas. Where are you're trying to help the rural area?

Hedegaard: ND has a serious warped effect from the oil boom in the western area but not the eastern rural areas it hasn't had nearly the effect. I have to believe the studies out there. We have a gradient of wages.

Chairman Keiser: Page 1, starting on line 19, the consumer price index doesn't appear to work well with the ND price index. Have you thought about using the state average weekly wage as the bases for comparison? This takes in our data, not national data?

Hedegaard: I would appreciate indexing to anything. It doesn't mean that it's cheaper. I would have to think about the average wages & see what affect.

Scott Nodland~Citizen: There has been a lot of logical arguments that have been offered but mine will be the most logical of all of them. The day after the floor votes on this, I going to initiate a ballot initiative for a higher amount than \$9.25, if this doesn't pass.

Tom Asbridge~Citizen: Attachment 3.

1:12:35

Rep Louser: What is your background for the think tank you belong to?

Asbridge: My background is ranching, consulting, trade & lobbyist in Washington DC for 7 years. It's the Economic Think Tank, which is the national organization for raw materials. They crafted most of the laws that brought us through the depression in spite of the new deal. They keep economic data.

Chairman Keiser: I've never seen any data where they have raised the minimum wage, what impact, if any, on wages that are above the minimum wage currently?

Asbridge: It would appear that it would be negligible & I think it's the wrong tactic to try see whether you should do this or not. The only important factor is raising the minimum wage the impact the people who would affect directly.

Chairman Keiser: That is what you think but we don't know, there has been no study that has been done.

Asbridge: Not that I'm aware of.

Rep O'Brien: How do you motivate people to take the jobs available with higher wages?

Asbridge: That's a great question but I don't think it relates to the minimum wage here. That's another issue. We should be concerned with the people that are in the underbelly.

Rep O'Brien: If we are trying to take people out of poverty by increasing minimum wages, you increase prices, do you think people want to pay the price increase from the raising wages?

Asbridge: You are absolutely right. That is a consequence. It can't be done by raising wages, it has to be done the other 2 things that legislature can't effect. They are raw material prices & trade policy. If you don't tie them together, the raised wages will not have an impact on the economy.

Rep O'Brien: My point is that business are offering better wages & people aren't taking it. It's a people problem, not a money problem, we need human capital to fill these roles.

Asbridge: Are you suggesting that there is not enough people to fill these jobs?

Rep O'Brien: Correct.

Asbridge: Where would these people come from to fill them?

Rep O'Brien: That is what I'm asking you.

Asbridge: I don't think it's a motivation problem, I think we are mixing an economic problem with a social issue. How do you motivate people, I don't know?

Rep Becker: Labor cost eats up 40% of total revenue, if I increase my labor costs, I'm not yet profitable, are you considering the other aspects in the real world, with a real market beyond what some studies show?

Asbridge: You are talking about a management decision, it's not an economic issue which is vastly different. Your job as a legislature, is to take a picture of the overall system that we are in & try to make it work better & create rules that are not so onerous, that you can't possible function under them, yet benefit society in a way adequate income amongst the broad population so they don't need a welfare check.

Rep Dobervich: Can you list what types of jobs in ND where you are going to have the higher wages related to the previous oil activity. What kind of minimum wage jobs in ND where someone would start & stay a fair amount of time at minimum wage. Second question, who works minimum wage jobs? Third, how frequently do you see a minimum wage worker getting advanced training or education.

Asbridge: I'm not sure I'm not a sociologist enough to answer very much of that.

1:36:10

Rene Stromme~ND Women's Network-Providing testimony from Melissa Sobolik-Great Plains Food Bank-representing ND Economic Security & Prosperity Alliance: Attachment 4.

Kathrin Volochenki~Citizen: Attachment 5.

1:45.15

Casey Buchmann~Citizen: Attachment 6.

Chairman Keiser: Anyone else here to testify in support, opposition to HB 1263.

1:50:00

Troy Schuchard~Citizen: If we raise minimum wage, it will go to automation, especially in the fast food industry. I'm opposed to the wage increase.

Mike Rud~President of the ND Petroleum Marketers & Retail Associations: Attachment 7.

1:59:00

Rep Ruby: Theoretically, is it possible for ND to get rid of the minimum wage & virtually affect no one?

Rud: I don't think it would have an impact.

ReAnn Kelsh~State Director for NFIB: Attachment 8.

2:04:40

Brent Bogar~GNDC-Greater ND Chamber: Attachment 9.

2:06:45

Rep C Johnson: Do you know of any business that would violate the minimum wage law & if this passed would there be any business that would violate the minimum wage law?

Bogar: I don't know of any.

Rep C Johnson: What about if this legislation passes?

Bogar: The businesses that I've talked to, they pay above minimum wage.

Chairman Keiser: The statement has been made that I don't know of anybody below the minimum wage & the other testimony is that everybody is way above. Do we have any measure of people that are between the current & proposed wage minimum wage that would be affected?

Bogar: I don't have any.

Chairman Keiser: No one has gone to the effort to tell us what that number is & that is what the problem is & we don't know what the problem is.

Chairman Keiser: Is there anyone else here to testify opposition, neutral on HB 1263?

Michelle Kommer~Commissioner of Labor: Attachment 10.

2:13:15

Chairman Keiser: What is happening of the federal level relative to the minimum wage?

Kommer: That I know of, there is discussion, but I'm not aware of any active legislation what would change the federal minimum wage today.

Chairman Keiser: Would our minimum wage change if the federal rate changed?

Kommer: It would.

Rep Ruby: Do you have any idea what the difference would be if we used a different inflationary guide if it was more ND based rather than national?

Kommer: I don't have a precise answer for you in preparation for today's hearing.

Rep Laning: Are you aware of any provisions for subminimum wages for students in labor law?

Kommer: Today under ND labor laws, we have this provision that I set forth before you that does allow subminimum wages for certain vocation education. We haven't processed any certificates or licenses to those organizations. Other than that, our youth employment, we do issue youth employment certificates, but the minimum wage for youth in ND is \$7.25.

Rep Bosch: Does the Labor department have statistics that fall in that gap that falls in the \$7.25 to \$9.25?

Kommer: We do not have that information.

Chairman Keiser: Closes the hearing on HB 1263. Committee, what are your wishes on this bill?

Rep Becker: Moves a Do Not Pass.

Rep Ruby: Second.

Chairman Keiser: Further discussion.

Chairman Keiser: This is a social & business issue. ND has one of the best free market operations. We have had the fastest growing average weekly wage in the country for a couple of years. That has been a tremendous indicator that the system is working. Are there some people that are in that gap, we haven't received any data on that. I very opposed to using the consumer price index for all urban consumers & it has very little relationship to the economy to the state of ND on occasion. The 3 lines, 3, 4 & 5 on page 2, as I read it, it gives the commissioner the authority to increase above & beyond whatever the state is. If it's to change, it's a policy decision. I will oppose the bill.

Rep Ruby: After discussion, the market has already taken care of it.

Chairman Keiser: On the fiscal note, the university depends on students, it will be the work study students. This is an important issue as far as the fiscal note, we are having education take the biggest cut. It's a double whammy for higher ed.

Roll call was taken on HB 1263 for a Do Not Pass with 12 yes, 2 no, 0 absent & Rep Bosch is the carrier.

Following people turned in testimony but didn't testify:

Jessica Dryer~Citizen: Attachment 11.

Rachele Hall~Citizen: Attachment 12.

Date: Jan 31, 2017

Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1263

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar

Other Actions Reconsider _____

Motion Made By Rep Becker

Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep Laning	X	
Vice Chairman Sukut	X		Rep Lefor	X	
Rep Beadle	X		Rep Louser	X	
Rep R Becker	X		Rep O'Brien	X	
Rep Bosch	X		Rep Ruby	X	
Rep C Johnson	X		Rep Boschee		X
Rep Kasper	X		Rep Dobervich		X

Total (Yes) 12 No 2

Absent 0

Floor Assignment Rep Bosch

REPORT OF STANDING COMMITTEE

HB 1263: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
HB 1263 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

HB 1263

HB 1263

Representative Marvin E. Nelson

1/31/2017

House Industry Business and Labor Committee

Chairman Keiser and members of the committee.

Today I propose that North Dakota raise its basic minimum wage to \$9.25 and add an automatic update formula to future minimum wages.

It is a type of basic economic policy that has a lot of effects throughout our economy.

NCSL has a chart of all the states. It gives recent highlights such as 29 states and DC have minimum wages over the federal minimum. In 2017, seven states increased minimum wages through cost of living increases, five through ballot initiatives, and seven as a result of earlier legislation, two more will see raises on July 1.

So many states have raised and are raising the minimum wage, why?

The minimum wage is worth less than it used to be. Different people give slightly different charts but it appears to me that the peak was around 1978 at almost \$10 in today's terms. It should be noted too that minimum wage was for a time at about 1/2 of the

Many adults are at or near the minimum wage. Nationally, about 2/3 of minimum wage workers are adults. While most workers rapidly move significantly above minimum wage, there is a significant minority who spend long periods of time at or near minimum wage. Women are more likely to be at or near minimum wage than men.

Poverty, while most minimum wage workers are not from households in poverty, increasing the minimum wage does affect families in poverty and does work to shrink government. Benefits such as low income housing which takes 30% of wages are directly affected.

Jobs, a common fear and some classic economic models suggest jobs are lost due to minimum wage increases. However, studies show effects of moderate increases to be very low and some even show positive effects. Teens tend to be among the most susceptible to job loss to minimum wage increases and yet research has been quite strong that a 10% increase results in less than a 1% decrease with some even showing a positive increase.

Why could one see an increase, it's because raising the minimum wage tends to increase consumer spending, which generates increased business activity. While prices increase, the wage increases are significantly more since wages are only one factor in pricing.

I recommend the book, What Does the Minimum Wage Do? By Dale Belman and Paul J. Wolfson. It is a metanalysis of the research on the minimum wage.

What do we know with good confidence about moderate increases in minimum wage? There is little evidence of negative labor market effects. Hours and employment do not seem to be meaningfully affected. Employee turnover is slowed. The earnings of the lowest paid workers significantly increase, and those earning moderately higher hourly wages seem also to increase. The effect is more significant on women than men. It has low social costs, and clear benefits.

Turning to ND. What do we see as the long term trends? We see worker movement away from low wage areas to higher wage areas. We see this both inside and outside the state. Rural areas would be more affected immediately by an increase in minimum wage, and more affected long term if we can stem the depopulation.

Many ND workers in rural areas have been captive. They did not have enough options for them in available employment to be able to get higher wages. The cost of transport is too high to make small increases viable, this occurs not just with minimum wages. If you remember, the legislature has stepped into the issue of teacher's salaries. Some school districts were very low because their teachers had local ties and could not easily leave for higher wages. The same thing happens for many rural workers. Eventually, they leave, either to the larger cities in ND or they leave the state entirely. When we see an influx of people, it is to the higher wage areas, and areas projected to grow have higher wages.

Training helps many workers and the two concepts are not exclusionary at all, however, captive workers are again often not helped by training. And, you may indeed be training people to leave if you don't have the better paying job available to the worker. I would also point out that it sure appears to me that we are going to make significant cuts to training, not increase it this session. In any case, they are not alternatives but complements.

In short, raising the minimum wage results largely in intended consequences. Increased earnings, particularly for the lower income half of households while having little to no effect on employment.

I have included the NDAC and NDCC sections affected as well as an explanatory chart from the Dept of Labor. The minimum wage is handled in a rather different way in ND with the Commissioner having a lot of power.

For instance in NDCC 34-06-03 the Commissioner has authority over wages in any occupation and wages for minors.

There will likely be questions about the server wage. The way ND does it for tipped employees is there is a tip credit equal to 1/3 the minimum wage, but if they keep track of tips, they must make the minimum wage.

The chart is the handiest for a summary.



State Minimum Wages | 2017 Minimum Wage by State

1/5/2017

The table below reflects current state minimum wages in effect as of Jan. 1, 2017, as well as future enacted increase

Summary

2017 Highlights

- Nineteen states began the new year with higher minimum wages. Seven states (AK, FL, MO, MT, NJ, OH, SD) automatically increased their rates based on the cost of living, five states (AZ, AR, CO, ME, WA) increased the rates through ballot initiatives previously approved by voters, and seven states (CA, CT, HI, MA, MI, NY, VT) did so as a result of legislation passed in prior sessions. Washington D.C., Maryland and Oregon are scheduled to raise their respective minimum wages on July 1, 2017 due to previously enacted legislation.

2016 Highlights

- Voters in Arizona, Colorado, Maine, and Washington approved November ballot measures to raise their respective minimum wages. Arizona, Colorado, and Maine will incrementally increase their minimum wages to \$12 an hour by 2020. Washington's will be increased incrementally to \$13.50 an hour by 2020.
- New York became the second state to pass a new law that would raise the minimum wage in New York City to \$15 per hour by the end of 2018. Washington D.C. followed suit, enacting a law to raise the minimum wage in the District to \$15 per hour by July 1, 2020.
- On April 4, California Governor Jerry Brown signed Senate Bill 3 into law. The new law increases the minimum wage to \$15 per hour by Jan. 1, 2022, for employers with 26 or more employees. For employers with 25 or fewer employees the minimum wage will reach \$15 per hour by Jan. 1, 2023. Increases may be paused by the governor if certain economic or budgetary conditions exist. Beginning the first Jan. 1 after the minimum wage reaches \$15 per hour for smaller employers, the minimum wage is indexed annually for inflation.
- On March 23, Governor Kenneth Mapp of the Virgin Islands signed Act 7856, establishing an \$8.35 minimum wage with scheduled annual increases on June 1, 2017 and 2018 until the rate reaches \$10.50.
- On March 2, Oregon Governor Kate Brown signed SB 1532 into law. It establishes a series of annual minimum wage increases from July 1, 2016 through July 1, 2022. Beginning July 1, 2023, the minimum wage rate will be indexed to inflation based on the Consumer Price Index.
- Fourteen states begin the new year with higher minimum wages. Of those, 12 states increased their rates through legislation passed in the 2014 or 2015 sessions, while two states automatically increased their rates based on cost of living.
- Of the 11 states that currently tie increases to the cost of living, eight did not increase their minimum wage rate in 2016. Colorado provided for an 8-cent increase and South Dakota granted a 5-cent increase per hour. Increases in Nevada are required to take effect in July.
- Maryland, Minnesota and D.C. have additional increases scheduled for 2016. Nevada will announce in July whether or not there will be a cost of living increase to their indexed minimum wage.

2015 Highlights

- The Rhode Island legislature enacted an increase, taking the state minimum wage to \$9.60 effective Jan. 1, 2015 ([HB 5074](#) / [S194](#))
- The increases D.C. and Maryland passed during the 2014 session take effect July 1, 2015. D.C.'s new wage of \$10.50 an hour makes it the first jurisdiction to cross the \$10 threshold among the states. Maryland's minimum wage rose to \$8.25 on July 1.

- Delaware also passed an increase in 2014, which took effect June 1, 2015, increasing the state's minimum wage to \$8.25 an hour.

2014 highlights

- Lawmakers in [Connecticut](#), [Delaware](#), [Hawaii](#), [Maryland](#), [Massachusetts](#), [Michigan](#), [Minnesota](#), [Rhode Island](#), [Vermont](#), [West Virginia](#) and [D.C.](#) enacted increases during the 2014 session.
- Voters in Alaska, Arkansas, Nebraska and South Dakota approved minimum wage increases through [ballot measures](#).

Currently, 29 states and D.C. have minimum wages above the [federal minimum wage](#) of \$7.25 per hour.

Five states have not adopted a state minimum wage: Alabama, Louisiana, Mississippi, South Carolina and Tennessee. New Hampshire repealed their state minimum wage in 2011 but adopted the federal minimum wage by reference.

State Legislation

- [Minimum wage legislation database](#) (2014/2015/2016)
- [LegisBrief](#) (February 2014)

STATE MINIMUM WAGE LEGISLATION

State	Minimum Wage	Future Enacted Increases	Indexed Automatic Annual Adjustments
Alabama	none		
Alaska	\$9.80		Indexed annual increases begin Jan. 1, 2017. (2014 ballot measure)
American Samoa	varies ¹		
Arizona	\$10.00	\$10.50 eff. 1-1-18 \$11.00 eff. 1-1-19 \$12.00 eff. 1-1-20	Rate increased annually based on cost of living beginning Jan. 2021 (2011 ballot measure)
Arkansas	\$8.50		
California ²	\$10.50	\$11.00 eff. 1-1-18 \$12.00 eff. 1-1-19 \$13.00 eff. 1-1-20 \$14.00 eff. 1-1-21 \$15.00 eff. 1-1-22	Indexed annual increases based on CPI begin Jan. 1, 2023
Colorado	\$9.30	\$10.20 eff. 1-1-18 \$11.10 eff. 1-1-19 \$12.00 eff. 1-1-20	Rate increased annually based on cost of living beginning Jan. 1 2021 (2010 ballot measure)

State	Minimum Wage	Future Enacted Increases	Indexed Automatic Annual Adjustments
Connecticut	\$10.10 ³		
Delaware	\$8.25		
D.C.	\$11.50	\$12.50 eff. 7-1-17 \$13.25 eff. 7-1-18 \$14.00 eff. 7-1-19 \$15.00 eff. 7-1-20	Indexed annual increases based on CPI begin July 1, 2021
Florida	\$8.10		Annual increase based cost of living (Constitutional amendment 2004)
Georgia	\$5.15		
Guam	\$8.25		
Hawaii	\$9.25	\$10.10 eff. 1-1-18	
Idaho	\$7.25		
Illinois	\$8.25		
Indiana	\$7.25		
Iowa	\$7.25		
Kansas	\$7.25		
Kentucky	\$7.25		
Louisiana	none		
Maine	\$9.00 ⁴	\$10.00 eff. 1-1-18 \$11.00 eff. 1-1-19 \$12.00 eff. 1-1-20	Indexed annual increases based on CPI begin Jan 1, 2021
Maryland	\$8.75	\$9.25 eff. 7-1-17 \$10.10 eff. 7-1-18	
Massachusetts	\$11.00 ⁵		
Michigan	\$8.90	\$9.25 eff. 1-1-18	

State	Minimum Wage	Future Enacted Increases	Indexed Automatic Annual Adjustments
			Annual increases take effect Jan. 2019, linked to the CPI. Increases n exceed 3.5%. (2014 Legislation)
Minnesota	\$9.50/\$7.75 ⁶		Indexed annual increases begin Jan. 1, 2018. (2014 legislation)
Mississippi	none		
Missouri	\$7.70 ⁷		Minimum wage increased or decrea by cost of living starting Jan. 1, 20((2006 ballot measure)
Montana	\$8.15/\$4.00 ⁸		Increases done annually based on CPI and effective Jan. 1 of the follow year. (2006 ballot measure)
Nebraska	\$9.00		
Nevada	\$8.25/\$7.25 ⁹		Increases subject to the federal minimum wage and consumer pric index. Increases take effect July (Constitutional amendment 2004/20
New Hampshire	repealed by HB 133 (2011)		
New Jersey	\$8.44		Indexed annual increases based on CPI, effective Jan. 1, 2014. (Constitutional Amendment 2013
New Mexico	\$7.50		
New York	\$9.70 ¹⁰	\$10.40 eff. 12-31-17 \$11.10 eff. 12-31-18 \$11.80 eff. 12-31-19 \$12.50 eff. 12-31-20 After 12-31-20, the rate is adjusted annually for inflation until it reaches \$15.00	
North Carolina	\$7.25		

State	Minimum Wage	Future Enacted Increases	Indexed Automatic Annual Adjustments
North Dakota	\$7.25		
Ohio	\$8.15/\$7.25 ¹¹		Indexed annual increases based on CPI. (Constitutional amendment 20
Oklahoma	\$7.25/\$2.00 ¹²		
Oregon	\$9.75 ¹³	\$10.25 eff. 7-1-17 \$10.75 eff. 7-1-18 \$11.25 eff. 7-1-19 \$12.00 eff. 7-1-20 \$12.75 eff. 7-1-21 \$13.50 eff. 7-1-22	Indexed annual increases based on CPI are effective July 1, 2023 (2014 legislation)
Pennsylvania	\$7.25		
Puerto Rico	\$7.25/\$5.08 ¹⁴		
Rhode Island	\$9.60		
South Carolina	none		
South Dakota	\$8.65		Annual indexed increases begin Jan. 1, 2016. (2014 ballot measure)
Tennessee	none		
Texas	\$7.25		
Utah	\$7.25		
Vermont	\$10.00	\$10.50 eff. 1-1-18	Beginning Jan. 1, 2019, minimum wage increased annually by 5% or the CPI whichever is smaller; it cannot decrease. Note: Vermont started indexing in 2014 but enacted additional increases in 2014. (2014 legislation)
Virgin Islands	\$8.35/\$4.30 ¹⁵	\$9.50 eff. 6-1-17 \$10.50 eff. 6-1-18	
Virginia	\$7.25		

State	Minimum Wage	Future Enacted Increases	Indexed Automatic Annual Adjustments
Washington	\$11.00	\$11.50 eff. 1-1-2018 \$12.00 eff. 1-1-2019 \$13.50 eff. 1-1-2020	Annual indexed increases began January 2020. (ballot measure 2016)
West Virginia	\$8.75		
Wisconsin	\$7.25		
Wyoming	\$5.15		

Sources: U.S. Dept. of Labor, <http://www.dol.gov/esa/minwage/america.htm>; and state web sites.

Notes

¹ **American Samoa:** The Fair Minimum Wage Act of 2007 (Public Law 110-28) sets minimum wage rates within American Samoa and provides for additional increases in the minimum wage of \$0.50 per hour each year on May 25, until reaching the minimum wage generally applicable in the United States. The wage rates are set for particular industries, not for employee's particular occupation. The rates are minimum rates; an employer may choose to pay an employee at a rate higher than the rate(s) for its industry.

² **California:** The minimum wage scheduled increases are delayed by one year for employers with 25 or fewer employees. The rate increases to \$10.50 per hour effective 1/1/2018 and is increased by \$1.00 increments annually until it reaches \$15.00 effective 1/1/2023

³ **Connecticut:** The Connecticut minimum wage rate automatically increases to 1/2 of 1 percent above the rate set in the Fair Labor Standards Act if the Federal minimum wage rate equals or becomes higher than the State minimum.

⁴ The **Maine** minimum wage is automatically replaced with the Federal minimum wage rate if it is higher than the State minimum.

⁵ The **Massachusetts** minimum wage rate automatically increases to 10 cents above the rate set in the Fair Labor Standards Act if the Federal minimum wage equals or becomes higher than the State minimum.

⁶ **Minnesota:** With the passage of H.B. 2091 (2014), the annual sales volume threshold was reduced to \$500,000. For large employers, with an annual sales volume of \$500,000 or more, the minimum wage is currently \$9.50; for small employers, those with an annual sales volume of less than \$500,000, the minimum wage is \$7.75.

⁷ **Missouri** - In addition to the exemption for federally covered employment, the law exempts, among others, employees of a retail or service business with gross annual sales or business done of less than \$500,000.

⁸ **Montana:** the \$4.00 rate applies to businesses with gross annual sales of \$110,000 or less; \$8.15 applies to all other businesses.

⁹ **Nevada:** \$8.25 without health benefits; \$7.25 with health benefits.

¹⁰ **New York:** The new minimum wage varies across the state based on geographical location and, in New York City, employer size.

Year	NYC Large Employers (11 or more employees)	NYC Small Employers (10 or fewer employees)	Ny Downstate (Nassau, Suffolk, and Westchester counties)
12/31/2017	\$13.00	\$12.00	\$11.00
12/31/2018	\$15.00	\$13.50	\$12.00
12/31/2019	--	\$15.00	\$13.00
12/31/2020	--	--	\$14.00
12/31/2021	--	--	\$15.00

¹¹**Ohio:** \$7.25 for employers grossing \$299,000 or less

¹²**Oklahoma:** Employers of ten or more full time employees at any one location and employers with annual gross sales over \$100,000 irrespective of number of full time employees are subject to federal minimum wage; all others are subject to state minimum wage of \$2.00 (OK ST T. 40 § 197.5).

¹³**Oregon:** In addition to the new standard minimum wage rate, SB 1532 sets out a higher rate for employers located in the urban growth boundary, and a lower rate for employers located in nonurban counties. Their respective planned increases are below.

Year	Portland Metro	Nonurban Counties
7/1/2016	\$9.75	\$9.50
7/1/2017	\$11.25	\$10.00
7/1/2018	\$12.00	\$10.50
7/1/2019	\$12.50	\$11.00
7/1/2020	\$13.25	\$11.50
7/1/2021	\$14.00	\$12.00
7/1/2022	\$14.75	\$12.50
7/1/2023	\$1.25 over standard min. wage	\$1 below standard min. wage

¹⁴**Puerto Rico:** Employers covered by the Federal Fair Labor Standards Act (FLSA) are subject to the Federal minimum wage of \$7.25. Employers not covered by the FLSA will be subject to a minimum wage that is at least 70 percent of the Federal minimum wage or the applicable mandatory decree rate of \$5.08, whichever is higher. The Secretary of Labor and Human Resources may authorize a rate based on a lower percentage for any employer who can show that implementation of the 70 percent rate would substantially curtail employment in that business.

¹⁵**Virgin Islands:** \$4.30 for businesses with gross annual receipts of less than \$150,000.

Other Exceptions

- **Missouri, Oklahoma, Texas, Puerto Rico, Utah, and Virginia** exclude from coverage any employment that is subject to the Federal Fair Labor Standards Act.
- **Hawaii, Kansas, and Michigan** exclude from coverage any employment that is subject to the Federal Fair Labor Standards Act, if the State wage is higher than the Federal wage.
- The **Georgia** state minimum wage is \$5.15. Employees covered under the federal Fair Labor Standards Act are subject to the federal minimum wage of \$7.25, but those not covered under the FLSA may be paid the state minimum wage of \$5.15.

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CHAPTER 46-02-07

NORTH DAKOTA MINIMUM WAGE AND WORK CONDITIONS ORDER

HB 1263
1-31-2017

Section

- 46-02-07-01 Definitions
- 46-02-07-02 Standards That Apply
- 46-02-07-03 Additional Standards That Apply to Service and Nonprofit Industries
- 46-02-07-04 Additional Standards That Apply to Government Entities

46-02-07-01. Definitions.

As used in this title:

1. "Administrative" means an employee paid on a salary or fee basis and employed in a bona fide administrative capacity, but is not exclusive to any employee whose primary duty consists of:
 - a. The performance of office or nonmanual work directly related to management policies or general business operations of the employer or the employer's customer; and
 - b. Who customarily and regularly exercises discretion and independent judgment.
2. "Agricultural employment" means employment on a farm, for a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to carriers for transportation to market.
3. "Casual employment" means employment that is irregular or intermittent.
4. "Domestic service employment" means services of a household nature performed by an employee in or about a private home (permanent or temporary) of the person by whom the employee is employed.
5. "Engaged to wait" means 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 and thus are considered to be working.
6. "Executive" means an employee paid on a salary or fee basis and employed in a bona fide executive capacity, but is not exclusive to any employee whose primary duty consists of:
 - a. The management of the enterprise in which the employee is employed or of a customarily 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 as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight.
7. "Highly compensated employee" means an employee who is paid total annualized compensation of one hundred thousand dollars or more, which includes at least four hundred fifty-five dollars per week paid on a salary or fee basis. The employee's primary duty includes performing office or nonmanual work.
8. "Nonprofit" means a nonprofit corporation organized under the laws of this or another state.
9. "Occasional and sporadic" means infrequent, irregular, or occurring in scattered instances.

10. "Professional" means an employee paid on a salary or fee basis and employed in a bona fide professional capacity, but is not exclusive to any employee whose primary duty 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) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time.
11. "Residential care establishment" means an institution primarily engaged in the care of the sick, the aged, or the mentally ill residing on the premises requiring general treatment or observation of a less critical nature than provided by a hospital. Such institutions may include nursing homes, rest homes, convalescent homes, homes for the elderly and infirm, and the like.
12. "Retail establishment" means an establishment in which seventy-five percent or more of the annual gross sales are sold to the final consumer and are not sold for resale, and is recognized as retail sales or services in the industry.
13. "Salary or fee basis" will be interpreted according to the Federal Fair Labor Standards Act.
14. "Service employee" means any employee who is providing direct service to the customer and to whom that customer shows appreciation for that service by tipping that employee for the direct service. The employee must regularly and customarily provide personal face-to-face service to individual customers, which the customer would recognize as being performed for his or her benefit. Services such as cooking and dishwashing are not included.
15. "Service industry" means an industry in which the principal activity is to provide goods and services directly to the consuming public.
16. "Taxicab driver" means an individual employed as a driver by a taxicab company; where the service is a computer or radio dispatched door-to-door service but not a motorcoach or a routed system.
17. "Tip credit" means the amount or percentage by which an employer is allowed to reduce the minimum wage for a tipped employee.
18. "Tip pooling" means when two or more tipped employees agree to pool their tips and split them as agreed upon.
19. "Tipped employee" means any service employee in an occupation in which the employee customarily and regularly receives more than thirty dollars a month in tips.
20. "Total annualized compensation" means commissions, nondiscretionary bonuses, and other nondiscretionary compensation earned on a basis of a fifty-two-week period, but does not include board, lodging, or other employer-provided facilities, payments for medical insurance or life insurance, or contributions to a retirement plan or other fringe benefits.
21. "Waiting to be engaged" means when employees are on call and 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. Employees are not considered to be working while in this status.

22. "Week" means any consecutive seven-day period established by the employer.

History: Effective May 1, 1994; amended effective March 1, 1998; October 1, 2012.

General Authority: NDCC 28-32-02(1), 34-06-04

Law Implemented: NDCC 34-06-03, 34-06-09, 34-06-11, 34-06-12

46-02-07-02. Standards that apply.

1. The North Dakota minimum wage is set forth in North Dakota Century Code section 34-06-22.

The following are exempt from minimum wage and working conditions provided in this chapter:

- a. Employees of nonprofit camps that are directly youth-related and intended for educational purposes.
- b. A guide, cook, or camp-tender for a hunting or fishing guide service.
- c. Golf course caddies.
- d. Any person in a program for youthful or first-time offenders designed as an alternative to incarceration if the person:
 - (1) Voluntarily enters into the program for personal benefit;
 - (2) Does not displace regular employees or infringe on the employment opportunities of others;
 - (3) Is under the supervision or control of a court; and
 - (4) Performs the work without contemplation of pay.
- e. Prison or jail inmates who do work for the prison, jail, institution, or other areas directly associated with the incarceration program. The work must be performed for the prison, jail, institution, state, or a political subdivision.
- f. Actors or extras for a motion picture.
- g. Any person working on a casual basis for less than twenty hours per week for less than three consecutive weeks in domestic service employment providing babysitting services.
- h. Volunteers as described in this subdivision:
 - (1) Individuals who donate their time and services, usually on a part-time basis, including public service, humanitarian objectives, religious, fraternal, nonprofit, and charitable organizations, not as employees and without contemplation of pay.
 - (2) Individuals who provide services to hospitals or nursing homes to provide support and assistance to families and patients.
 - (3) Regular employees of religious, nonprofit, or charitable organizations may volunteer their services for activities outside of their normal work duties.
 - (4) Residents or patients of shelters, foster care, or other such related establishments may volunteer their services as long as regular employees are not displaced.

- i. Student trainees meeting the following six criteria:
 - (1) The training is similar to that in a vocational school.
 - (2) The training is clearly for the benefit of the trainee.
 - (3) The trainee does not displace regular employees.
 - (4) The employer derives no immediate benefit.
 - (5) The trainee is not entitled to a job.
 - (6) The trainee is not entitled to wages.
2. The commissioner may issue subminimum wages for students enrolled in vocational education or related programs as long as the wage is not below eighty-five percent of the current state minimum wage.

The process for granting subminimum wages for students includes:

- a. The student must complete the application for subminimum wage certificate for vocational education students (SFN 51370). The application (SFN 51370) includes: the employee's name, address, and signature; the employer's name, type of business, address, and signature; a description of the job; the pay rate; the vocational education instructor's signature.
- b. Upon receipt of the application the commissioner may issue a license to pay a subminimum wage to the employee for not more than one year.
3. The process for granting subminimum wages to individuals with disabilities in accordance with North Dakota Century Code section 34-06-15 includes:
 - a. The disabled worker must complete the application for subminimum wage certificate for individuals with disabilities (SFN 51371). The application (SFN 51371) includes: the employee's name, address, and signature; the employer's name, type of business, address, and signature; a description of the job; the prevailing wage; the proposed pay rate; and an analysis of the employee's productive capacity. A physician's signed verification of the disability in relationship to the job duties or existing supporting evidence of the disability must be provided.
 - b. In order to be paid less than the minimum wage, documentation of the employee's commensurate wage rate must be provided to the commissioner and maintained by the employer. Commensurate wages are determined by assessing nondisabled worker productivity, the prevailing wage rate for the same or similar work, and an evaluation of the worker's own efficiency.
 - c. Upon receipt of the application and documentation the commissioner may issue a license to pay a subminimum wage to the employee for not more than one year.
 - d. The worker's commensurate wage rate must be reevaluated by the employer every six months and adjusted accordingly; the employer must maintain all documentation.

The commissioner may issue a special license to pay less than the minimum wage to nonprofit community rehabilitation programs for the handicapped under North Dakota Century Code section 34-06-15. Those programs must conduct a recognized program for rehabilitation for handicapped workers or provide paid employment for such workers or other occupational rehabilitative activity of an educational or learning nature. Special licenses to these programs

may be issued after the commissioner receives a copy of the application and license from the commensurate federal program for employment of disabled workers under special certificates.

4. Overtime pay must be paid at one and one-half times the regular rate of pay to any employee for hours worked in excess of forty hours in any one week. Paid holidays, paid time off, or sick leave are not counted in computing overtime hours. Overtime is computed on a weekly basis regardless of the length of the pay period. Hours worked may not be averaged over the pay period or used to offset shorter weeks. Employees working more than one job under the control of the same employer must have all hours worked counted toward overtime. Individuals employed as drivers by taxicab companies must be compensated at one and one-half times the regular rate of pay for all hours worked in excess of fifty hours in any one week. Hospitals and residential care establishments may adopt, by agreement with their employees, a fourteen-day overtime period in lieu of the usual seven-day workweek, 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. The following types of employment are exempt from the overtime provisions of this subsection:
 - a. Any employee employed in a bona fide executive, administrative, or professional capacity.
 - b. Any employee engaged in an agricultural occupation.
 - c. Any employee spending at least fifty-one percent of the employee's work time providing direct care to clients of a shelter, foster care, or other such related establishment whose primary responsibilities are to provide temporary shelter, crisis intervention, prevention, education, and fellowship.
 - d. Any employee employed in domestic service who resides in the household in which employed.
 - e. 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.
 - f. Computer professionals exercising discretion and independent judgment when designing, developing, creating, analyzing, testing, or modifying computer programs or who are paid hourly at a rate of at least twenty-seven dollars and sixty-three cents.
 - g. Any 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 twenty percent of the hours worked in the week for the exemption to apply.
 - h. Mechanics paid on a commission basis off a flat rate schedule.
 - i. 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.
 - j. Any employee employed as an announcer, news editor, or chief engineer by a radio or television station.
 - k. Artistic professions which are original and creative in nature or where the work is dependent upon the invention, imagination, or talent of the employee, such as: editors, columnists, critics, publishers, cartoonists, graphic artists, musicians, composers, conductors, soloists, novelists, writers, and actors.

- l. Motor carrier: Any employee exempted by section 13(b)(1), (2), and (3) of the Fair Labor Standards Act [29 U.S.C. 213(b)(1), (2), and (3)] from section 7 of the Fair Labor Standards Act [29 U.S.C. 207], as applied to covered employees of motor common, contract, and private carriers specified by the Motor Carriers Act [49 U.S.C. 3102].
 - m. Teachers, instructors, tutors, and lecturers engaged in teaching in a school or educational system.
 - n. A highly compensated employee.
5. A minimum thirty-minute meal period must be provided in each shift 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 ordinarily thirty minutes in length. The employee is not completely relieved if required to perform any duties during the meal period. Collectively bargained agreements will prevail over this provision.
6. Attendance at lectures, meetings, training programs, and similar activities need not be counted as working time if all the following four 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.

7. Ordinary travel from home to work need not be counted as work time. Special and unusual one-day assignments performed for the employer's benefit and at the employer's request is work time for the employee regardless of driver or passenger status. Travel away from home is work time when performed during the employee's regular working hours. Time spent traveling on nonworking days during regular working hours is work time. The time spent as a passenger on an airplane, train, bus, or automobile after normal working hours is not work time. The driver of a vehicle is working at anytime when required to travel by the employer. Travel time from jobsite to jobsite, or from office to jobsite, is work time to be compensated. Activities which are merely incidental use of an employer-provided vehicle for commuting home to work are not considered part of the employee's principal activity and therefore need not be counted as work time.
8. Standby time on the employer's premises, or "on call" as in an engaged to wait manner is work time to be compensated. Waiting to be engaged is not required to be compensated as work time.
9. If an employee is required to be on duty for twenty-four hours or more, the employer and the employee may agree to exclude bona fide meal periods and bona fide regularly scheduled sleeping periods of not more than eight hours from hours worked, provided adequate sleeping facilities are furnished by the employer and the employee can usually enjoy an uninterrupted sleep. If the sleeping period is more than eight hours, only eight hours will be deducted from hours worked. If the sleeping period is interrupted by a call to duty, the interruption must be counted as hours worked. If the period is interrupted to such an extent that the employee cannot get a reasonable night's sleep, the entire period must be counted as work time.

10. Recordkeeping: Every employer must furnish to an employee each pay period a check stub or pay voucher that indicates hours worked, the rate of pay, required state and federal deductions, and authorized deductions.

Time clocks: Time clocks are not required. If used, the employer may round the time to the nearest five minutes or quarter hour using the total minutes for the day as long as the employee over a period of time is paid for all the time the employee has actually worked.

Employees who voluntarily clock in before their regular starting time or remain after closing time do not have to be compensated provided that no work is performed.

11. 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 that pay period.
12. Paid time off includes annual leave, earned time, personal days, or any other provisions of the employment relationship intended to provide compensation as vacation. Provisions where employees earn time off and the employees can use the days for any purpose, are paid time off unless separate arrangements are made for sick leave.

Paid time off, once earned or awarded, is considered wages upon separation from employment. If the paid time off is available for use at the time of separation from employment, the employer must pay the employee for that time 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.

13. 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 by a written agreement and if the employee's acceptance of facilities is in fact voluntary.
14. The common law test provided in subdivisions a and b of subsection 5 of section 27-02-14-01 will be used to determine whether or not an individual may be considered an employee or an independent contractor.
15. Earned bonus: 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.

Earned commission: 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.

16. The department will use the past practices, policies, and entire employment relationship in wage claim determinations.

History: Effective May 1, 1994; amended effective October 1, 1996; September 1, 1997; March 1, 1998; July 24, 2007; October 1, 2012.

General Authority: NDCC 28-32-02(1), 34-06-04

Law Implemented: NDCC 34-06-03, 34-06-09, 34-06-11, 34-06-12, 34-06-15

46-02-07-03. Additional standards that apply to service and nonprofit industries.

1. A tip credit of thirty-three percent of the minimum wage may be allowed for tipped employees. The employer may consider tips as part of wages, but such a tip credit must not exceed thirty-three percent of the minimum wage. The employer who elects to use the tip credit provision must inform the employee in advance and must maintain written records showing that the employee receives at least the minimum wage when direct wages and the tip credit allowance are combined.
2. 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 fifty-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.
3. Tipped employees employed in the nonprofit gaming industry means all employees who are employed as gaming attendants by a gaming organization licensed under North Dakota Century Code section 53-06.1-03.
 - a. Gaming sites that regularly have four or fewer tipped employees on duty can require tip pooling among all tipped employees at the site.
 - b. A gaming organization licensed under North Dakota Century Code section 53-06.1-03 may require tip pooling by blackjack (twenty-one) dealers at an authorized site as provided in North Dakota Century Code section 53-06.1-10. This tip pooling requirement only pertains to any employee, pit boss, or supervisor when actually dealing blackjack (twenty-one).
 - c. 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).

History: Effective May 1, 1994; amended effective October 1, 1996; September 1, 1997; March 1, 1998.

General Authority: NDCC 28-32-02(1), 34-06-04

Law Implemented: NDCC 34-06-03, 34-06-09, 34-06-11, 34-06-12

46-02-07-04. Additional standards that apply to government entities.

1. Any two individuals employed by the state or any political subdivision in any occupation may agree to substitute for one another during scheduled work hours in performance of work in the same capacity. The hours worked shall be excluded by the employer in the calculation of the hours for which the substituting employee would otherwise be entitled to overtime. If one employee works for another, each employee will be credited as if that employee had worked that employee's normal schedule. In order to qualify an agreement between individuals employed by the agency the agreement must be approved by the agency. The agency approval must be prior to the work being done. Each employee must be free to refuse to participate. The employee's decision to participate is valid only if freely made without coercion from the employer. A public agency that employs individuals who substitute or "trade time" under this section is not required to keep a record of the hours of the substitute work. This subsection must be interpreted in accordance with 29 CFR 553.31, as amended.
2. A state or political subdivision employee, solely at the employee's own option, may work occasionally or sporadically on a part-time basis for the same agency in a different capacity

from the regular employment. The hours worked in the different jobs must not be combined for overtime purposes. This subsection must be interpreted in accordance with 29 CFR 553.30, as amended.

History: Effective May 1, 1994.

General Authority: NDCC 28-32-02(1), 34-06-04

Law Implemented: NDCC 34-06-03, 34-06-09, 34-06-11, 34-06-12

NDC Attachment B
HB 1263
1-31-2017

**CHAPTER 34-06
MINIMUM WAGES AND HOURS**

34-06-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Commissioner" means the labor commissioner.
2. "Employee" includes any individual employed by an employer. However, an individual is not an "employee" while engaged in a ridesharing arrangement, as defined in section 8-02-07. The term does not include a person engaged in firefighting or sworn law enforcement officers for a political subdivision of the state.
3. "Employer" includes any individual, partnership, association, corporation, limited liability company, the state and political subdivisions of the state, or any person or group of persons acting in the interest of an employer in relation to an employee.
4. "Minor" means a person of either sex under the age of eighteen years.
5. "Occupation" means a business or industry, or a trade or branch thereof, but it does not include outside salesmen who are compensated on a commission basis.
6. "Wages" includes all payments made to or on behalf of an employee as remuneration for employment, whether calculated on a time, piece, job, or incentive basis.

34-06-02. Power to investigate conditions of labor and wages and hours of employees.

The commissioner has the power to:

1. Investigate and ascertain the wages and the hours and conditions of labor of employees in the different occupations in which they are employed within this state.
2. Inspect and examine, either in person or through authorized representative, all books, payrolls, and other records of any employer of employees appertaining to or bearing on the questions of hours or conditions of labor of any employee employed by such employer.
3. Require from any employer of employees a full and true statement of the wages paid to, and the hours and conditions of labor of, all employees in the employer's employ.

34-06-03. Commissioner may adopt standards by rule.

The commissioner may ascertain and prescribe by rule:

1. Standards of hours of employment for employees and what are unreasonably long hours for employees in any occupation within this state.
2. Standards of conditions of labor for employees in any occupation within this state and what surroundings or conditions, sanitary or otherwise, are detrimental to the health or morals of employees in any such occupation.
3. Standards of minimum wages for employees in any occupation in this state.
4. Standards of minimum wages for minors in any occupation within this state and what wages are unreasonably low for any such minor workers.

34-06-03.1. Exemption for companionship services and family home care.

1. Employees who provide companionship services for individuals who, because of age or disability, are unable to care for themselves are exempt from any minimum wage and hour standards that may be prescribed under this chapter, to the extent that those companionship services are provided by an employee from ten p.m. to nine a.m., up to a total of eight hours, during which time the employee is available to perform duties for the aged or disabled individual, but is free to sleep and otherwise engage in normal private pursuits in the aged or disabled individual's home. Employees who provide companionship services are not entitled to any overtime premium that may be prescribed under this chapter.
2. An individual who provides family home care is exempt from any minimum wage and hour standards that may be prescribed under this chapter.

3. An individual who contracts with an elderly or disabled person, or a spouse or relative of an elderly or disabled person as described in subdivision b of subsection 4, to provide room, board, supervisory care, and personal services to that elderly or disabled person is exempt from any minimum wage and hour standards that may be prescribed under this chapter.
4. As used in this section:
 - a. "Companionship services" means those services that provide fellowship, care, and protection for individuals who, because of advanced age or physical or mental disabilities, cannot care for their own needs. Those services may include household work related to the care of the aged or disabled person, including meal preparation, bed making, washing of clothes, and other similar services, and may include the performance of general household work if that work does not exceed twenty percent of the total weekly hours worked. "Companionship services" do not include services relating to the care and protection of the aged or disabled which require and are performed by trained personnel, including a registered or practical nurse, and do not include individuals who provide care and protection for infants and young children who are not physically or mentally disabled.
 - b. "Family home care" means the provision of room, board, supervisory care, and personal services to an eligible elderly or disabled person by the spouse or by one of the following relatives, or the current or former spouse of one of the following relatives, of the elderly or disabled person: parent, grandparent, adult child, adult sibling, adult grandchild, adult niece, or adult nephew.

34-06-03.2. Authority of labor commissioner - Exception.

Notwithstanding section 34-06-03, the labor commissioner may not adopt rules relating to sections 23-12-09 through 23-12-11. If the labor commissioner is made aware of a possible violation of chapter 23-12, the commissioner may refer the violation to an appropriate law enforcement agency for enforcement pursuant to section 23-12-11.

34-06-04. Power to make rules - Posting by employers.

The commissioner may prepare, adopt, and promulgate rules under chapter 28-32 to implement the various provisions of this chapter. Before filing the notice of rulemaking and the proposed draft of rules under section 28-32-10, the commissioner shall send notice of the proposed rules to and solicit input from associations with statewide membership of which the primary focus is representing business or labor interests. The commissioner shall provide a summary of rules adopted under this chapter to every employer affected by the rules. The employer shall keep a copy of the summary posted in a conspicuous place in a commonly frequented area of the employer's establishment in which employees work.

34-06-04.1. Compensatory time, overtime, and work-period claims.

The state or a political subdivision of the state may provide for compensatory time and for a work period for compensatory time and overtime calculation for its employees if the state or political subdivision complies with the requirements of the Fair Labor Standards Act of 1938, as amended, [Pub. L. 75-718; 52 Stat. 1060; 29 U.S.C. 201 et seq.] and any rules and interpretations adopted by the United States department of labor. The authority provided in this section applies in any proceeding brought after June 30, 2003, with respect to compensatory time or overtime earned regardless of when the work in question was performed.

34-06-05. Employment of employees under certain conditions illegal.

It is unlawful to employ in any occupation within this state:

1. Employees for unreasonably long hours.
2. Employees under surroundings or conditions, sanitary or otherwise, which may be detrimental to their health or morals.
3. Employees for wages which are less than the state minimum wage.
4. Minors for unreasonably low wages.

34-06-05.1. One day of rest in seven - Penalty.

1. An employer may not require an employee to work seven consecutive days in a business that sells merchandise at retail. An employer may not deny an employee at least one period of twenty-four consecutive hours of time off for rest or worship in each seven-day period. The time off must be in addition to the regular periods of rest allowed during each day worked. An employer shall accommodate the religious beliefs and practices of an employee unless the employer can demonstrate that to do so would constitute an undue hardship on the conduct of the employer's business. However, if an employee requests time off to attend one regular worship service a week, an employer may not require the employee to work during that period unless:
 - a. Honoring the employee's request would cause the employer substantial economic burdens or would require the imposition of significant burdens on other employees required to work in place of the Sabbath observer; or
 - b. The employer has made a reasonable effort to accommodate the employee's request.
2. A violation of this section is a class B misdemeanor. It is an affirmative defense to prosecution under this section that the employee volunteered for work on the seventh consecutive day and the employee executed a written statement so stating. The statement must also contain a provision, signed by the employer or the employer's agent, that the employer did not require such work.
3. This section applies only to an employer in a business that sells merchandise at retail.

34-06-06. Hours of labor for females limited - Exceptions.

Repealed by S.L. 1973, ch. 265, § 1.

34-06-07. Employer to keep register of employees employed - Inspection and examination of register.

Every employer shall keep a register of the names of all employees employed by the employer, and on request shall permit the commissioner or any of the commissioner's authorized representatives to inspect and examine such register.

34-06-08. Investigations and hearings by commissioner - Subpoena, oath, and fees of witnesses.

The commissioner may hold public hearings for the purpose of investigating any of the matters the commissioner is authorized to investigate under the provisions of this chapter. Such hearings must be held at such times and places as the commissioner deems fit. Any person interested in a matter under investigation may appear and testify at any public hearing held thereon. The commissioner or the commissioner's duly authorized representative may subpoena and compel the attendance of any witness at any public hearing or at any session of any conference called and held as provided in this chapter and may administer an oath to any witness who is to testify thereat. A witness subpoenaed by the commissioner or by the commissioner's representative must be paid the same mileage and per diem as are paid to witnesses in civil cases before the district court.

34-06-09. Conference to consider investigation by commissioner - Members, quorum, report.

Repealed by S.L. 2003, ch. 281, § 6.

34-06-10. Recommendations contained in report of conference.

Repealed by S.L. 2003, ch. 281, § 6.

34-06-11. Consideration of report by commissioner - Hearing upon approval.

Repealed by S.L. 2003, ch. 281, § 6.

34-06-12. Order issued by commissioner - Posting.

Repealed by S.L. 2003, ch. 281, § 6.

34-06-13. Investigation of employment of minors - Recommendations and requirements governing.

Repealed by S.L. 2003, ch. 281, § 6.

34-06-14. Right of appeal from commissioner's decision limited.

Except as otherwise provided in this chapter, all questions of fact arising under this chapter must be determined by the commissioner. There may be no appeal from the decision of the commissioner on any question of fact, but there is a right of appeal from the commissioner to the district court of Burleigh County from any ruling or holding on any question of law included or embodied in any decision of the commissioner, and there is a right of appeal from the district court to the supreme court of this state. In all such appeals, the attorney general shall appear for and represent the commissioner.

34-06-15. Special license to employ at less than minimum wage.

The commissioner may issue to an employee whose productive capacity for the work to be performed is impaired by physical or mental disability, or to any student or learner enrolled in a career and technical education or related program, a special license authorizing the employment of that licensee at less than the minimum wage. The commissioner may also issue special licenses to community rehabilitation programs for the handicapped which engage in the occupation and responsibility of representing and placing for the purpose of training, learning, or employment of those employees whose productive capacity for the work to be performed is impaired by physical or mental disability. The commissioner shall issue such licenses under rules adopted by the commissioner.

34-06-16. Recovery by underpaid employee.

Repealed by S.L. 1975, ch. 298, § 1.

34-06-17. Investigation of compliance with rules - Failure to observe or comply.

The commissioner, from time to time, shall investigate and ascertain whether or not employers in this state are observing and complying with rules issued pursuant to the provisions of this chapter, and shall take such steps as may be necessary to cause the prosecution of employers failing to observe or comply therewith.

34-06-18. Employer discriminating against employees.

No employer may discharge or in any other manner discriminate against any employee because such employee has testified or is about to testify, or because such employer believes that the employee may testify, in any investigation or proceeding under or relative to this chapter.

34-06-19. Penalty for violation of chapter.

Any person who violates any of the provisions of this chapter, or any rule issued pursuant thereto, is guilty of a class B misdemeanor.

34-06-20. Biennial report.

The commissioner shall submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04.

34-06-21. Hours of labor for females during war.

Repealed by omission from this code.

34-06-22. State minimum wage rate.

1. Except as otherwise provided under this chapter and rules adopted by the commissioner, every employer shall pay to each of the employer's employees:
 - a. Effective July 24, 2007, a wage of at least five dollars and eighty-five cents per hour;
 - b. Effective July 24, 2008, a wage of at least six dollars and fifty-five cents per hour; and
 - c. Effective July 24, 2009, a wage of at least seven dollars and twenty-five cents per hour.
2. This section does not limit the authority of the commissioner to adopt rules establishing a state minimum wage rate that differs from the rates established under subsection 1.



ND MINIMUM WAGE & WORK CONDITIONS SUMMARY

State Capitol - 13th Floor 600 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@nd.gov web site - www.nd.gov/labor

MINIMUM WAGE RATE:

North Dakota does not have
a Training Wage.

\$7.25

per hour on
7/24/09

Effective Date:

August 1, 2013

TIP CREDIT N.D. Admin. Code § 46-02-07-03

- Employers may utilize a tip credit of 33% of the minimum wage for tipped employees. With the tip credit applied, the minimum direct wage payable to a tipped employee is \$4.39 per hour effective July 24, 2008, and \$4.86 per hour effective July 24, 2009. The employer must maintain written records verifying that tipped employees receive at least the full minimum wage for all hours worked when the direct 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.
- A service employee is any employee who is providing direct service to the customer and to whom that customer shows appreciation for that service by tipping that employee for the direct service. The employee must regularly and customarily provide personal face-to-face service to individual customers, which the customer would recognize as being performed for his or her benefit. Services such as cooking and dishwashing are not included.

Additional information on tips can be found on the reverse side of this poster.

OVERTIME N.D. Admin. Code § 46-02-07-02(4)

- 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 N.D. Admin. Code § 46-02-07-02(5)

- 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 N.D. Admin. Code § 46-02-07-02(12)

- 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.

LIMITATIONS ON PAID TIME OFF N.D.C.C. § 34-14-09.2

If an employee separates from employment voluntarily, a private employer may withhold payment for accrued paid time off if the following three conditions are all met:

- At the time of hiring, the employer provided the employee written notice of the limitation on payment of accrued paid time off;
- The employee has been employed by the employer for less than one year; and
- The employee gave the employer less than five days' written or verbal notice.

PAYDAYS & RECORD KEEPING N.D.C.C. § § 34-14-02, 03 and N.D. Admin Code § 46-02-07-02

- 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 N.D.C.C. § 34-14-04.1

Except for those amounts that are required under state or federal law to be withheld from employee compensation or where a court has ordered the employer to withhold Compensation, an employer only may withhold from the compensation due employees:

- Advances paid to employees, other than undocumented cash.
- A recurring deduction authorized in writing.
- A nonrecurring deduction authorized in writing, when the source of the deduction is cited specifically.
- A nonrecurring deduction for damage, breakage, shortage, or negligence must be authorized by the employee at the time of the deduction.

EMPLOYMENT AT WILL N.D.C.C. § 34-03-01

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.

RIGHT TO WORK N.D.C.C. § 34-01-14

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

YOUTH EMPLOYMENT N.D.C.C. ch. 34-07

Employment & Age Certificates (work permits) are required for workers ages 14 & 15 and are available from the Department of Labor, Job Service offices, County School Superintendents' offices, and local schools.

Restricted hours for youth age 14 & 15:

- Maximum hours per day: 3 per school day, 8 per non-school day.
- Maximum hours per week: 18 per school week (any week in which school attendance is required any part of 4 or more days), 40 per non-school week.

May work only between 7a.m.-7p.m. (until 9p.m. from June 1st - Labor Day).

Hazardous job duties for youth age 14 & 15:

Workers ages 14 & 15 are prohibited from performing certain job duties defined as hazardous in labor law.

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.

Attachment 2
HB 1263
1-31-2017

**Testimony for 2017 House Bill 1263
House Industry, Business and Labor Committee
Presented by Waylon Hedegaard
President of the North Dakota AFL-CIO
January 31st.**

Mr. Chairman, Members of the Committee:

My name is Waylon Hedegaard, President of the North Dakota AFL-CIO and I stand in support of House Bill 1263.

The minimum wage is a contentious issue and has been debated in this country since it was first introduced nationally in the 1930's. Ironically, previous to this period, even the AFL-CIO stood against creating a minimum wage because they felt it would be better for everyone to collectively bargain.

It was and is claimed that a mandatory minimum wage would be bad for the economy and would stifle job growth. It was and is claimed that it would irreparably harm small businesses and lead to much higher unemployment. This idea has a strong intuitive appeal. If companies have to pay more money for each employee then they will just hire fewer employees.

Early studies did lend themselves to the idea that employment dropped as a minimum wage rose, but due to small sample size and a lack of data, those studies were incomplete.

Opinions have changed and are still changing. In 1978 according to the *American Economic Review*, 90% of the polled economists agreed that increases to the minimum wage also increased unemployment among low-skilled workers. By the year 2000, only 46% were in full agreement with the statement.

In 2013, economics professors of all background and political persuasions were asked on the effect of minimum wage on employment. Nearly half fully supported the following statement, "The distortionary costs of raising the federal minimum wage to \$9 per hour and indexing it to inflation are sufficiently small compared with the benefits to low-skilled workers who can find employment that this would be a desirable policy." Only 11% disagreed. The rest didn't comment.

Much of the reason for this shift is that we now have a massive amount of data and much larger sample sizes. To date the federal minimum wage has been raised 22 times and we can track its effects. To add to this, state minimum wages have been raised hundreds of times in the same period offering us the ability to not only study the before and after effect of raising the minimum wage, but also the border effect where one state has a higher minimum wage than a lower state.

In fact, the effects of the minimum wage are one of the most studied of all economic phenomena, and the majority of those studies, in aggregate, show that there is either no effect at all on unemployment and wages or just a slight effect, small enough for the good we could do for those on the bottom of the economic ladder.

I'll admit that raising the minimum wage to any level is hardly a complete solution to the economic woes and income inequality of our state and country. The minimum wage isn't a panacea. It's not a cure-all for poverty. The minimum wage is a floor that helps keep some people out of the most abject poverty. That's what it is, and that is worthy enough.

Research by the Economic Policy Institute indicates that raising the minimum wage to \$10.10 in North Dakota would directly raise the wages of 37,000 workers and indirectly raise the pay of another 23,000 people. 58% of those workers would be women and 22,000 children would be directly or indirectly affected. These numbers are not insignificant.

It is our opinion that current minimum wage was never high enough and inflationary pressures have driven that down even further. If you look at the handouts provided. MIT has a living Wage calculator for every state. For a single adult, a living wage in North Dakota as a whole is \$10.05. That's a wage that just meets needs: Food, child care, premiums under an employer sponsored insurance and other health care costs, housing, transportation, other necessities. \$9.25 doesn't bring a single adult to a living wage let alone when children are involved.

HB 1263 setting the minimum wage at \$9.25 is not perfect, but it is a vast improvement over \$7.25.

In addition, North Dakotans overwhelmingly support a raise in the minimum wage. Two years ago, my organization commissioned a poll through Dean Mitchell to see where our citizens stood on a ballot initiative raising the minimum wage. 64% said they would support a proposed raise of \$10.10 per hour, that's nearly a dollar more than the rate proposed in HB 1263.

The participants in the poll were then given a multitude of arguments for and against that minimum wage rate, and support only dropped to 59%. However, when asked if instead of \$10.10, the proposed minimum wage was to be \$9.50, three quarters of North Dakotans supported this. A rate of \$8.50 was supported by 83% of our citizens.

North Dakotans across the state want a fair minimum wage.

I'd like to close with the words of Economics professor Dale Belman, "Evidence leads us to conclude that moderate increases in the minimum wage are a useful means of raising wages in the lower part of the wage distribution that has little or no effect on employment and hours. This is what one seeks in a policy tool, solid benefits with small costs."

I urge this committee to vote yes on HB 1263. In fact, I urge the committee to consider amending the bill to have a higher minimum wage such as \$10.00 or 11.00 dollars an hour.

Thank you for hearing me, and I would stand for any questions.

North Dakota Minimum Wage Factsheet

Current North Dakota Minimum Wage

Federal Minimum Wage: \$7.25

North Dakota Minimum Wage: \$7.25

(NDCC 34-06-22. State minimum wage rate)

North Dakota Minimum Wage for Tipped Employees: \$4.86

(N.D. Admin. Code 46-02-07-03. Additional standards that apply to service and nonprofit industries.)

Data

Quick facts from EPI analysis on who would be affected by increasing the federal minimum wage to \$10.10 by July 2016 as per the Harkin-Miller Proposal using Current Population Survey Outgoing Group micro-data. David Cooper, Published December 19th, 2013.

<http://www.epi.org/files/2013/minimum-wage-state-tables.pdf>

Out of an estimated 344,000 total workforce:

- 37,000 workers would be directly affected
- 23,000 workers would be indirectly affected
- 60,000 total affected workers
- 17.4% of the total workforce

Revised for \$12 by 2020

<http://www.epi.org/files/2015/revised-minimum-wage-state-tables.pdf>

Out of an estimated 344,000 total workforce:

- 63,000 workers would be directly affected
- 18,000 workers would be indirectly affected
- 81,000 total affected workers
- 22.0% of the total workforce

Further Demographics:

- 58% of those affected would be women.
- 54% of those affected would be workers under 30.
- 48.3% of those affected have an annual family income of less than \$40,000
- 51.7% of those affected have an education attainment of High School or less.
- 22,000 children would be affected either directly or indirectly, which is 13.8% of all children
- The average share of family income earned by the affected worker is estimated to be 47.1% of total family income.

Gender Wage Gap:

- According to a study by National Women's Law Center, North Dakota has the 6th highest wage gap between men and women.
http://www.nwlc.org/sites/default/files/pdfs/higher_state_minimum_wages_promote_fa_ir_pay_for_women_october_2014.pdf
- North Women earn 70.2% of what North Dakota men earn
- Their research suggests that states with a higher minimum wage have a lower wage gap.

Characteristics of state workers who would be affected by increasing the federal minimum wage to \$10.10 by July 2016

North Dakota

Category	Estimated workforce	Directly affected	Indirectly affected	Total affected	Percentage of the total affected	Share of this category that is affected
Total	344,000	37,000	23,000	60,000	100.0%	17.4%
Sex						
Female	166,000	22,000	13,000	35,000	58.3%	21.1%
Male	178,000	15,000	10,000	24,000	40.0%	13.5%
Age						
Less than 20	17,000	10,000	3,000	13,000	21.7%	76.5%
20 to 29	89,000	11,000	8,000	20,000	33.3%	22.5%
30 to 39	68,000	4,000	4,000	8,000	13.3%	11.8%
40 to 54	100,000	5,000	4,000	10,000	16.7%	10.0%
55+	70,000	6,000	4,000	10,000	16.7%	14.3%
Race						
White, non-Hispanic	302,000	31,000	18,000	49,000	81.7%	16.2%
Black	4,000	1,000	-	2,000	3.3%	50.0%
Hispanic	9,000	1,000	1,000	2,000	3.3%	22.2%
Asian or other race	29,000	4,000	3,000	7,000	11.7%	24.1%
Marital status						
Married parent	86,000	4,000	4,000	8,000	13.3%	9.3%
Single parent	23,000	2,000	2,000	4,000	6.7%	17.4%
Married, no kids	102,000	8,000	3,000	11,000	18.3%	10.8%
Unmarried, no kids	133,000	23,000	13,000	37,000	61.7%	27.8%
Family income level						
Less than \$20,000	37,000	9,000	6,000	15,000	25.0%	40.5%
\$20,000-\$39,999	66,000	7,000	7,000	14,000	23.3%	21.2%
\$40,000-\$59,999	65,000	5,000	4,000	9,000	15.0%	13.8%
\$60,000-\$74,999	54,000	6,000	2,000	8,000	13.3%	14.8%
\$75,000-\$99,999	52,000	4,000	1,000	5,000	8.3%	9.6%
\$100,000-\$149,999	45,000	4,000	2,000	6,000	10.0%	13.3%
\$150,000 or more	26,000	3,000	1,000	3,000	5.0%	11.5%
Work hours						
Part time (< 20 hours)	19,000	9,000	3,000	12,000	20.0%	63.2%
Mid time (20-34 hours)	52,000	14,000	7,000	22,000	36.7%	42.3%
Full time (35+ hours)	273,000	14,000	13,000	26,000	43.3%	9.5%
Education						
Less than high school	20,000	9,000	4,000	13,000	21.7%	65.0%
High school	88,000	10,000	8,000	18,000	30.0%	20.5%
Some college	124,000	13,000	8,000	21,000	35.0%	16.9%
Bachelor's or higher	112,000	5,000	3,000	8,000	13.3%	7.1%

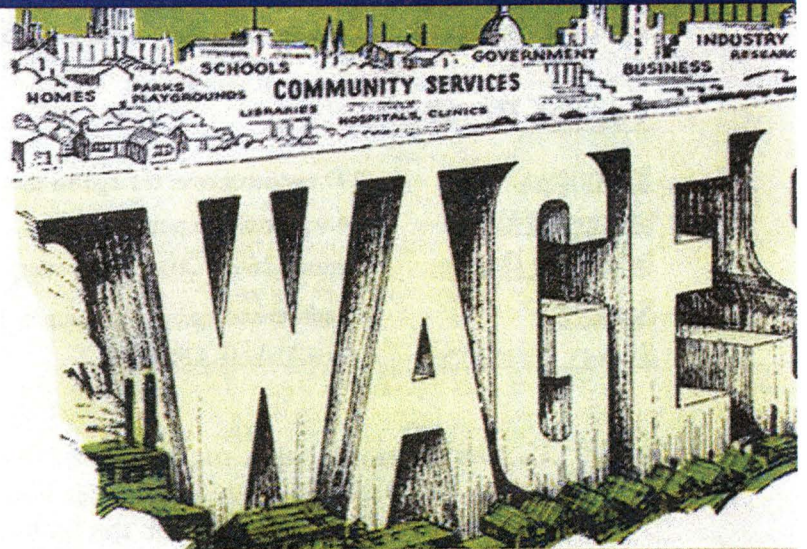
	Total est. # of children	Directly affected	Indirectly affected	Total affected	% of all children
Children with at least one affected parent	159,000	10,000	12,000	22,000	13.8%

Category	Average share of family income earned by affected worker	Share of affected who are sole providers of family income
All affected	47.1%	19.1%
Parents affected	52.9%	21.7%

Source: EPI analysis of Harkin-Miller proposal using Current Population Survey Outgoing Rotation Group microdata

March
2015

North Dakota AFL-CIO Minimum Wage Survey Synopsis



DFM Research

Dean Mitchell, Consultant
Saint Paul, MN 55102
www.dfmresearch.com

pg 6

Executive Summary

Combined data from two recent North Dakota AFL-CIO surveys indicate that a potential Initiated Measure for a Minimum Wage increase to \$10.10 per hour begins with a notable YES lead (more than two-to-one) when information on the measure is limited (an initial first response to the potential measure). Support levels slightly decline as balanced information on the Minimum Wage measure is provided – support for the Measure declines from 64 percent to 59 percent of all North Dakotans. See previous reports for more detailed information.

The voter model indicates less support for an increase in the Minimum Wage among high voter turnout and high information North Dakotans, than those who are less likely to vote and lower information North Dakotans. The data from both polls confirms the initial analysis that should the Measure go forward, it should be done at an election with the highest possible turnout (in this case, the 2016 presidential election). Using the likely voter model, combined with balanced messaging, and the surveys margin of error; the YES vote for an Initiated Measure ranges from a low of 48 percent to a high of 62 percent. In conclusion, based on where we are today, success is likely, however, the research data reveals that a successful campaign is not guaranteed.

Topline Results:

- Interviews: 399 residents over the age 18 that reside in North Dakota
- Margin of Error: ±4.9 percentage points
- Interview Dates: January 26-31, 2015 & February 26 - March 1, 2015
- Sample: Landline and cell phone sample. Two unique surveys of 400 respondents each
- Survey Sponsors: North Dakota AFL-CIO

MW#1: Another potential ballot measure for 2016 would raise the state minimum wage from the current \$7.25 per hour, to \$10.10 per hour with annual step increases based on the rate of inflation; if this measure was on the ballot, would you vote YES to approve the measure, or NO to reject the measure?

	<u>All</u>	<u>Likely</u>
Yes	64%	59
No	28	35
(VOL) Unsure.....	4	6

Messaging Both For/Against; Respondents Retested

MW#2: Now considering everything you heard about the potential ballot measure to raise the state minimum wage from the current \$7.25 per hour, to \$10.10 per hour with annual step increases based on the rate of inflation. If the election was held today, would you vote YES to approve the measure, or NO to reject the measure?

	<u>All</u>	<u>Likely</u>
Yes	59%	55
No	34	41
(VOL) Unsure	7	4

Living Wage Calculation for North Dakota

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The living wage shown is the hourly rate that an **individual** must earn to support their family, if they are the sole provider and are working full-time (2080 hours per year). All values are **per adult in a family** unless otherwise noted. The state minimum wage is the same for all individuals, regardless of how many dependents they may have. The poverty rate is typically quoted as gross annual income. We have converted it to an hourly wage for the sake of comparison.

For further detail, please reference the technical documentation here (</resources/Living-Wage-User-Guide-and-Technical-Notes-2015.pdf>).

Hourly Wages	1 Adult	1 Adult 1 Child	1 Adult 2 Children	1 Adult 3 Children	2 Adults (1 Working)	2 Adults (1 Working) 1 Child	2 Adults (1 Working) 2 Children	2 Adults (1 Working) 3 Children	2 Adults (1 Working Part Time) 1 Child*	2 Adults	2 Adults 1 Child	2 Adults 2 Children	2 Adults 3 Children
Living Wage	\$10.05	\$21.24	\$26.00	\$33.15	\$16.52	\$19.96	\$22.35	\$25.51	\$23.59	\$8.26	\$11.80	\$14.25	\$17.10
Poverty Wage	\$5.00	\$7.00	\$10.00	\$11.00	\$7.00	\$10.00	\$11.00	\$13.00		\$3.00	\$5.00	\$5.00	\$6.00
Minimum Wage	\$7.25	\$7.25	\$7.25	\$7.25	\$7.25	\$7.25	\$7.25	\$7.25		\$7.25	\$7.25	\$7.25	\$7.25

*Documentation for families with an adult working part-time is available separately, here. (</resources/MIT-Part-Time-Documentation.pdf>)

Typical Expenses

These figures show the individual expenses that went into the living wage estimate. Their values vary by family size, composition, and the current location.

Annual Expenses	1 Adult	1 Adult 1 Child	1 Adult 2 Children	1 Adult 3 Children	2 Adults (1 Working)	2 Adults (1 Working) 1 Child	2 Adults (1 Working) 2 Children	2 Adults (1 Working) 3 Children	2 Adults (1 Working Part Time) 1 Child*	2 Adults	2 Adults 1 Child	2 Adults 2 Children	2 Adults 3 Children
Food	\$3,076	\$4,526	\$6,795	\$9,024	\$5,639	\$7,012	\$9,035	\$11,008		\$5,639	\$7,012	\$9,035	\$11,008
Child Care	\$0	\$6,558	\$11,113	\$15,669	\$0	\$0	\$0	\$0		\$0	\$6,558	\$11,113	\$15,669
Medical	\$2,044	\$5,714	\$5,514	\$5,482	\$4,602	\$5,514	\$5,482	\$5,597		\$4,602	\$5,514	\$5,482	\$5,597
Housing	\$6,665	\$9,380	\$9,380	\$13,212	\$7,359	\$9,380	\$9,380	\$13,212		\$7,359	\$9,380	\$9,380	\$13,212
Transportation	\$4,103	\$8,098	\$9,176	\$10,808	\$8,098	\$9,176	\$10,808	\$10,910		\$8,098	\$9,176	\$10,808	\$10,910
Other	\$2,418	\$4,388	\$5,275	\$5,961	\$4,388	\$5,275	\$5,961	\$5,649		\$4,388	\$5,275	\$5,961	\$5,649
Required annual income after taxes	\$18,306	\$38,664	\$47,254	\$60,156	\$30,086	\$36,358	\$40,666	\$46,376		\$30,086	\$42,916	\$51,779	\$62,044

Annual taxes	\$2,601	\$5,513	\$6,823	\$8,792	\$4,275	\$5,166	\$5,818	\$6,689		\$4,275	\$6,161	\$7,514	\$9,080
Required annual income before taxes	\$20,907	\$44,177	\$54,077	\$68,948	\$34,362	\$41,524	\$46,484	\$53,065	\$49,077	\$34,362	\$49,077	\$59,293	\$71,125

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Typical Annual Salaries

These are the typical annual salaries for various professions in this location.

Occupational Area	Typical Annual Salary
Management	\$86,760
Business & Financial Operations	\$54,930
Computer & Mathematical	\$59,350
Architecture & Engineering	\$61,990
Life, Physical, & Social Science	\$54,260
Community & Social Service	\$45,490
Legal	\$63,240
Education, Training, & Library	\$44,050
Arts, Design, Entertainment, Sports, & Media	\$33,200
Healthcare Practitioners & Technical	\$54,750
Healthcare Support	\$29,720
Protective Service	\$38,600
Food Preparation & Serving Related	\$21,610
Building & Grounds Cleaning & Maintenance	\$26,320
Personal Care & Service	\$25,170
Sales & Related	\$28,430
Office & Administrative Support	\$32,740

0150

Farming, Fishing, & Forestry	\$33,280
Construction & Extraction	\$47,340
Installation, Maintenance, & Repair	\$48,220
Production	\$37,450
Transportation & Material Moving	\$41,520

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Web development by West Arete (<http://westarete.com/>)

Sign In (</articles/new>)

My name is Tom Asbridge and I rise in support of HB1263.

Wages, like the price of anything, at whatever level, is the controlling factor in how prosperous our economy is. The wages paid to North Dakota workers is the controlling factor of our tax base and the purchasing power of our citizens. Historically, the minimum wage has never reflected the need for purchasing power but rather is a political number unrelated to much of anything but politics. Mathematics must trump politics. Those who we elect to lead us have an obligation to create the environment that provides the optimum purchasing power or in other words, a wage that will allow our citizens to sustain themselves, our government and the general economy. Today, according to the official statistics of our several government data collection agencies, the minimum wage should be about \$18.30 per hour. That would allow our government to be much smaller and do far more important work than to manage a massive social welfare system that does not and cannot ever replace the income lost via low wages.

Once our wage base began its decline via policy, the American manufacturing system was forced to find cheaper good to sell and that has been done via moving production off shore and exacerbating the income level of the American worker.

Today, everyone in the body deals with the consequences of a lack of earned income in our economy. It is one of the sources of "too much government." A wonderful and complete record of a modern day economy that worked well and the reasons for it is available but ignored. The period from 1942-1952 provided our Nation with the earned income necessary without the need for an ever increasing debt---both public and private. In fact our \$20 trillion National Debt is in fact the amount of money that was not created via low prices and the resultant low wages. It is not a lack of education nor has the willingness to work that caused this condition. It is the failure of all of our policy makers to work on behalf of the American people that are the problem.

Today, our economy cannot support the correct minimum wage. That would require 2 other factors being remedied. The parity pricing for our raw materials and the restriction of market rupturing foreign imports. If we are ever to return to an economy that works for all, these are the steps that must be taken.

I urge you to consider the information that I have presented to you and recommend a DO PASS on this important legislation.

1



North Dakota
Economic Security
and Prosperity
Alliance



*Attachment
HB 1263 4
1-31-2017*

Testimony from Great Plains Food Bank on Behalf of
The North Dakota Economic Security & Prosperity Alliance (NDESPA)
House Bill 1263 – House Industry, Business and Labor Committee

January 31, 2017

Chairman Keiser and members of the House Industry, Business and Labor Committee, I am Melissa Sobolik, from the Great Plains Food Bank and I am here today representing the North Dakota Economic Security & Prosperity Alliance (NDESPA). NDESPA is a coalition of citizens and organizations working to build assets for North Dakotans of low and moderate income through public policy change. I am here to support HB 1263 which would increase North Dakota's minimum wage from \$7.25 to \$9.25 an hour.

One (1) out of every nine (9) North Dakotans struggle to make ends meet. More than 75 percent of these households have earned income, they are working, just not making enough to make ends meet. There are over 79,000 North Dakotans living with low or moderate income in North Dakota, over 20,000 of whom are children¹. Raising the minimum wage would have a positive impact on these working families and decrease the number of families needing public assistance through the programs Supplemental Food Assistance Program (SNAP), Temporary

¹ <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF>



North Dakota
Economic Security
and Prosperity
Alliance



Assistance for Needy Families (TANF) and Low Income Home Energy Assistance Program (LIHEAP).

A person working at the current minimum wage of \$7.25 makes \$15,080 a year. Increasing the wage to \$9.25 would boost their annual income to \$19,240, a difference of \$4,160. This leads you to wonder what does a person need to make in order to survive. The Massachusetts Institute of Technology Living Wage Calculator shows that for those living in Fargo, a single person would need to make \$9.40². In Bismarck, it's \$9.90. In Ward and Williams County it's \$11.72, Stark County is \$10.34, Grand Forks County is \$9.31 and in Bottineau County it's \$9.30.

With low unemployment, one may think that the wages in our state have increased, unfortunately that's not the case. There are still many jobs in rural areas and in certain fields that are paid less than \$9.25. In fact, according to 2015 US Census Data, 20% of North Dakota's working poor are working in positions that leave them below the federal poverty line.

We all want ND to thrive and be competitive. Our neighboring states, MT and SD have passed ballot initiatives raising the minimum wage and establishing a cost of living increase. MT passed it in 2006 and SD in 2014. MT's minimum wage is \$8.15, SD's at \$8.65 and MN's is \$7.75. You

² <http://livingwage.mit.edu/>



North Dakota
Economic Security
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Alliance



can see a map on the last page of my testimony that shows which states are above the federal minimum wage, according to the Department of Labor.

One may say that an increase in minimum wage will result in businesses cutting positions. The federal minimum wage has been increased 22 times since 1938, and for more than 75 years, real GDP per capita has steadily increased, even when the minimum wage has been raised. Job losses from an increase in minimum wage have been negligible based on a study from the Center for Economic and Policy Research.³

As someone who works with low income folks every day, I see how hard they work to make ends meet. How every month they are choosing between food and their rent/mortgage or between food and medical care/medication. At \$9.25/hour, people aren't asking to get rich; just asking for a little boost to help them meet their cost of living. I encourage you to pass HB1263 to help bring people up out of poverty and help them reach self-sufficiency.

I'd be happy to answer any questions you have. Thank you so much for your time.

³ <http://cepr.net/documents/publications/min-wage-2013-02.pdf>



North Dakota
Economic Security
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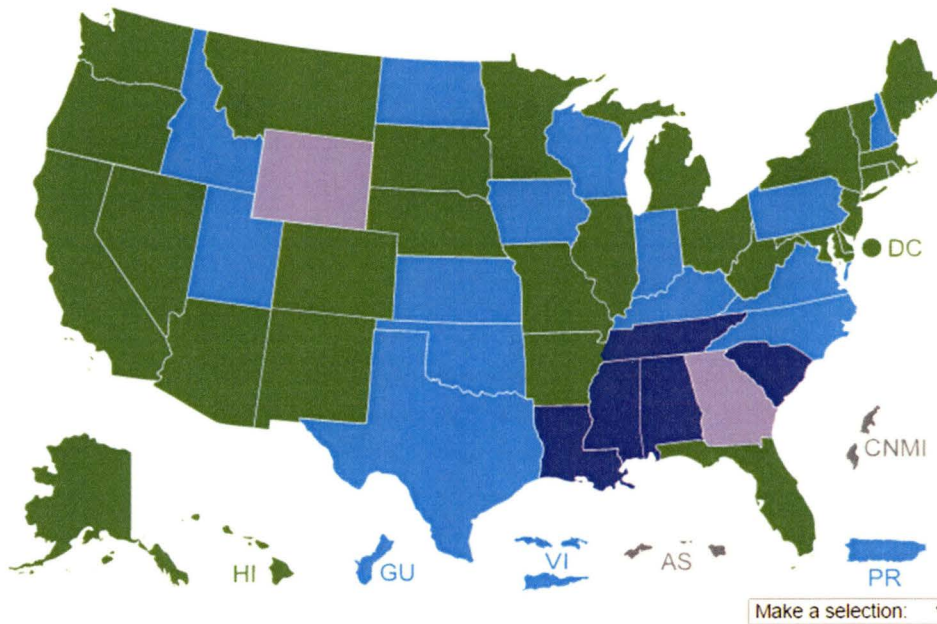
Wage and Hour Division (WHD)

Minimum Wage Laws in the States - January 1, 2017

[Historical Table](#)

Click on any state or jurisdiction to find out about applicable minimum wage laws.

Note: Where federal and state law have different minimum wage rates, the higher standard applies.



- States with minimum wage rates higher than the federal
- States with minimum wage rates the same as the federal
- States with no minimum wage law (federal minimum wage rate applies)
- States with minimum wage rates lower than the federal (federal minimum wage rate applies)
- [American Samoa](#) and the [Commonwealth of the Northern Mariana Islands](#) have special minimum wage rates.

Source: <https://www.dol.gov/whd/minwage/america.htm>

Jan 31, 2017

HB 1263

Attachment 5
HB 1263
1-31-2017

Greetings Mr. Chairman and committee members, I'm Kathrin Volochenko from the City of Kief, McHenry County.

What is the reason for the minimum wage law? To protect the worker from exploitation.

What then, is meant by a living wage?? In my opinion, it is a wage that will enable an employee that is working at one job to service all the basic cost of living expenses which include, though not limited to, food, rent/house mortgage payments, utilities, vehicle loan/repair payments, basic medical for adults, child care, basic medical for children and still be able to save at least 10% from each paycheck. It's understood that every household will have a different "breakeven" point, so what a person/family will be able to save will vary.

As an owner and employer of a small grains farm and a trucking company, I can be assured that when we pay an hourly wage of \$15.00 per hour to a farm worker that is performing any given task and \$20.00 to a CDL/Class A driver, that person is being paid a very fair wage in comparison to the other farms and companies in our area. In one case we pay a full \$5.00 per hour more per hour than a neighboring farmer and we have done so for at least 10 years.

Will this increase/accelerate inflation? Probably not, as the average hourly wage for ND in these types of occupations as of May 2015 already are:

- Food preparation and servers - \$11.85 hour* I also propose an amendment of a "straight across the board" increase to include tipped servers as they have been exploited for so many years/decades. I don't mind paying a few pennies more for a meal.
- Building and Grounds Maintenance - \$12.77 per hour*
- Sales clerks, cashiers and related - \$11.54 per hour*
- Farming labor- average of \$13.91 per hour*

These are just an example of what I call "lower echelon" or "new entry" jobs, as these would be jobs that a worker would typically be hired for when initially entering the workforce. Though of course not necessarily so, as there are many that either take these jobs due to certain skill sets, enjoy doing these types of work, are semi-retired or retired and just need some supplemental income.

- As a side note the averages listed above do actually total to an average of \$12.51.8 per hour.

Do any of you as an employer, pay an employee minimum wage? Probably not. Why not? Not really fair to the employee, is it?

You as our state legislatures need to step up and send a firm message to our private sector employers to step out of their "economic comfort zones" and establish a minimum wage that is in keeping with the current cost of living in North Dakota. In closing, I find it rather embarrassing when North Dakota as a state won't even acknowledge the fact that our private sector employees aren't guaranteed a living wage.

That's why I am asking to amend house bill 1263 to increase the minimum base wage from the proposed \$9.25 to \$12.50 per hour (average of the wages as listed above) with the inclusion of a minimum cost of living index of 3% per year, because we as a state need to do what is right.

Therefore I recommend a "DO PASS" for these amendments in NDCC 34-06-22.

* Information is based from the US Department of Labor; Bureau of Labor Statistics major occupational group numbers; 35-0000, 37-0000, 41-0000, 45-0000 as of May 2015.

Also handed to the clerk is a copy from Counter Punch dated March 17th, 2015 titled Top Ten Arguments for Raising the Minimum Wage authored by Bill Quigley.

Attachment 6
HB1263
1-31-2017

Chairman Kaiser,
Vice Chair Sukut and current committee members
My name is Casey Buchmann and I live in Washburn, ND.

First off, I would like to thank the people who had the foresight, knowledge & wisdom in writing our states constitution. Allowing the electors, in an open forum hearing, to testify in favor or against bills as the travel through the legislative process. Ensuring that the electors voice be heard. And holding the elected accountable for their voting record while in office.

HB1263 raises the minimum wage from \$7.25/hr to \$9.25/hr on 01/01/2018 if passed into law. That's basically \$1/hr, \$40/week, \$160/month and \$1920/year until the law is fully implemented if passed.

Real Money. Real Money that 100% of that goes back into the economy in some form or fashion. Really Money drives an economy. We all should know that fact. ND just went through a Real Money Boom in the oil industry. And sadly all to familiar. ND is going through a Real Money Bust.

I was raised in What was to become known as Coal Country. In Stanton, ND. Which is located at the confluence of the Knife River flowing into the Big Muddy. My first real job was at the age of 15 for the City of Stanton and my wage was \$2.65/hr. Minimum wage for a 15 year old at the time. But the buying power of that money according to today's dollar was almost three times that of today. I grew up in an union household and learned that no matter where one works or how much one makes. Everybody is just as important as the other.

I grew up in an era. Where real money started an economical boost to an area that still exists today. An era where elected officials cared more about their electors and the future of our state. An era where big business practices took a backseat to the needs of the people of our great state. And sadly times have changed. Times, indeed, change. They have trickled down to where know, Alternative Facts are repeated more than truths.

Yes the times have changed. The era of a one income family is just as endangered as the black rhino. Wages have not kept up with the price of living. Which in turn has created many social impacts on our society and a growing dependency on our government.

What price! Do you as elected officials put on Family Time. What Price! Do you put on a young couple just starting a family? When starting out many families need more than one job to make ends meet. What Price! You Can't.

HB1263 is a start in the right direction. This bill, if passed will be an economical boost to individuals and families and more importantly it'll be an economical boost to the state of ND

So, let us not forget. Everybody is important no matter where one sits at the table.

Casey Buchmann

attachment 7
HB 1263
1-31-2017

North Dakota Retail Association
ND Petroleum Marketers Association
North Dakota Propane Gas Association



LEGISLATIVE BULLETIN

Testimony HB 1263 January 31, 2017 – House IBL

Chairman Keiser and Committee Members:

For the record, my name is Mike Rud. I'm the President of the North Dakota Petroleum Marketers and Retail Associations. NDPMA/NDRA represents nearly 800 retail businesses employing thousands of workers across the state. On behalf of our association members, I'm here urging you to recommend a **"DO NOT PASS" on HB 1263.**

Our members believe consistent public policy which in turn leading to strong economic growth is the key factor in generating high paying jobs. There's no better example of this belief than the recent Oil Boom. Business activity was up leading to higher compensation levels for workers because everyone was trying to secure good employees to deal with increased store traffic.

That search for employees continues today. Job Service ND's latest report showed over 13,000 jobs available in the state. Those figures can be easily backed up by the numerous help wanted signs hanging in a majority of businesses across the state. ND continues to be a job seeker's market.

Last session, our associations combined with the North Dakota Hospitality Association to work on a resolution asking Legislative Management to study issues relating to employment restrictions in public assistance programs. We had identified about 3,000 employees in ND, many of which were good workers serving in the hospitality and retail sectors who were only working part time because by working more they would have jeopardized money they were receiving from the different assistance programs. The

study of this issue didn't get much traction because it was soon discovered that no approach taken by the ND retail community or state government could supersede the federal assistance programs currently in place. Basically, the federal plan was off limits to any attempts to make it more feasible to ween workers off the assistance programs.

Honestly, I don't know of many workers who are being paid anywhere close to minimum wage. I was at a meeting the other day when someone made the uninformed comment the only people getting paid minimum wage today are convenience store workers. I was quick to point out a majority of the retail outlets are paying far above minimum wage. Most of the owners I've spoken to say the starting average wage for a person with no experience is around \$9-11/hour. An experienced worker is making anywhere from \$13-15/hour and up.

Some will argue that's not the case in rural ND. The numbers I just mentioned are combined average of wage data shared by rural and metropolitan owners. We live in a mobile society. People are driving 40-50 miles one way every day for a job. This has a dramatic effect on the wages being paid in rural ND. The employee pool shrinks so wages must go up in order to keep the doors open. It's supply and demand. The real problem with the increasing wages is the bottom up effect that takes place. When a retailer starts bumping up the wages of the less experienced, they must also take into account those higher up the pay scale. This becomes a real balancing act because there's only so much to go around.

In closing, The associations I represent firmly believe the individual business owner, not state or federal government, should determine a fair day's wages for those they employ.

NDPMA/NDRA

Urge a **DO NOT PASS** recommendation on HB 1263.



Jan 31, 2017

HB 1263

1

Mr, Chairman, members of the House Industry Business and Labor Committee, for the record, my name is Rae Ann Kelsch, the State Director for NFIB and a registered lobbyist. NFIB is America's leading small business association, promoting and protecting the right of our members to own, operate and grow their businesses. In North Dakota, NFIB has more than 2600 members.

I stand before you today in opposition to HB 1263

1. Proposed minimum wages are almost always arbitrary and never based on sound economic analysis. Why \$9.25 an hour and not \$9.75? Why \$15 an hour and not \$16 an hour?
2. A uniform federal minimum wage may be sub-optimal for many states, and uniform state minimum wages may be sub-optimal for many cities. A one-size-fits-all approach to the minimum wage is really a "one-size-fits-none."
3. Minimum wage laws require costly taxpayer-funded monitoring and enforcement mechanisms, whereas market wages don't.
4. Market-determined wages are efficient, whereas government-mandated wages create distortions in the labor markets that prevent labor markets from clearing

In ND, we clearly have market driven wages and that is the way it should stay. Many businesses across our state are paying wages that are substantially more than minimum wage. Employers know best the skill set of their workers and should be allowed to set their wages for their business.

Please vote no on HB 1263

Testimony of Brent Bogar
Greater North Dakota Chamber
HB 1263
January 31, 2017

Mr. Chairman and members of the committee, my name is Brent Bogar. I am here representing the Greater North Dakota Chamber (GNDC), the champions for business in North Dakota. GNDC is working on behalf of our more than 1,100 members to build the strongest business environment in North Dakota. GNDC stand today in opposition of HB 1263.

An increase in the minimum wage does not automatically mean a benefit to the worker or economy. Whenever the government steps in to regulate how a business operates there are ripple effects throughout the business cycle.

In the case of a mandated wage increase this can be seen in fewer jobs, or even job reductions as a business must evaluate the cost increase and determine how they will pay the difference as the expense has to be offset somewhere on the balance sheet. Without an increase in demand for the products or services offered by the business, it must reduce costs to maintain margins that are acceptable for the business to stay viable.

It is not acceptable to think that a business can raise its prices just to offset this new increase in expense when there are numerous other factors that a business must consider when determining pricing. Even if we would think that raising the prices to offset this expense would be acceptable to the marketplace then we would also have to agree that it would not have the intended affect as the workers wage increase would be lost to the increase in costs to the products or services that they need.

For a business to find success it must pay its employees a competitive wage to maintain the skilled, motivated and experienced workforce. GNDC believes that the market should be allowed to determine the pricing. A worker who has developed the skills and training necessary to perform certain job functions can and should be able to negotiate for a higher wage due to the increase in value that they bring to the job and business. A business can and will adjust the wages of employees to maintain the quality workforce necessary to operate in a competitive marketplace.

Champions  for Business

PO Box 2639 P: 701-222-0929
Bismarck, ND 58502 F: 701-222-1611

Any increase in the minimum wage can also limit opportunities for those in the workforce in entry level positions or those with limited skills. It is through the practice of giving an employee and opportunity to learn on the job and increase their knowledge and skills that they are then given higher compensation. By arbitrarily setting an entry wage for businesses to pay they then have to determine if they can continue to offer the opportunity to those workers, thus limiting the possibilities of jobs for individuals. The increase in the minimum wage again can have an adverse effect on those that it is intended to help.

GNDC has continuously supported efforts to improve the workforce, business environment and create opportunities for all in North Dakota. It is through the expansion of opportunity, education and business diversification that GNDC believes all will benefit in better wages, margins and growth. It is with this in mind that GNDC respectfully requests a Do Not Pass on HB 1236. I would stand for any questions that the committee may have.

2

HB 1263
Attachment 10
1-31-2017



**Testimony on HB 1263
Prepared for the
House Industry, Business and Labor Committee
January 31, 2017**

Good morning Chairman Keiser and members of the Industry, Business and Labor Committee, my name is Michelle Kommer, and I am the Commissioner of Labor. I appear before you today neutral on HB 1263. I am here to provide information regarding current minimum wage laws and rules and how HB 1263 may affect those laws and rules.

Current Minimum Wage Law

As you know, North Dakota's current minimum wage is \$7.25, as set forth in N.D.C.C. ch. 34-06-22. This has been the state minimum wage since July 24th, 2009, and mirrors federal minimum wage. The Department of Labor and Human Rights (Department), by administrative rule, establishes the standards that apply to N.D.C.C. ch. 34-06-22, which are found at N.D.A.C. § 46-02-07-02.

HB 1263

HB 1263 amends N.D.C.C. ch. 34-06-22 to implement a new minimum wage of \$9.25 per hour, and an indexing system which would determine annual minimum wage increases. HB 1263 removes the commissioner's ability to decrease minimum wage (*page 1, lines 22-23; page 2, lines 4-5*).

Subminimum wage.

I call your attention to the impact of HB 1263 to the program for issuing subminimum wage licenses. Under N.D.C.C. § 34-06-15, the commissioner can issue subminimum wage licenses in certain circumstances:

"...an individual whose productive capacity is impaired by physical or mental disability or who is a student or learner enrolled in a career or technical education or related program may be employed at a wage less than the established state minimum wage."

During the first year of the 2013-15 biennium, 971 individuals worked under subminimum wage licenses issued by the department to 12 community organizations

offering rehabilitation programs. In the second year of the biennium the number decreased to 932 individuals to 15 community organizations. The department did not issue any licenses to individuals or vocational students during the 2013-15 biennium.

The administrative rules governing subminimum wage certificates are found at N.D.A.C. § 47-02-07-02(2)-(3), which set forth the following mechanisms for setting subminimum wage:

- *Students enrolled in vocational education:* Wage may not be below eighty-five percent of the current state minimum wage.
- *Individuals with disabilities:* Documentation of the employee's commensurate wage rate must be provided to the commissioner, determined by assessing nondisabled worker productivity, the prevailing wage rate for the same or similar work and the worker's own efficiency.
- *Non-profit community rehabilitation program for the handicapped:* License may be issued to qualifying rehabilitation program upon receipt of license from commensurate federal program.

HB 1263 would statutorily increase wages paid by certain participating organizations under the subminimum wage section.

Thank you and I'd be happy to answer any questions you may have.

HB 1263

Jan 31, 2017

Hello,

My Name is Jessica Dryer and I live in West Fargo (District 16). On Tuesday- the IBL committee will hear testimony on HB 1263 to increase the minimum wage. I have heard arguments on both sides and I want to give my testimony in why I believe this should be raised.

Arguments I have heard for:

1. We need to align with our neighboring states, so they don't attract workers away from our state:

a. I think this a very valid point and the wage should be increased because of it.

SD has a minimum wage of 8.65, ND has a minimum wage of 7.25.

MN has a minimum wage of 7.75 or 9.50 (depending on age of worker and company sales), ND has a minimum wage of 7.25.

Montana has a minimum wage of 8.15, ND has a minimum wage of 7.25.

2. Rural North Dakota doesn't have the same population and has been decreasing in recent years.

a. I believe, as my personal experience testifies, that rural North Dakota isn't paying enough and workers are leaving to go to population centers to make a better wage. We need to step in and save our rural towns from losing workers. By Losing workers, there is less disposable income in towns and therefore business suffers.

3. We can decrease the state's cost for welfare programs such as food stamps, fuel assistance, etc.

a. I think this a huge benefit to the state. ND is in an economic downturn and budget cuts are needed. Let's increase the minimum wage and it will decrease the cost of welfare programs for the state.

4. Minimum wage has not kept up with inflation or rent increases.

a. When I came to Fargo for college at NDSU in 2006, minimum wage was \$6.25 and rent for a 2 bedroom apartment was \$420. Now 10 years later, minimum wage has only gone up to \$7.25, but rent for that same two bedroom is now \$700.

Arguments I have heard against:

5. I have heard the argument that this could be negative for some businesses.

a. However, I don't think that's the case, I think it will decrease turnover which will save the company in the long run. Often, turnover is one of the biggest expenses in the lower income jobs.

b. Disposable income will increase sales.

6. Some other arguments I have heard- It's too much or it's too little. Teenagers don't need an increase, and company sales under a certain threshold shouldn't have to do this.

a. This bill is amendable.

7. This will increase the cost of goods.

a. There was a study that If McDonalds paid everyone 15/hr, it would increase their products' cost by 4%. (this actually wouldn't take into account savings form turnover)... by not proposing 15/hr, the increase in product's cost would actually be much less then 4%. <https://thinkprogress.org/this-is-how-much-a-big-mac-would-cost-if-the-minimum-wage-was-15-184b7523b273#.vqcf2aott>

Please do the right thing and vote DO PASS on HB 1263

Thank you for your time and I would appreciate a reply to know you received this message.

Thank you,

Jessica Dryer
3027 7th St W Apt 101 West Fargo ND 58078
701-550-9607

Jan 31, 2017

Do Pass HB 1263

We should raise the minimum wage in ND – Do Pass HB 1263

Thank you members of the committee for taking my testimony. My name is Rachele Hall and I am a voter from Morton County.

I would like the committee to give the bill HB 1263 a DO PASS recommendation. I ask you to do this because of my 18-year-old son and for all of our young workers in the state. I would like my son to be able to work for, afford, and save for the things that he wants, including his college education. Saving is hard and I see his money going to mainly gas, his car payment and food. For now, he depends on me to pay for his insurance, housing, clothing, cell phone and the other necessities of life. And soon there will be college and all the associated expenses.

My son is lucky to have me to fall back on but I do not make enough money to actually put him through school. I worry about the youth that don't have parents that have a good job or don't see a way to get to college to get a good job.

Increasing the minimum wage to \$9.25 is very modest and quite frankly I think it should be much more and should increase with the cost of living. We expect our kids to work hard but they cannot afford to live without putting in a lot of hours. Right now they would have to work 62 hours just to afford a one-bedroom apartment. I, personally, would like to see that time spent towards studying and attending class.

We need to pass this bill because we care about the people living and working here. As legislators, you have the ability to tell our young people that they matter and they are worth something. We need to be leaders in our country and do what the federal government can't even do. And that is increase the minimum wage because our young people deserve it.

Thank you for your time and consideration.

Rachele Hall