

**2019 HOUSE POLITICAL SUBDIVISIONS**

**HB 1193**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee

Prairie Room, State Capitol

HB 1193

2/8/2019

32492

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature

Carmen Hickle by Donna Whetham

### Explanation or reason for introduction of bill/resolution:

Relating to a living wage mandate prohibition for political subdivisions; and to provide for application

### Minutes:

1,2

**Chairman J. Dockter:** Opens the hearing on HB 1193.

**Rep. Johnston, District 24:** (Handout #1,2). Read his testimony. End 5:37

**Rep. Toman:** In North Dakota we already have self-check outs do you think this is a symptom of the work force shortage or cost?

**Rep. Johnston:** There are a few things that contribute to that. The world of automation is one. By increasing the minimum wage to \$15 would also be a driving force to go in that direction.

**Rep. Magrum:** Do you believe the state should be telling local government what to do as far as wages? If people in certain political subdivisions do pass a minimum wage do you think people would go somewhere else to do business?

**Rep. Johnston:** I'm a local control guy, I really don't like top down mandates. When local entities attempt to manipulate the free market through things like price ceiling, rent controls and minimum wage mandates that is directly impacting the markets. We have the responsibility to check that as state leaders. If you are in Fargo and raise the wages the prices would go up and people would tend to go to Moorhead MN to buy.

**Rep. Adams:** When you say you don't want to mandate anything over the minimum wage which is \$7.25 per hour. That would barely put me over the poverty level. How can we not look at the other residents of the state that can't live on that? Why would what Fargo is doing be a bad thing?

**Rep. Johnston:** The market dictates the pay. Even a bad server will make over \$20 per hour. So the market does dictate the pay.

**Rep K. Koppelman:** How many businesses actually pay minimum wage? I think in my community I think it is few or young. Maybe some part time high school jobs are.

**Rep. Johnston:** You are right usually it is entry level positions. Nationally that is still that way, 98% of the people that work for minimum wage are between the ages of 18 and 24.

**Rep. Guggisberg:** To follow up on the local control issue. the reason for cities to enact minimum wage is the employers are paying less than a living wage and the State ends up aiding the people. If the state is going to take control of this policy should the state give more resources to the low wage people? If Fargo would enact a minimum wage increase in their city, wouldn't our cities have a competitive advantage?  
If Fargo wouldn't your cities

**Rep. Johnston:** My community is about 100 people and no I don't think they would have an advantage but some could. That is why I think it should be mandated at the state level.

**Rep K. Koppelman:** A quote in testimony is Article 8 in section 2 the North Dakota constitution, which says the legislative assembly by law for the establishment and government of political subdivisions. We often forget the state creates local government. It goes on to say each political subdivision shall have and exercise such powers as provided by law. Do you read that to imply that this should be at the state level, local control is great but everything granted to local government is by statute limited? That is the way it has always been. Am I missing something?

**Rep. Johnston:** Good point.

**Matt Gardner, Greater North Dakota Chamber:** We support HB 1193. I would urge a favorable recommendation on this bill.

**Mike Rud:** Petroleum Marketers and Retail Association: We stand in Support of this bill, we think the state government needs to stay out of how to tell the business how to run their operations. The retail side is short of workers and I think we will see more self-check outs. I think we just need to keep moving forward with the free market because it is working.

**Don Larsen, National Federation of Independent Business:** On behalf of our 2500 member companies in North Dakota we ask for support of this bill. Our companies average 10 employees and average revenue of about \$500,000. 17:11-17:40

**Chairman J. Dockter:** Any other support for HB 1193? Seeing none. Any opposition?

**Waylon Hedegaard: North Dakota AFL-CIO:** We oppose this bill. In most situations I do favor local control. This bill is not local control. They couldn't get enough signatures to put \$15 minimum wage on the ballot. How much do we want to dictate? I have heard over and again it is the market that drives the wage. I believe we should keep local control where it is.

**Chairman J. Dockter:** One of the reason some of these bills are coming is last session the city of Glen Ullin tried to put in a gas tax and it came to light. I believe in local control but it is

a moving target. There are some things the state has to look at. Any other testimony on HB 1193? Seeing none.

Hearing is closed.

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee

Prairie Room, State Capitol

HB 1193  
2/14/2019  
32803

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature	Carmen Hickle	By: Elaine Stromme
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### Explanation or reason for introduction of bill/resolution:

Relating to a living wage mandate prohibition for political subdivisions: and to provide for application.

### Minutes:

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**Chairman J. Dockter:** Opened the meeting for HB1193

**Rep. Ertelt:** makes a motion for a do pass on HB1193

**Rep. Magrum:** second

Rep. Guggisberg: This is taking away local control so I am voting no on this.

A Roll Call Vote was taken: Yes 9 No 5 Absent 0

Do Pass carries

Rep. Ertelt will carry HB1193

**2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1193**

House Political Subdivisions 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. Ertelt Seconded By Rep. Magrum

Representatives	Yes	No	Representatives	Yes	No
Chairman J. Dockter:	X				
Vice Chairman Pyle:	X				
Rep. Ertelt:	X				
Rep. Fegley:		X			
Rep. Hatlestad:		X			
Rep. Johnson	X				
Rep K. Koppelman:	X				
Rep. Longmuir		X			
Rep. Magrum:	X				
Rep. Simons:	X				
Rep. Toman:	X				
Rep. Strinden:	X				
Rep. Adams:		X			
Rep. Guggisberg		X			

Total (Yes) 9 No 5

Absent 0

Floor Assignment Rep. Ertelt

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

**REPORT OF STANDING COMMITTEE**

**HB 1193: Political Subdivisions Committee (Rep. Dockter, Chairman)** recommends **DO PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1193 was placed on the Eleventh order on the calendar.

**2019 SENATE POLITICAL SUBDIVISIONS**

**HB 1193**



# 2019 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

HB1193  
3/7/2019  
Job # 33380

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk: Mary Jo Wocken
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### Explanation or reason for introduction of bill/resolution:

Relating to a living wage mandate for prohibition for political subdivisions; and to provide for application.

### Minutes:

Written attachment #1: Rep. Daniel Johnston Written attachment #2: Bette Grande Written attachment #3: Doug Kellogg Written attachment #4: Kevin Herrmann Written attachment #5: Bill Wocken
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**Chairman Burckhard** opened the hearing on HB1193. Senators Burckhard, Anderson, Kannianen, D. Larson, Dotzenrod were present. Senator J. Lee was absent.

**Representative Daniel Johnston**, District 24, introduced the bill and spoke in favor of HB1193. Written attachment #1. (:45-4:16)

**Chairman Burckhard**: So, it seems like an obvious thing when you mandate higher wages, companies are auto-mate right. I am surprised in North Dakota which I think the average hourly wage is fairly high. But they would have to mandate a \$12hour minimum wage. How long has this been talked about, as I am not familiar with Fargo minimum wage law?

**Representative Johnston**: I think since of last year in Fargo they have been contemplating. I think the commission actually did pass a study to see if it would be feasible to implement raising the minimum wage so that it is now \$12hr.

**Chairman Burckhard**: So how did they determine if it is feasible or not when they are not the business people? If they are not the business owner that is going to automation and go around that stuff? That's not even a real question.

**Senator Anderson**: It seems to me that it's strange and maybe I should ask somebody else this, but at the Heritage Foundation who is usually in favor of individual freedom and so forth, now wants us to pass a prohibition against local control of these things. Can you explain that a little bit better?

**Representative Johnston:** Most people who know me know that I am not local control guy. I think the Heritage Foundation and Bette Grande is going to testify to this effect that our constitution does specify just as the states created the federal government we also created the structure of the framework for local political subdivisions. I think when you talk about mandating wages at the local political subdivision level that falls out of sight of that power structure. That is really more of a state function.

**Ms. Bette Grande:** (6:32-9:15) in support of HB1193. **Written attachment #2.**

**Senator Anderson:** I am not certainly in favor of minimum wage laws. I lost my rock picking job to a mechanical rock picker a long time ago. I've been opposed to them ever since. But, I am also from the rural area. I look at that as this is economic development for the rural areas. If the cost go up in the city, then we're better able to compete in rural areas.

**Ms. Bette Grande:** I would say as the chairman had pointed out, kind of an odd thing with the minimum wage the way it is developed on its own as in the free market flow. That is what really what it should be. They should be no minimum wage. Free markets will cause the ebbs and flows of that type of thing, whereas, Minot exactly what happened to minimum wage a few years ago. There was no such thing. It was competing as to who could pay the highest dollar to get you into the door and give bonuses to you, just to get you to work, not sure you would stay the whole week after they trained you. Let the market decide and let North Dakota be a free market open to business state so that we have naturally high minimum wages. Then the wages would go up in our state. We want to be a business friendly state.

**Senator Dotzenrod:** Is this a case where the state is taking the attitude that Fargo doesn't really understand how to run Fargo? That it is better off if Fargo was really run from Bismarck. We could do a better job here, of running Fargo than these people from Fargo that just don't seem to get it. So since they may fail at their job, we can actually manage the city of Fargo better than they can? Is that what this message is?

**Ms. Bette Grande:** Actually not. I think what it is, is stating a precedence that the state has authority in certain areas. The state itself, the legislative branch should be able to state that if Fargo was to do this and they force business changes in Fargo, and that causes a shift or a disparity throughout the state, that they might hinder business across the state. There are multiple business owners that with this what their finding is that the private business owners are concerned that if the government of Fargo dictates that, it effects the private business owner. That small business owner who is trying to run their business in that town where there are going to have a hard time with the hiring for themselves. It would just become a forced or a mandate to them.

**Chairman Burckhard:** After the boom of the oil in Minot, I met a kid from Serbia, working for a fast food restaurant and he was getting great training and he was more than happy to be there for whatever they were paying him. I am sure it was \$15 an hour. The market should dictate this shouldn't it, I think?

**Ms. Bette Grande:** I think it has proven it again too as with a lot of the companies that are bringing in you say Serbian, but the nurses that are being brought in from foreign countries

and trained and especially in a lot of the medical fields. We saw an uptake in that. It has been beneficial for everybody in that aspect.

**Doug Kellogg**, (13:26-17:33) State Projects Director for Americans for Tax Reform (ATR).  
**Written attachment # 3.**

**Senator Dotzenrod:** You mentioned toward the end of your comments there about income and inequality. That has been something that pops in the news. I've heard it many times actually over the last couple of years. Is that a legitimate issue, or it kind of just a Trojan horse or a bogus thing and is it legitimate for people to have some concerns about that?

**Mr. Doug Kellogg:** I think we need to at a starting point of kind of using the terminology thing of income inequality. I think it is legitimate for people to be concerned that our state and cities have a healthy economy that lifts all boats. People can make a good living and succeed and have every opportunity as much as possible through the free market to advance themselves. We very much care that taxes are low, and that is just because we don't like taxes because a low tax environment allows people to succeed and better themselves. On the income and inequality front, I couldn't point you to date in particular but I think that we see lots of area where income and equality is terrible and very progressive. You see that a lot in large cities particularly in New York City. These types of rules, your government simply cannot mandate that away. Often the best way to ensure that the cost of living is lower and that your dollars go further that is something that government can do by lowering taxes, reducing mandates and reducing their footprint.

**Chairman Burckhard:** Where did you say you came from this hearing.

**Mr. Doug Kellogg:** HR is based in DC. We have a state team that is four people strong, and we travel the country and ND is one of my states.

**Chairman Burckhard:** So you are northern tier tested now that you've been here.

**Mr. Doug Kellogg:** Yes, I am. I was in Minnesota a couple of weeks ago, during the blizzard in St. Paul and that was not enough to prepare me for this cold.

**Matt Gardner:** Greater North Dakota Chamber in support of HB1193. (19:48-21:02) Largest state wide business advocacy organization in the state. We are also the state affiliate for NAM which is National Association of Manufacturers. We are in support of 1193. I just want to offer a few other points. During the interim our business leaders across the state that are also our members got together and had policy committees. The policy committees range from infrastructure, work force development, business climate. One thing that was very clear during those policy development processes is that it is very important that we keep the federal minimum wage where it is at. We're going to be in line with that. Some other comments were brought up today about patchwork, those businesses that are statewide in nature or regional. It is very important to keep consistency. Additional mandates, regulation are not good for business as it makes it more difficult for them. I just think it is really important that we stay consistent across the state. That is the role of the state government and were here to support this bill to preempt any patchwork that may be going on in our cities across the state.

**Chairman Burckhard:** When there is a mandated \$15 hour at a restaurant, does that mean they don't get tips or what does that mean? I know a lot of people who work at restaurants

that make more than \$15hr, when you include your tips. Doug does the \$15 include or does it take away their tips then?

**Mr. Matt Gardner:** No it wouldn't prohibit tips in any way.

**Chairman Burckhard:** It would be \$15 plus tips.

### **Opposition Testimony**

**Chairman Burckhard** asked for opposition testimony on HB1193. We have opposition testimony from **Mr. Kevin Hermann, written attachment #4**. He was not in attendance.

Opposition testimony from **Bill Wocken**, ND League of Cities. **Written attachment #5**. He was not in attendance as he was testifying on another bill.

**Chairman Burckhard** closed the hearing on HB1193.

# 2019 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

HB1193  
3/14/2019  
Job # 33727

☐ Subcommittee  
☐ **Conference Committee**

<b>Committee Clerk: Mary Jo Wocken</b>
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### Explanation or reason for introduction of bill/resolution:

**Relating to a living wage mandate for prohibition for political subdivisions; and to provide for application.**

### Minutes:

**Chairman Burckhard:** Asked for committee discussion on HB1193. It is about relating to a living wage mandate for prohibition for political subdivisions; and to provide for application. My notes tell me that those testifying were Bette Grande, Doug Kellogg, Matt Gardner and Mike Rud. I didn't have any opposition noted.

**Senator Diane Larson:** Bill Wocken and Kevin Herrmann said it was local control. He was just an individual speaker.

**Chairman Burckhard:** Why would the Greater North Dakota Chamber be in favor of this?

**Senator Judy Lee:** Well I get it. They don't want to have a living wage mandate. I don't think there should be a living wage mandate here. But I also don't think that. The market is determining what the wages are in North Dakota. In almost every case significantly higher. They are advertising for workers at Target that start at \$12.50 sweeping floors. So, I understand and I don't want a living wage either, but I absolutely don't think that we should putting this in statute when it isn't even something that is a threat at this point.

**Senator Dotzenrod:** If this becomes an important issue it seems like the debate should take place the community level. I don't think that the debate, is going to happen in a little town, it will happen in a larger city. That's where that debate belongs I think. I just don't why we would do this here.

**Senator Diane Larson:** I actually disagree. I think that the if a local community. Say a local community says yes we're going to pass a law in our community that ways that we must have this particular minimum wage. Then it might be something a city may want to do, but look what they're doing to the individual businesses then. They are mandating something to those businesses and so I see it as something where we should not be having that as one of the tools we use in North Dakota to say, because really it is a mandate then to the individual

business. The business is going to pay what they need to pay to get the workers they want. So for us as even, I don't even see this as much as a local control issue which is what it is kind of played off as in some way. I see this as state is, is this what we want to get into? Are people saying okay all your business we are going to mandate to you, that you have to pay this wage that we say is the living wage? I am going to be in support of this bill.

**Chairman Burckhard:** Yes, it says relating to a living wage mandate prohibition.

**Senator Diane Larson:** We are going to prohibit a political sub from mandating a living wage. I don't think that that should be up to a community. It should be up to the local business to pay what they can pay to make a profit and get the workers that they want. I am going to be supporting this bill.

**Senator Diane Larson: I move a do pass**  
**Senator Kannianen- 2<sup>nd</sup> on the motion**

**Committee Discussion:**

**Senator Anderson:** As I said before, I am not in favor of minimum wages let alone living wages. But, it still comes down to whether we're going to let the local people figure out what they are supposed to do, or whether we're going to do it a state wide level. I think that whether we pick one fight here or one fight here, and we take different sides on that issue, it seems to me a little inconsistent with our policy. We've already got or seen three or four issues like that, in this legislative session and we've seen several previously.

**Senator Judy Lee:** So, your position on the bill is?

**Senator Kannianen:** It was brought up in this hearing that and I think that it can apply to a few of the bills that we are talking about, is that the idea for local control of government is typically for the more of the essential functions of public safety, law enforcement, certain local taxation but when it comes to regulations that can effect businesses state wide. Like a business that does operate state wide, that's where it is I think it is a state issue to make sure that those regulations are uniform statewide instead of patchwork. So certain regulations that effect businesses I think aren't necessarily a local control issue like public safety or education.

**Chairman Burckhard:** I think I would agree with you on that.

**Senator Judy Lee:** I was reading the testimony from the League of Cities, and went back and read again what I had not quite before and that is that is that this also applies in circumstances in which is already a contract in place. That seems inappropriate to me. I mean how can you change horses in the middle of the stream with something like that.

**Chairman Burckhard:** Where are you referring too?

**Senator Judy Lee:** In subsection B, has a contract with a political subdivision or that has received tax abatements, loan guarantees and all of that, so it is something. If we're going to even think about doing this, then I think it can't be retro-active on contracts that are already signed. Do you have to re-negotiate all of those contracts again? I think that is kind of a big deal. It would be if they already have a contract. If there is a 5- year contract in place and we

are 2 years into it, and it says it has a contract, then the living wage would apply, if they set one in place.

**Senator Diane Larson:** I don't think that the contract based would've been based on a living wage. It would've been based on how they hired somebody. I am thinking for example even with a business like Senator Kannianen. He maybe has a contract to work on a project in Fargo, and he has maybe people that he has working for him, and this is what he pays them to do that work. Then he comes to Bismarck who has maybe instituted this and then he knows that well he has to do that then in Bismarck, because their minimum wage that they are required to pay in Bismarck is this. So, that job is going to cost him more in Bismarck and so he maybe will decide not to even work in Bismarck. I mean that it creates a lot of problems, when you're mandating to businesses what to do. But I disagree that this would void old contracts because those old contracts were not based on a minimum wage.

**Senator Judy Lee:** How do you know?

**Senator Diane Larson:** Because we don't have that in our state at this point.

**Senator Judy Lee:** We do, \$7.25; \$7.00.

**Senator Diane Larson:** I mean a living wage. A minimum wage.

**Chairman Burckhard:** We will have further discussion on this bill this afternoon. Please remember that we have a motion for a do pass and a 2<sup>nd</sup> and will continue the discussion later on.

# 2019 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

HB 1193  
3/14/2019  
Job # 33747

☐ Subcommittee  
☐ Conference Committee

Committee Clerk: Mary Jo Wocken
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### Explanation or reason for introduction of bill/resolution:

Relating to a living wage mandate for prohibition for political subdivisions; and to provide for application.

### Minutes:

PM meeting
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**Chairman Burckhard:** The next bill we are going to act on is HB 1193. We have a motion from Senator Diane Larson for a do pass, with a second from Senator Kannianen. We've had no discussion.

**Senator Dotzenrod:** We're getting a bunch of these bill coming over from the House, that are basically kind of the same flavor. We're putting restrictions on subdivisions. It appears to me that they are all sort of developed in these think tanks, that are in Washington. They develop these ideas and they keep shopping around to the states and get as many introduced in the states as they can. In this particular case, it seems to me that that discussion about whether they want to have a living wage or ordinance or not, belongs in that city. They've got active chambers of commerce, the business interests of their city along the line at every meeting they have; they are thinking about employment for their city, growth and so they have all those interests that we don't have. That is all wrapped up in their subdivision. They have to make and weigh all that. So, for us, to come here and say that we're going to pass a state law that says that you are restricted from doing activity x, and we pass resolutions here in Bismarck fairly routinely protesting to Washington, DC that we don't like with you requiring us to do this. Please change your law or telling Congress that they need to stop doing this or that. It seems like it kind of hypocritical of us to protest so much to the federal government about what they do. Then for us to turn around and say to the subdivisions you may want to do this, but we're going to pass a state law that says you can't do it. So, when I see these, I don't want to make the same speech over and over. I will be voting no.

**Senator Kannianen:** Just briefly, as I said earlier today on this. That certainly, when we are talking about local control. Certain things are specific to that political subdivision then local control can apply and then situations where the activities cross lines of political subdivisions and that's where things appropriate for the state to get involved. The states created the federal government, and then the state, for our specific state, also created the political subdivisions. So it goes both ways, but everything starts from the state. So as far as to



compare the overreach that we don't like from the federal government with what we do to political subs I don't think applies because we created both and it goes both ways. So that is why I will support this.

**Chairman Burckhard:** I think from what I recall from it was the fact that the large companies are already gearing up for mandated wages. The McDonalds of the world now have kiosks where you just in and you put in your order. So eventually they are going to eliminate some \$15 hour jobs, I suppose if that is what they are paying. I think all the testimony we heard was in favor of this bill, which is prohibiting a mandate for whatever a living wage is called. I think they used \$15/hr as an example in some of the testimony.

**Senator Anderson:** I have a letter here from Kevin Herrmann, from Beulah which says he is opposed to it.

**Chairman Burckhard:** This is Kevin Herrmann your referring too, right Sen. Anderson who opposes the bill.

**Senator Diane Larson:** I think that part of my discussion earlier today as a reminder was that really by having political subs mandate a living wage, there mandating to private businesses. That who is going to impacted by it. It's not going to be up to the private business to make the decision on what kind of wages they want to pay. They can pay to hire the best person that they want, and be able to keep employees and that sort of thing, and so I think that it's a good idea to leave this up to the businesses to make those kinds of decisions themselves.

**Chairman Burckhard:** I think it is 74% of our businesses in North Dakota have less than 10 employees or less than 9 employees. It is a pretty large percent. Let's mandate some revenues for them too.

**Senator Judy Lee:** You were here obviously for the hearing and I was not, but looking back at Mr. Wocken's testimony, that the last line of this bill mandates future action but it also prohibits mandates in past contracts. This provision may violate some principles of contracts law. Did you get any information that gives you anymore knowledge about that, because I think I have a reservation about that particular provision as I had mentioned earlier?

**Senator Kannianen:** If I remember correctly there isn't any type of as we want to call it, a living wage, or anything higher than a minimum wage enacted in the state right now, is that correct? So as far as any current contract I mean would there be any current contract in the state at all that would already be touching this, that it would be affected?

**Senator Judy Lee:** My concern if I may, please because you were here and I wasn't, that's why I have this question. So if we have a contract with a political subdivision, and XYZ company now for services or goods, it would mean that if there was a mandate passed. I see a concept between the mandate being passed and somebody not being able to be able to do some changes in the program that is already there. But I am confused about it which is why I am asking for those who were here to make it clear to me?

**Senator Diane Larson:** I think that the minimum wage is a different standard than a living wage. That is what I think and that's why I don't think that really applies to those lines because that was referring to minimum wage.

**Senator Judy Lee:** No it says applies to a living wage regardless of whether it is enacted before or after the real effective date of the application.

**Mr. Bill Wocken:** ND League of Cities. But my recollection of the testimony is that our concern was that the League of Cities does not like to see mandates passed that affect local government. In the same way as Senator Dotzenrod mentioned earlier we don't like to have federal government mandate to us. The concern that we had about this bill as I recall the terms of the bill, the bill says that there would be a prohibition on local government putting mandates for minimum wage into contracts whether they be prospective or retroactive. Our concern was that we not affect contract law which I am afraid the last provision might do.

**Senator Judy Lee:** It was living.

**Mr. Bill Wocken:** It was living wage. Our concern is with the interference with the contracts that are already in place.

**Senator Anderson:** You don't know or do you know of any specific instances where that would apply?

**Mr. Bill Wocken:** I am not aware of any specific contracts but I do know that cities have any number of contracts active at any particular point in time. If any of them have a living wage provision in it, then of course we would have conflict. But I am unaware of specific instances.

**Senator Dotzenrod:** Just in our society there are a lot of things going on that are creating pressures for employers and employees both. You may have read within the last few weeks about Jeff Bezos and Amazon. The question was he is the richest man in the country and he has people working for him that on food stamps. They were wondering why would that be that is there some reason that he needs to have several more billion when he's got it. So he agreed that there was a pretty legitimate criticism and he announced that he will be paying his people a minimum wage of \$15/hour. So there was no mandate there. There was no requirement, no city council meeting, it was just a pressure that developed through our culture that there is kind of contrast between his operations and his personal situation and the people working for him was so out of whack. There are cities that are dealing with this question within their own city. But as I mentioned if that debate belongs at that city. All of the things of the employers, the businesses, the Chamber of Commerce, they are all there at the table. It seems to me that is the appropriate place rather than whether what we think here.

**Chairman Burckhard:** Than being mandated. We have a do pass motion for HB1193.

**Senator Diane Larson:** It would be nothing that this bill would prevent a business person from doing that. This is just saying that as a political subdivision can't require those businesses to do, but any business could make that decision.

**Senator Dotzenrod:** I told the story about Jeff Bezos to sort of highlight a feature of the economy that we have in our country today. But around the nation there is beginning to be a recognition that we've got a problem. The Jeff Bezos story is kind of informative. It's not that every business is going to follow Jeff Bezos' lead, it just is sort of kind of lesson or story of what's going on and the kind of pressures that are coming to bear within cities and with cities that are dealing with homelessness, dealing with people that are having trouble making end meet. There is a lot going on in our culture at any one time. For us to impose this it seems to me to be sort of saying we're going to cut this off at the pass. Let us stop this conversation from taking place.

**Chairman Burckhard:** Hopefully, the more perfect business world the HR person for that company would have sat down with Mr. Bezos and told him about the situation. But the social media must have been the.

**Chairman Burckhard** asked for a vote on Do Pass 1193.

**Roll call vote: 4 Yea, 2 No, 0 Absent**

**Carrier: Senator Burckhard**

Date: 3.14.2019  
Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE**

**ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1193 (P.M. discussion)**

Senate Political Subdivisions 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 Sen. Diane Larson Seconded By Sen. Kannianen

Senators	Yes	No	Senators	Yes	No
Chair Randy Burkhard	<u>X</u>		Sen. Jim Dotzenrod		<u>X</u>
Vice chair Howard Anderson	<u>X</u>				
Sen. Diane Larson	<u>X</u>				
Sen. Judy Lee		<u>X</u>			
Sen. Jordan Kannianen	<u>X</u>				

Total (Yes) 4 No 2

Absent 0

Floor Assignment Sen. Burkhard

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

**REPORT OF STANDING COMMITTEE**

**HB 1193: Political Subdivisions Committee (Sen. Burckhard, Chairman)** recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1193 was placed on the Fourteenth order on the calendar.

**2019 TESTIMONY**

**HB 1193**

## Testimony: HB 1193

Rep. Daniel Johnston (24)

2/8/2019

### Why HB 1193 is needed in North Dakota

City governments across the country are experimenting with minimum wage hikes that are taking away job opportunities and forcing small businesses to close.

In early June of last year, Fargo city commission proposed to gradually increase Fargo's minimum wage, up to \$12 per hour<sup>1</sup>. The proposal would increase the minimum wage to \$10 per hour by September 1 and raise it by 50 cents annually until it reaches \$12 per hour on September 1, 2022. The Fargo City Commission filed the proposal and as far as I know the idea is still being studied.

In July of last year, ten locales in California raised their minimum wage above the state mandated level. The results should act as a warning for North Dakota.

We can take a look at one of those California cities, San Francisco, which became the first major city to embrace a \$15 minimum wage, to see how the mandate may impact a typical night out. Economists from Harvard Business School and Mathematica Policy Research identified a 14 percent increase<sup>2</sup> in Bay Area restaurant closures associated with each one-dollar increase in the base wage for tipped employees.

In Seattle, one study cited a 3 percent increase in hourly wages for low-wage employees, it also found a 9 percent reduction in the number of hours worked at wages below \$19 per hour. This seems to correlate with a \$100 million per year reduction in the total payroll for low-wage jobs<sup>3</sup> once the wage reached \$13 per hour—the exact opposite of what minimum wage increases are meant to achieve.

Those businesses who are able to stay open despite minimum wage mandates have turned to technology to cope with artificially higher labor costs. By 2020, McDonald's plans to install self-order kiosks<sup>4</sup> in every United States restaurant. They are not alone. Familiar eateries such as Panera<sup>5</sup> have already installed digital interfaces for customers to order meals. Applebee's<sup>6</sup> also has contributed to the growing national trend toward automation by installing tabletop tablets at their 2,000 U.S. locations.

<sup>1</sup> <https://www.inforum.com/node/4455743>

<sup>2</sup> <https://www.yelpblog.com/2017/04/yelp-data-shows-economic-impact-minimum-wage-increase-harvard-study>

<sup>3</sup> <https://evans.uw.edu/sites/default/files/two%20page%20overview.pdf>

<sup>4</sup> <https://www.usatoday.com/story/money/nation-now/2018/06/07/mcdonalds-add-kiosks-citing-better-sales-over-face-face-orders/681196002/>

<sup>5</sup> <https://www.businessinsider.com/panera-bread-20-kiosk-ordering-system-2015-11>

<sup>6</sup> <https://www.eater.com/2017/10/5/16428750/tablet-technology-restaurants-applebees-outback-steakhouse>

#1  
HB 1193

2-8-17

Academic research backs up these real-world examples. A study<sup>7</sup> on minimum wages' impact on automation by economists Grace Lordan and David Neumark found that minimum wage hikes significantly increase the likelihood that workers in automatable roles will lose employment, or settle for a worse job elsewhere.

North Dakota cannot afford to risk the current economic expansion by implementing burdensome policies on our small business owners.

Minimum wage hikes are not the answer to raising North Dakota paychecks. They will jeopardize employment opportunities, and force businesses to pass increased labor costs onto their customers.

When cities, states, and counties decide to implement minimum wage mandates, business owners are forced to decide how to make ends meet which ultimately falls on the backs of those that need the jobs the most

In closing, Increasing the minimum wage is not an effective method of reducing poverty, and it harms workers<sup>8</sup> by creating barriers to entry for less-skilled and less-educated people. Cities and states should avoid arbitrary minimum wage hikes and let the market dictate wages instead.

Thank you, members of the committee, for your time and consideration of HB 1193, please give this bill a Do Pass recommendation.

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<sup>7</sup> <https://www.nber.org/papers/w23667>

<sup>8</sup> <https://www.heritage.org/jobs-and-labor/report/who-earns-the-minimum-wage-suburban-teenagers-not-single-parents>



HB 1193 #2  
2-8-19

**Testimony before the North Dakota House Human Services Committee**  
**Bette Grande, Research Fellow**  
**The Heartland Institute**  
**January 21, 2019**

Chairman Dockter and members of the Political Subdivision Committee, thank you for taking the time today to discuss the issue of setting of minimum wage at the political subdivision level. The Heartland Institute is a 34-year-old independent, national, nonprofit organization whose mission is to discover, develop, and promote free-market solutions to social and economic problems. Heartland is headquartered in Illinois and focuses on providing national, state, and local elected officials with reliable and timely research and analyses on important policy issues.

Testimony in support of HB 1193

Efforts by government to mandate a living wage across the country have resulted in fewer jobs, especially for lower skilled workers and have increased the cost of goods and services for consumers. Be meddling with individual economic freedom and with the ability of business owners to make sound business decisions these laws have a net negative impact on individuals and the economy.

A patchwork of living wage mandates across political subdivisions in North Dakota would create artificial barriers for employees and businesses and ultimately negatively impact taxpayers across the state.

The decision to start or expand a business and the decision where to locate that business are challenging and the impact of state and local regulations on these decisions is already far too great.

While it is generally preferable to have public policy, decisions made at local government level, there are times when local policy decisions have impacts beyond the borders of the political subdivision. Policy mandates such as a living wage or a guaranteed income at by a local government will reduce the economic freedom of citizens living and working throughout the state. It will also negatively impact businesses in the state with the burden of dealing with yet another regulation that can vary from area to area.

Article VIII of the North Dakota Constitution deals with political subdivisions with the objective maximizing local government control of essential functions such as public safety and local taxation. Political subdivisions in North Dakota are statutory.

Article VIII, Section 2 states "The legislative assembly shall provide by law for the establishment and the government of all political subdivisions. Each political subdivision shall have and exercise such powers as provided by law."

#2  
HB1193  
2-8-19

When local political subdivisions seek to adopt public policies that will have a negative impact for the citizens of North Dakota it is well within the authority of the legislative branch to limit or restrict those policies.

HB 1193 is a good piece of legislation that is intended to maximize personal economic freedom and limit the consequences of misguided local policy.

Thank you for your consideration.

Bette Grande  
Research Fellow  
The Heartland Institute

### **Unintended Consequences of Raising the Minimum Wage**

<http://mercatus.org/publication/unintended-consequences-raising-minimum-wage>

Antony Davies of the Mercatus Center examines arguments for and against minimum-wage increases and presents new results comparing employment for workers with differing educational attainments.

### **The Minimum Wage Delusion, and the Death of Common Sense**

<http://www.cato.org/publications/commentary/minimum-wage-delusion-death-common-sense>

Writing for *Forbes*, James A. Dorn of the Cato Institute argues the commonly held belief the minimum wage helps the poor is a delusion: "The belief that increasing the minimum wage is socially beneficial is a delusion. It is short-sighted and ignores evident reality. Workers who retain their jobs are made better off, but only at the expense of unskilled, mostly young workers who either lose their jobs or can't find a job at the legal minimum."

### **Busting 5 Myths about the Minimum Wage**

<http://blog.heritage.org/2013/03/05/busting-5-myths-about-the-minimum-wage/>

James Sherk of The Heritage Foundation debunks five myths about minimum wage hikes, often used by proponents of minimum wage laws: "A higher minimum wage would help some workers, but few of them are poor. The larger effect is hurting the ability of potential workers living in poverty to get their foot in the door of employment. A minimum wage hike might help politicians win plaudits from the press, but it wouldn't reduce poverty rates."

H.B. 1193  
3-7-2019  
Written att #1  
p.1

**Testimony: HB 1193**

**Rep. Daniel Johnston (24)**

**Senate Political Subdivisions Committee**

**3/7/2019**

Mr. Chairman and Members of the Committee, my name is Daniel Johnston and I represent District 24 in the North Dakota House. Thank you for allowing me to be here today and testify on HB 1193.

**Why HB 1193 is needed in North Dakota**

City governments across the country are experimenting with minimum wage hikes that are taking away job opportunities and forcing small businesses to close.

In early June of last year, Fargo city commission proposed to gradually increase Fargo's minimum wage, up to \$12 per hour<sup>1</sup>. The proposal would increase the minimum wage to \$10 per hour by September 1 and raise it by 50 cents annually until it reaches \$12 per hour on September 1, 2022. The Fargo City Commission filed the proposal and as far as I know the idea is still being studied.

In July of last year, ten locales in California raised their minimum wage above the state mandated level. The results should act as a warning for North Dakota.

We can take a look at one of those California cities, San Francisco, which became the first major city to embrace a \$15 minimum wage, to see how the mandate may impact a typical night out. Economists from Harvard Business School and Mathematica Policy Research identified a 14 percent increase<sup>2</sup> in Bay Area restaurant closures associated with each one-dollar increase in the base wage for tipped employees.

In Seattle, one study cited a 3 percent increase in hourly wages for low-wage employees, it also found a 9 percent reduction in the number of hours worked at wages below \$19 per hour.

This seems to correlate with a \$100 million per year reduction in the total payroll for low-wage jobs<sup>3</sup> once the wage reached \$13 per hour—the exact opposite of what minimum wage increases are meant to achieve.

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Those businesses who are able to stay open despite minimum wage mandates have turned to technology to cope with artificially higher labor costs. By 2020, McDonald's plans to install self-order kiosks<sup>4</sup> in every United States restaurant. They are not alone. Familiar eateries such as Panera<sup>5</sup> have already installed digital interfaces for customers to order meals. Applebee's<sup>6</sup> also has contributed to the growing national trend toward automation by installing tabletop tablets at their 2,000 U.S. locations.

Academic research backs up these real-world examples. A study<sup>7</sup> on minimum wages' impact on automation by economists Grace Lordan and David Neumark found that minimum wage hikes significantly increase the likelihood that workers in automatable roles will lose employment, or settle for a worse job elsewhere.

North Dakota cannot afford to risk the current economic expansion by implementing burdensome policies on our small business owners.

Minimum wage hikes are not the answer to raising North Dakota paychecks. They will jeopardize employment opportunities, and force businesses to pass increased labor costs onto their customers.

When cities, states, and counties decide to implement minimum wage mandates, business owners are forced to decide how to make ends meet which ultimately falls on the backs of those that need the jobs the most

In closing, Increasing the minimum wage is not an effective method of reducing poverty, and it harms workers<sup>8</sup> by creating barriers to entry for less-skilled and less-educated people. Cities and states should avoid arbitrary minimum wage hikes and let the market dictate wages instead.

Thank you, members of the committee, for your time and consideration of HB 1193, please give this bill a Do Pass recommendation.

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<sup>6</sup> <https://www.eater.com/2017/10/5/16428750/tablet-technology-restaurants-applebees-outback-steakhouse>

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<sup>8</sup> <https://www.heritage.org/jobs-and-labor/report/who-earns-the-minimum-wage-suburban-teenagers-not-single-parents>

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3-7-2019  
Att # 2 p.1



# THE HEARTLAND INSTITUTE

FREEDOM RISING

**Testimony before the North Dakota Senate Human Services Committee**

**Bette Grande, Research Fellow**

**The Heartland Institute**

**March 7, 2019**

Chairman Burckhard and members of the Political Subdivision Committee, thank you for taking the time today to discuss the issue of setting of minimum wage at the political subdivision level. The Heartland Institute is a 34-year-old independent, national, nonprofit organization whose mission is to discover, develop, and promote free-market solutions to social and economic problems. Heartland is headquartered in Illinois and focuses on providing national, state, and local elected officials with reliable and timely research and analyses on important policy issues.

Testimony in support of HB 1193

Efforts by government to mandate a living wage across the country have resulted in fewer jobs, especially for lower skilled workers and have increased the cost of goods and services for consumers. Be meddling with individual economic freedom and with the ability of business owners to make sound business decisions these laws have a net negative impact on individuals and the economy.

A patchwork of living wage mandates across political subdivisions in North Dakota would create artificial barriers for employees and businesses and ultimately negatively impact taxpayers across the state.

The decision to start or expand a business and the decision where to locate that business are challenging and the impact of state and local regulations on these decisions is already far too great.

While it is generally preferable to have public policy, decisions made at local government level, there are times when local policy decisions have impacts beyond the borders of the political subdivision. Policy mandates such as a living wage or a guaranteed income at by a local government will reduce the economic freedom of citizens living and working throughout the state. It will also negatively impact businesses in the state with the burden of dealing with yet another regulation that can vary from area to area.

Article VIII of the North Dakota Constitution deals with political subdivisions with the objective maximizing local government control of essential functions such as public safety and local taxation. Political subdivisions in North Dakota are statutory.



*HB 1193*  
*3.7.2019*  
*Att #2 p.2*

Article VIII, Section 2 states “The legislative assembly shall provide by law for the establishment and the government of all political subdivisions. Each political subdivision shall have and exercise such powers as provided by law.”

When local political subdivisions seek to adopt public policies that will have a negative impact for the citizens of North Dakota it is well within the authority of the legislative branch to limit or restrict those policies.

HB 1193 is a good piece of legislation that is intended to maximize personal economic freedom and limit the consequences of misguided local policy.

Thank you for your consideration.

Bette Grande

Research Fellow

The Heartland Institute

### **Unintended Consequences of Raising the Minimum Wage**

<http://mercatus.org/publication/unintended-consequences-raising-minimum-wage>

Antony Davies of the Mercatus Center examines arguments for and against minimum-wage increases and presents new results comparing employment for workers with differing educational attainments.

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Thank you for your time and consideration. I hope you find the information helpful in your decision. If you have questions, please let me know. **For more information about The Heartland Institute’s work, please visit our website at [www.heartland.org](http://www.heartland.org), or contact Bette Grande by phone at 701/388-7451 or by email at [bette@bettegrande.com](mailto:bette@bettegrande.com)**

41. B. 1193  
3-7-2019  
att #3



## AMERICANS for TAX REFORM

March 7, 2019

Members of the Senate Political Subdivisions Committee,

My name is Doug Kellogg, I am State Projects Director for Americans for Tax Reform (ATR). ATR was founded in 1985 by Grover Norquist - at the request of President Reagan - to advocate for tax reform. Today, we continue to advocate for taxpayers, and work for policy that protects taxpayers, consumers, entrepreneurs, and fosters a vibrant economic climate that enables taxes to be few, low, and simple.

I offer the following testimony in support of HB 1193, which would bar local governments from enacting minimum wage increases beyond the state minimum wage.

States across the nation are increasingly recognizing that the patchwork of local rules and regulations impacting small businesses, commerce, and economic activity is worthy of statewide protections and preemption. Regulatory uniformity across the state is an approach supported by ATR.

There exists a myth that "local control" is a Constitutional or conservative principle. In many cases, state laws are the most appropriate way to protect the rights of individuals.

Radical minimum wage increases have become trendy, with a number of states and cities implementing them in response to the "Fight for 15" campaign. Yet, this is a tragedy in the making, as a flawed policy is rushed through before the negative consequences are unavoidably clear. The very workers those pushing these policies say they want to help are the ones who are being hurt.

New research from economist Jacob Vigdor with the University of Washington found that wage hikes in the Seattle area increased low-wage worker wages by just 3 percent while hours were cut by 6 percent.

One recent example: At the forefront of this political trend, New York recently saw the minimum wage rise to \$15-per-hour for restaurants employing more than 10 workers, from just over \$10-per-hour four years ago. Soon it will be \$15 for all restaurants. The results are coming in, 4,000 workers lost jobs at full-time restaurants in the last quarter of 2018. A Hospitality Alliance survey found that over 75 percent of restaurants cut worker hours in 2018.

The jobs lost, and hours cut are the most visible negative consequences. What we cannot easily see are the jobs that will never exist in the first place because of these wage mandates. The first rung on the economic ladder is being taken away, and that is a consequence we cannot measure, but we will pay for.

The "living wage" talking point that is often used in boosting minimum wage hikes is completely out of touch with reality. Only around 10 percent of low-wage workers are full-time. Teenagers should not be outlawed from their first job because of that 10 percent. The vast majority of low-wage workers are part-time.

The state has every reason to get involved when local governments are imposing regulations that are damaging to the state's consumers, and commerce. This is an especially worthy policy area for the state to step in. That is why ATR supports HB 1193, and is ready to help in any way we can as this legislation progresses toward final passage. Thank you.

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[www.ATR.org](http://www.ATR.org)

Written testimony of House Bill 1193

Chairman Burckhard and Political Subdivision committee Members

My name is Kevin Herrmann, 300 Fair St. SW, Beulah, ND 58523. I oppose House Bill 1193. This bill takes away local control from the citizens of North Dakota of political subdivisions allowing minimum wage higher than state or federal level. I have been hearing for so many years sitting in on legislative committee hearings or sitting on legislative floor sessions or watching the videos of all legislative floor sessions from legislators saying to keep local control to political subdivisions local. I have heard so many times from candidates in their campaigns promising local control stays local. Why are legislators doing double talk? What is the reason for living wage mandate prohibition? The main reason is legislators are scared that local citizens of North Dakota would petition to get on the local city or county election ballot to increase the wage higher than state or federal wage level like some other political subdivisions in other states.

This bill takes the local citizens right away to petition to the political subdivision.

Don't any of legislators have any remorse of lying to the citizens of North Dakota about supporting local control? The truth is the legislators want power over the citizens of North Dakota because the legislators are mad at the citizens of North Dakota of approving medical marijuana and ethics measures.

I am asking the committee to give House Bill 1193 a DO NOT PASS to keep local control to the citizens of North Dakota of political subdivisions.

Kevin Herrmann  
300 Fair St. SW  
Beulah, ND 58523  
701-873-4163

I am working 12-hour night shifts so I could  
not testify in person



*H.B. 1193  
3.7.2019  
Att #5 p.1*

Bill Wocken  
North Dakota League of Cities  
410 East Front Avenue  
Bismarck, ND 58504-5641

March 6, 2019

Honorable Senator Randall A. Burckhard  
Chairman, Senate Political Subdivisions Committee  
State of North Dakota  
State Capitol Building  
Bismarck, ND 58505

Dear Senator Burckhard:

I note that you have scheduled a hearing on **House Bill 1193** for Thursday, March 7, 2019 at 10:15 am. The League of Cities is involved in quite a few hearings this week and it appears we will not be able to attend the hearing on HB 1193 due to schedule conflicts. I would ask that you convey my regrets to the committee and that my attached testimony be included in the record the committee will consider in reaching its recommendation on this bill.

Thank you for your consideration.

Sincerely,



Bill Wocken  
Registered Lobbyist #82

H. B. 1193  
3. 7. 2019  
Att # 5 p. 2

Testimony in Opposition to House Bill 1193  
March 7, 2019  
Senate Political Subdivisions Committee  
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the Senate Political Subdivisions Committee. For the record, my name is Bill Wocken and I am testifying this morning in opposition to House Bill 1193 on behalf of the North Dakota League of Cities.

House Bill 1193 seeks to add a new section to Chapter 34-06 of the North Dakota Century Code. The essence of the bill is stated on Page 1, Lines 20-22. There it prohibits political subdivisions from using or enforcing a "living wage mandate" at a rate in excess of the minimum wage rate then in effect in North Dakota. This requirement applies to political subdivisions and all contracts those subdivisions enter or have entered in the past.

The North Dakota League of Cities is opposed to this bill. We are not going to discuss the concept of "living wage mandates". Others may have an opinion on that topic. The League of Cities is opposed to mandates from the state or federal government that restrict decisions and options of local units of government. The last line of this bill mandates future actions, but it also prohibits mandates in past contracts. This provision may violate some principles of contract law.

In recent interim sessions the Legislature has protested the imposition of federal mandates on our state. I recall recent House Concurrent Resolutions asking the federal government to rescind one or more of its mandates on our state. The North Dakota League of Cities opposes mandates of any kind. We think these issues can be dealt with on the local level by our local elected officials. We therefore respectfully request a Do Not Pass recommendation for House Bill 1193.