

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1382

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1382

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1382  
House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-24-05

Tape Number	Side A	Side B	Meter #
2	x		35.6-end
2		x	0-end
3	x		10.1-22.2
Committee Clerk Signature <i>Jody Reake</i>			

Minutes:

**Chairman Keiser:** Opened the hearing on HB 1382. All committee members were present.

**Representative Thorpe:** Appeared in support of bill and also was a sponsor. I was prompted to introduce this bill again after a somewhat less than pleasant conversation with a young lady employed at a supermarket in our city as a cashier. This lady is working 2 jobs and attempting to gain a degree in technology she stated that when she accomplishes this, that she is leaving the state because of the low salaries of the part time jobs in ND. My heart really went out to this gal when I found out that she was required to be at work at 9:00 am, but numerous times was not allowed to clock in until 10:00 am, they are losing an hours pay. There are 100,000 plus jobs in ND that start at entry level salaries, less than is what is in this bill. We also found that there are presently 13 states that have raised their minimum wage above the federal level. Many, many more states, are working to replace the federal level.

**John Reisch, Railroad Workers Union:** Appeared in support of bill HB 1382. The last time the minimum wage was raised was 1996. Since 1997 the value has decreased at about 15% so actually what we are talking about here is a long overdue cost of living increase. One of the unfortunate aspects is the view of partisan issues, this has received strong bipartisan support in the past.

**Representative Zaiser:** Appeared in support of HB1382. Maybe we can raise this up a notch, so we can take some people off of welfare, if they could just get a little higher wage.

**Dave Kemnitz, President, AFL-CIO:** Appeared in support of HB 1382.

**Sebald Vetter, CARE (Concerned Advocates Rights to Employees):** Appeared in support of HB 1382.

**Bill Schloop, ND Hospitality Association:** Appeared in opposition of HB 1382.

**Bill Butcher, State Director, National Federation of Independent Business:** Appeared in opposition of HB 1382. Our members determine our positions by a poll that we send out on a regular basis, minimum wage question has been out there for a number of times both nationally and locally, it has become a standard that every time we ask that question, the numbers or percentages that favor of keeping the wage tied to federal level has been between 75%-80%. Our members are small business owners that average 3-5 employees, our position is that the market does work and the market governs this.

**Leann Birtch, Commissioner of Labor:** Appeared in opposition of bill.

**Representative N. Johnson:** I move a DO NOT PASS on HB 1382.

**Representative Ruby:** SECOND the DO NOT PASS on HB 1382.

**Motion carried VOTE: 10-YES 3-NO 1-Absent (BOE)**

Page 3

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1382

Hearing Date 1-24-05

**Representative Dosch will carry the bill on the floor.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/18/2005

Bill/Resolution No.: HB 1382

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

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$13,300	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1382 which proposes to raise the minimum wage twice within the 2005-2007 biennium would require the Department of Labor to print and distribute a new ND Minimum Wage & Work Conditions Summary poster, update & print new brochures and update the ND Department of Labor's website with the new minimum wage.

**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.*

Staff to update wage & work conditions poster and brochures - \$100.00

Printing & distributing updated posters - \$13,075

Updating website with new minimum wage information - \$60.00

Printing updated brochure with new minimum wage information - \$65.00

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Leann K. Bertsch	<b>Agency:</b>	Department of Labor
<b>Phone Number:</b>	328-2660	<b>Date Prepared:</b>	01/19/2005

Date: 1-24-05

Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1382House INDUSTRY, BUSINESS AND LABOR Committee☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not PassMotion Made By Rep. Johnson Seconded By Rep. Ruby

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman		X
N. Johnson-Vice Chairman	X		Rep. T. Boe		A
Rep. D. Clark	X		Rep. M. Ekstrom		X
Rep. D. Dietrich	X		Rep. E. Thorpe		X
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 10 No 3Absent (1) Rep. BoeFloor Assignment Rep. Dosch

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

**REPORT OF STANDING COMMITTEE (410)**  
January 24, 2005 1:10 p.m.

**Module No: HR-15-0922**  
**Carrier: Dosch**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1382: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO NOT PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING).  
HB 1382 was placed on the Eleventh order on the calendar.



**2005 TESTIMONY**

HB 1382

## Keiser, George J.

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**From:** Wald, Gregory A.  
Monday, January 24, 2005 4:46 PM  
Keiser, George J.; Johnson, Nancy; Dosch, Mark A.; Kasper, Jim M.; Clark, Donald L.; Dietrich, Donald D.; Froseth, Glen A.; Nottestad, Darrell D.; Ruby, Dan J.; Vigesaa, Donald W.; Amerman, Bill D.; Boe, Tracy L.; Ekstrom, Mary O.; Thorpe, Elwood C.  
**Cc:** Daley, Maren L.; Graham, John A.  
**Subject:** Minimum wage and ND average wage information

Chairman Keiser and members of the Committee,

I'm providing this information based on discussion at the hearing this morning on HB 1382, which proposes to raise the state's minimum wage.

### Minimum Wage

North Dakota's total labor force for 2003 was 346,471.

(Labor force is the number of people, civilian and aged 16 or older, working or actively seeking work. The number includes full-time and part-time workers and it counts them equally ... ie. one part-time worker is counted the same as one full-time worker.)

According to the U.S. Bureau of Labor Statistics, 192,000 North Dakotans in the labor force were working for an hourly wage in 2003. Of these, 7,000 earned at or below the minimum wage. Those 7,000 workers represent 3.6% of the total number of workers paid on an hourly basis and 2.0% of the total labor force.

The link below will take you to the page on the Bureau of Labor Statistics web site where this information is located. Table 3 on that page displays the information by state.

<http://stats.bls.gov/cps/minwage2003tbls.htm>

### North Dakota Average Wage

Here is North Dakota's average hourly wage for 1999-2003 (the most recent year available). It is the wage per job, not the wage per worker (important distinction). This includes all positions covered by unemployment insurance. It includes full-time and part-time jobs and we have no way to identify the wage difference between those two groups. It also includes jobs that pay by the hour and those that pay by a regular salary.

#### North Dakota Average Wage

1999: \$ 11.42 per hour  
2000: \$ 11.87 per hour  
2001: \$ 12.36 per hour  
2002: \$ 12.76 per hour  
2003: \$ 13.28 per hour

I have included the average hourly wage for 1999-2003 for each ND county in the attached Excel spreadsheet.



HIBL  
lyWage by ND

If you would like the county information in paper form, I can furnish that for you.

If you have questions about this information or would like something further, please let me know.

**Gregory Wald**

Communications and Marketing Manager  
Job Service North Dakota



**U.S. Department of Labor**  
**Employment Standards**  
**Administration Wage and Hour**  
**Division**



[www.dol.gov/esa/](http://www.dol.gov/esa/)

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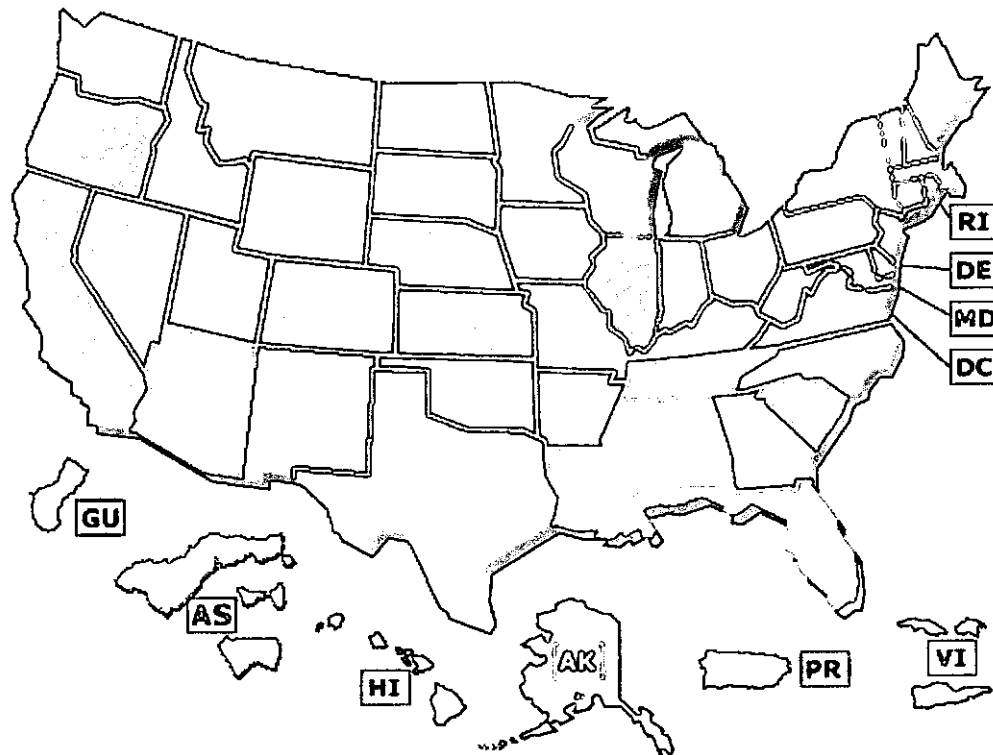
Find It!: By Topic | By Audience | By Top 20 Requested Items | By Form | By Organization

January 23, 2005 [DOL Home](#) > [ESA](#) > [WHD](#) > [FLSA](#) > State Minimum Wages

## Minimum Wage Laws in the States - January 1, 2005

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.



- |   |  |
|---|--|
| <input type="checkbox"/> States with minimum wage rates higher than the Federal | <input type="checkbox"/> States with no minimum wage law                       |
| <input type="checkbox"/> States with minimum wage rates the same as the Federal | <input type="checkbox"/> States with minimum wage rates lower than the Federal |
| <input type="checkbox"/> American Samoa has <u>special</u> minimum wage rates   |  |

**Minimum Wage and Overtime Premium Pay Standards Applicable**  
**Nonsupervisory NONFARM Private Sector Employment**  
**Under State and Federal Laws**  
**January 1, 2004 <sup>1</sup>**

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



- |  |   |
|--|---|
| States with minimum wage rates higher than the Federal | States with no minimum wage law                       |
| States with minimum wage rates the same as the Federal | States with minimum wage rates lower than the Federal |
| American Samoa has <u>special minimum wage rates</u>   |   |

# **united transportation union**



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**RISCH**  
State Legislative Director  
NORTH DAKOTA LEGISLATIVE BOARD

## **Federal Minimum Wage Rates, 1955-2004**

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

1980	3.10	5.90
1981	\$3.35	\$5.78
1982	3.35	5.45
1983	3.35	5.28
1984	3.35	5.06
1985	3.35	4.88
1986	3.35	4.80
1987	3.35	4.63
1988	3.35	4.44
1989	3.35	4.24
1990	3.80	4.56
1991	4.25	4.90
1992	4.25	4.75
1993	4.25	4.61
1994	\$4.25	\$4.50
1995	4.25	4.38
1996	4.75	4.75
1997	5.15	5.03
1998	5.15	4.96
1999	5.15	4.85
2000	5.15	4.69
2001	5.15	4.56
2002	5.15	4.49
2003	5.15	4.39
2004	5.15	4.42

1. Adjusted for inflation using the CPI-U (Consumer Price Index for All Urban Consumers).  
Source: U.S. Department of Labor. Web: <http://www.dol.gov/esa/whd/flsa/>.

Important Printing Instructions / How to transfer data into a spreadsheet

## OES and ETA 2004 Edition

INA = Information Not Available

This table contains data on wage surveys conducted by the Bureau of Labor Statistics and the Employment and Training

SOC Code	Occupation Title	Alternate Title	Area	Survey Type	Estimated Employment	Hourly Average	Hourly Median	Hourly Entry	Hourly Experience
Sort	Sort	Sort	Sort	Sort	Sort	Sort	Sort	Sort	Sort
291066	Psychiatrists	Doctor	Statewide	ETA	50	78.77	INA	59.56	
291063	Internists, General	Doctor	Statewide	ETA	60	86.33	INA	58.22	
291065	Pediatricians, General	Doctor	Statewide	ETA	20	87.91	INA	57.43	
291062	Family and General Practitioners	Doctor	Statewide	ETA	290	84.18	INA	56.17	
291061	Anesthesiologists	None	Statewide	ETA	10	85.51	INA	56.08	
291069	Physicians and Surgeons, All Other	None	Statewide	ETA	450	72.36	68.84	37.93	
291199	Health Diagnosing and Treating Practitioners, All Other	None	Statewide	ETA	40	74.05	INA	31.76	
291041	Optometrists	None	Statewide	ETA	80	41.15	35.4	28.68	47
291020	Dentists	Oral Surgeon	Statewide	ETA	INA	65.73	54.29	27.34	
29121	Natural Sciences Managers	None	Statewide	ETA	120	35.49	34.93	26.37	40
532021	Air Traffic Controllers	None	Statewide	ETA	80	30.43	31.15	26.22	32
291071	Physician Assistants	None	Statewide	ETA	200	31.6	32.05	25.76	34
172041	Chemical Engineers	None	Statewide	ETA	80	33.47	33.25	25.15	37
492095	Electrical and Electronics Repairers, Powerhouse, Substation, and Relay	None	Statewide	ETA	290	26.34	26.26	24.01	27
119041	Engineering Managers	None	Statewide	ETA	310	36.3	33.72	23.86	42
291051	Pharmacists	None	Statewide	ETA	510	30.51	30.21	23.7	33
172072	Electronics Engineers, Except Computer	None	Statewide	ETA	40	29.58	29.65	23.16	32
172071	Electrical Engineers	None	Statewide	ETA	220	29.9	29.23	22.67	33
172131	Materials Engineers	None	Statewide	ETA	20	28.12	28.43	22.56	30
292021	Dental Hygienists	None	Statewide	ETA	350	25.33	25.94	22.07	26
111011	Chief Executives	None	Statewide	ETA	1,000	53.76	45.98	22.05	69
192042	Geoscientists, Except Hydrologists and Geographers	Seismologist	Statewide	ETA	30	34.26	30.35	22.03	40
172021	Agricultural Engineers	None	Statewide	ETA	10	27.45	27.89	21.44	30
112021	Marketing Managers	None	Statewide	ETA	430	31.54	28.56	20.79	36
2171	Petroleum Engineers	None	Statewide	ETA	70	34.31	32.06	20.72	4
172141	Mechanical Engineers	None	Statewide	ETA	260	28.34	28.27	20.64	3

399099	Service Workers, All Other	None	Statewide	ETA	130	9.26	8.94	6.45	10
410000	Sales and Related Occupations	None	Statewide	ETA	34,610	11.89	8.81	6.45	14
399031	Fitness Trainers and Aerobics Instructors	Personal Trainer	Statewide	ETA	570	9.74	8.44	6.44	1
353041	Food Servers, Nonrestaurant	Tray-Service Worker	Statewide	ETA	590	7.93	7.85	6.41	8
473015	Helpers—Pipelayers, Plumbers, Pipefitters, and Steamfitters	None	Statewide	ETA	150	9.35	8.81	6.41	10
352015	Cooks, Short Order	None	Statewide	ETA	1,250	7.87	7.78	6.38	8
396021	Tour Guides and Escorts	None	Statewide	ETA	30	7.57	7	6.37	8
434081	Hotel, Motel, and Resort Desk Clerks	None	Statewide	ETA	870	7.53	7.53	6.37	8
111031	Legislators	Council Member	Statewide	ETA	1,090	7.44	6.7	6.36	7
319096	Veterinary Assistants and Laboratory Animal Caretakers	None	Statewide	ETA	40	7.7	7.74	6.35	8
412031	Retail Salespersons	None	Statewide	ETA	10,610	9.63	8.14	6.34	11
352021	Food Preparation Workers	Kitchen Helper	Statewide	ETA	2,430	8.54	7.91	6.33	9
533011	Ambulance Drivers and Attendants, Except Emergency Medical Technicians	None	Statewide	ETA	180	7.61	7.25	6.33	8
434121	Library Assistants, Clerical	Circulation Clerk	Statewide	ETA	90	7.74	7.11	6.32	8
392021	Nonfarm Animal Caretakers	Groomer	Statewide	ETA	150	8.09	7.28	6.31	8
252011	Preschool Teachers, Except Special Education	Day Care Teacher	Statewide	ETA	500	8.99	8.13	6.31	10
359099	Food Preparation and Serving Related Workers, All Other	None	Statewide	ETA	60	8.22	7.36	6.3	9
292041	Emergency Medical Technicians and Paramedics	None	Statewide	ETA	640	9.32	8.32	6.3	10
399032	Recreation Workers	Camp Counselor	Statewide	ETA	710	8.75	8.23	6.3	9
412011	Cashiers	None	Statewide	ETA	9,100	7.3	7.05	6.29	
537061	Cleaners of Vehicles and Equipment	None	Statewide	ETA	860	8.32	7.57	6.29	9
537064	Packers and Packagers, Hand	Bagger	Statewide	ETA	1,260	7.83	7.49	6.28	8
274031	Camera Operators, Television, Video, and Motion Picture	None	Statewide	ETA	100	8.94	6.92	6.27	10
393021	Motion Picture	None	Statewide	ETA	100	6.91	6.67	6.26	7

66120  
 estimate # in occupations whose beginning  
 salaries are below \$6.50 1/13/2005

	Projectionists								
393012	Gaming and Sports Book Writers and Runners	None	Statewide	ETA	210	7.95	7.98	6.25	
352014	Cooks, Restaurant	None	Statewide	ETA	1,480	8.04	8.02	6.25	8
359031	Hosts and Hostesses, Restaurant, Lounge, and Coffee Shop	None	Statewide	ETA	1,070	6.86	6.66	6.24	7
359011	Dining Room and Cafeteria Attendants and Bartender Helpers	Busser	Statewide	ETA	910	7.21	6.87	6.23	7
372012	Maids and Housekeeping Cleaners	None	Statewide	ETA	3,160	7.37	7.22	6.23	7
359021	Dishwashers	None	Statewide	ETA	1,380	6.75	6.66	6.23	7
399011	Child Care Workers	Bus Monitor	Statewide	ETA	1,470	7.63	7.18	6.22	8
412021	Counter and Rental Clerks	None	Statewide	ETA	970	8.23	7.5	6.21	9
394021	Funeral Attendants	None	Statewide	ETA	130	7.8	6.97	6.2	8
533041	Taxi Drivers and Chauffeurs	Courtesy Van Driver	Statewide	ETA	430	7.68	7.64	6.2	8
396011	Baggage Porters and Bellhops	Skycap	Statewide	ETA	80	8.61	7.2	6.2	9
350000	Food Preparation and Serving-Related Occupations	None	Statewide	ETA	30,230	7.6	7.06	6.18	
373010	Announcers	Radio Disk Jockey	Statewide	ETA	480	9.9	7.98	6.18	11
353031	Waiters and Waitresses	None	Statewide	ETA	6,440	6.72	6.56	6.17	
352011	Cooks, Fast Food	None	Statewide	ETA	970	7.08	7.06	6.16	7
232091	Court Reporters	None	Statewide	ETA	INA	9.18	6.69	6.16	1
390000	Personal Care and Service Occupations	None	Statewide	ETA	10,470	8.51	7.9	6.15	9
353022	Counter Attendants, Cafeteria, Food Concession, and Coffee Shop	None	Statewide	ETA	1,280	7.71	7.59	6.15	8
353011	Bartenders	None	Statewide	ETA	2,470	7.23	6.89	6.14	7
353021	Combined Food Preparation and Serving Workers, Including Fast Food	None	Statewide	ETA	5,970	7.07	6.74	6.14	7
393011	Gaming Dealers	None	Statewide	ETA	1,110	7.96	6.93	6.13	8
393091	Amusement and Recreation Attendants	None	Statewide	ETA	900	7.36	6.81	6.1	7
395012	Hairdressers, Hairstylists, and Cosmetologists	None	Statewide	ETA	1,410	9.33	8.13	6.08	10
393093	Locker Room, Coatroom, and Dressing Room	None	Statewide	ETA	40	7.66	7.59	6.05	8

73060  
139180



STATE	MINIMUM WAGE	State Rate greater than Federal Rate	State Rate equal to Federal Rate	State Rate less than Federal Rate	No Minimum Wage law
Alabama	N/A				X
Alaska	\$7.15	X			
Arizona	N/A				X
Arkansas	(Applicable to employers of 4 or more employees): \$5.15		X		
California	\$6.75	X			
Colorado	\$5.15		X		
Connecticut	\$6.90 Effective 1/1/04: \$7.10	X			
Delaware	\$6.15	X			
District of Columbia	\$6.15	X			
Florida	N/A				X
Georgia	(Applicable to employers of 6 or more employees): \$5.15		X		
Hawaii	\$6.25	X			
Idaho	\$5.15		X		
Illinois	(Applicable to employers of 4 or more employees, excluding family members): \$6.50	X			
Indiana	(Applicable to employers of 2 or more employees): \$5.15		X		
Iowa	\$5.15		X		

7

Kansas	\$2.65			X	
Kentucky	\$5.15		X		
Louisiana	N/A				X
Maine	\$6.25	X			
Maryland	\$5.15		X		
Massachusetts	\$6.75	X			
Michigan	\$5.15		X		
Minnesota	Large employer (enterprise with annual receipts of \$500,000 or more): \$5.15  Small employer (enterprise with annual receipts of less than \$500,000): \$4.90		X		
Mississippi	N/A				X
Missouri	\$5.15		X		
Montana	State Law: \$5.15  Except businesses with gross annual sales of \$110,000 or less: \$4.00		X		
Nebraska	\$5.15		X		
Nevada	\$5.15		X		
New Hampshire	\$5.15		X		
New Jersey	\$5.15		X		
New Mexico	\$5.15		X		
New York	\$5.15		X		
North Carolina	\$5.15		X		
North Dakota	\$5.15		X		

7  
+ 2  
9

Ohio	State Law: \$4.25  Except, employers with gross annual sales from \$150,000 to \$500,000: \$3.35  Except for employers with gross annual sales under \$150,000: \$2.80			X	
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: \$5.15  All Other Employers: \$2.00		X		
Oregon	\$7.05	X			
Pennsylvania	\$5.15		X		
Rhode Island	\$6.75	X			
South Carolina	N/A				X
South Dakota	\$5.15		X		
Tennessee	N/A				X
Texas	\$5.15		X		
Utah	\$5.15		X		
Vermont	\$6.75	X			
Virginia	\$5.15		X		
Washington	\$7.16	X			
West Virginia	\$5.15		X		
Wisconsin	\$5.15		X		
Wyoming	\$5.15		X		

For more information, please contact:

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NATIONAL CONFERENCE  
of STATE LEGISLATURES



## 2004 Legislation on Minimum Wage

State/Bill #	Summary	Last Action/Status
<b>Arizona</b>		
HB 2638	Among other proposals, raises AZ minimum wage to \$7.10/hr.	February 16, 2004 Second read
<b>California</b>		
AB 2832	Sets minimum wage at \$7.25 as of Jan. 1, 2005 and \$7.75 Jan. 1, 2006	May 27, 2004 In Senate. Read first time. Referred to Rules Committee for assignment.
SB 57	This bill would adjust the hourly minimum wage on January 1, 2004, and annually thereafter, to maintain employee purchasing power. The automatically adjusted minimum wage would be calculated using the California Consumer Price Index, as specified.	February 2, 2004 Returned to Secretary of Senate pursuant to Joint Rule
<b>Colorado</b>		
SB 155	Prohibits a unit of local government from enacting any jurisdiction-wide law or ordinance with respect to minimum wages, including those that refer to a "living wage" or "prevailing wage." Exempts minimum wages imposed by a municipality on itself and pertaining to full-time, permanent employees on the municipality's payroll.	February 16, 2003 Second Reading loses in Senate
<b>Connecticut</b>		
HB 5394	To make permanent a sunset provision that gives employers a larger tip credit toward the minimum wage for persons employed in the hotel and restaurant industry and bartenders who customarily and regularly receive gratuities.	May 10, 2004 Signed by governor, Public Act 04-68
SB 322	To provide for a standard annual cost of living increase to the minimum wage, based on the National Consumer Price Index.	May 10, 2004 Signed by governor, Public Act 04-90
<b>Georgia</b>		
HB 1258	To amend Chapter 4 of Title 34 of the Official Code of Georgia Annotated, the "Georgia Minimum Wage Law," so as to preempt certain wage and employment benefit mandates by local government entities.	May 13, 2004 Signed by governor, Act 481
<b>Hawaii</b>		
HB 1881	Provides for an annual adjustment to the state minimum wage based upon federal cost of living allowance increases, beginning January 1, 2005.	January 26, 2004 Referred to House Labor and Public Employment Committee

SB 2145	Provides for an annual adjustment to the state minimum wage based upon Hawaii cost-of-living allowance increases, beginning January 1, 2005.	February 19, 2004 Passed Second Reading, referred to Senate Ways and Means Committee
Illinois		
HB 3976	Amends the Minimum Wage Law. Provides that every employer shall pay to each employee in every occupation wages that are not less than the federal minimum hourly wage prescribed by specified federal minimum wage provisions.	February 26, 2004 Tabled by Sponsor
HB 4462	Requires the Department of Labor to adopt rules defining and delimiting the exemption of administrative and professional employees from the general requirement that employment in excess of 40 hours per week be compensated at a rate not less than 1.5 times the regular rate. However, this bill has been amended so that it provides that the requirements concerning compensation for hours worked in excess of 40 per week do not apply to executive, administrative, or professional employees as defined by the Federal Fair Labor Standards Act of 1938.	April 4, 2004 Rule 19(a) / Re-referred to <u>Rules Committee</u>
HB 4730	Amended to read: provides that the State or federal minimum wage, whichever is higher, shall be used to calculate the required number of hours of participation required in any earnfare or pay after performance activity.	May 13, 2004 In Senate, Third Reading Deadline Extended - Rule 2-10, extended to January 11, 2005
HB 5133	Provides that a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 may bring an action in any court of competent jurisdiction against an employer that fails to pay the prevailing wage to its employees.	February 5, 2004 Referred to Rules Committee
HB 5466	Amends the Minimum Wage Law. Makes a stylistic change in provisions concerning overtime.	April 4, 2004 Rule 19(a) / Re-referred to <u>Rules Committee</u>
HB 5468	Amends the Minimum Wage Law. Makes technical changes in a Section concerning the short title.	April 4, 2004 Rule 19(a) / Re-referred to <u>Rules Committee</u>
HB 6114	Amends the Minimum Wage Law. Makes a stylistic change in provisions concerning the Director of Labor	April 4, 2004 Rule 19(a) / Re-referred to <u>Rules Committee</u>
SB 2582	Amends the Minimum Wage Law. Makes a stylistic change in provisions concerning violations of the Act.	February 4, 2004 Referred to Rules Committee
SB 3088	Amends the Minimum Wage Law. Makes a stylistic change in provisions concerning overtime.	February 6, 2004 Referred to Rules Committee
Iowa		
HB 2163	A bill for an act to increase the state minimum hourly wage rate to \$5.15 on Jan. 1, 2005 and \$5.65 on Jan. 1, 2006	February 4, 2004 Referred to Commerce, Regulations and Labor Committee
Kansas		

HB 2526	Concerns the minimum wage and maximum hours law; increases the hourly minimum wage to \$5.50 on Jan. 1, 2005, \$6.50 by Jan. 1, 2006, and \$7.50 by Jan. 1, 2007	January 28, 2004 Hearing: Wed., 2/4/2004
Kentucky		
HB 186	Increases the state minimum wage to \$5.65 an hour effective January 1, 2005, and to \$6.15 an hour effective January 1, 2006; EFFECTIVE January 1, 2005.	January 12, 2004 Referred to Labor and Industry Committee
SB 45	Exempts from minimum wage and overtime provisions, individuals engaged in providing companionship services who are employed by a third party employer or agency.	April 9, 2004 Signed by governor, Act 122
SB 231	Relating to minimum wage requirements established for companies which seek rural economic development incentives, to exempt nonprofit corporations which employ handicapped and sheltered workshop employees at federally established subminimal wages	April 7, 2004 Signed by governor, Act 84
Louisiana		
HB 195	Repeals prohibition of establishing local minimum wage.	March 29, 2004 Read by title, under the rules, referred to the Committee on Labor and Industrial Relations
SB 32	Provides that the minimum wage in Louisiana be equal to the federal minimum wage plus one dollar.	June 1, 2004 Read by title, committee amendments read and adopted.  Ordered reengrossed and passed to a third reading.
Maryland		
HB 1111	Increasing the liquidated damages for which a contractor may be liable for paying less than the prevailing wage rate for specified laborers and employees under a public work contract to 16 times the hourly prevailing wage rate.	March 30, 2004 Withdrawn
HB 1192	Requiring specified contractors and subcontractors to pay specified employees a specified minimum wage level under specified State procurement contracts; providing specified exemptions and reductions in a specified wage level; requiring the Commissioner of Labor and Industry to prescribe a living wage level based on a specified Consumer Price Index and to administer and enforce requirements with regard to employees.	April 11, 2004 In Senate, Re-referred to Finance Committee
SB 621	Same bill as HB 1192	April 8, 2004 In House, Third Reading Passed with Amendments
Massachusetts		
HB 1045	Increases the hourly minimum wage to \$7.25 by	February 5, 2004 From Joint

	Jan. 1, 2005, \$7.75 by Jan. 1, 2006 and stipulates annual increases every year to follow.	Committee on Commerce and Labor: Accompanied Study Order H 4493
HB 4493	Order relative to authorizing the committee on Commerce and Labor to make an investigation and study of certain Senate and House documents concerning minimum wage.	March 18, 2004 Discharged, in part, by H2385 -HJ 1443
SB 80	Maintains the value of the minimum wage.	February 5, 2004 From Joint Committee on Commerce and Labor: Accompanied Study Order H 4493
SB 771	Provides for reimbursement of human service providers for increases in minimum wage rates.	February 2, 2004 Reported favorably and passed to Ways and Means Committee
<b>Minnesota</b>		
HB 2320	(Constitutional Amendment) Proposes an amendment to the Minnesota Constitution, article XIII; provides for a constitutional minimum wage that will be adjusted annually.	February 23, 2004 Referred to Commerce, Jobs, and Economic Development Committee
<b>Mississippi</b>		
HB 180	Relates to wages; requires state employers to pay wages of no less than 15% above federal minimum wage	March 9, 2004 Died in Committee
<b>Missouri</b>		
HB 1478	Specifies things that can be submitted in bids by employers under the prevailing wage law, and requires employers to certify they are paying the specified wage.	March 3, 2004 Passed by Workforce Development and Workforce Safety Committee
HB 1496	Allows local school boards to exempt themselves from prevailing wage law by majority vote of the board.	March 10, 2004 Passed by Workforce Development and Safety Committee
<b>New Hampshire</b>		
HB 1278	Raises hourly minimum wage to \$5.65 by July 1, 2004; \$6.15 on July 1, 2005; and \$6.65 on July 1, 2006	March 3, 2004 Postponed Indefinitely by Labor, Industrial, and Rehabilitative Services Committee
<b>New Jersey</b>		
AB 823	Establishes criminal penalties for failure to pay the minimum wage.	January 13, 2004 Referred to Assembly Labor Committee
SB 584	Senate version of AB 823	January 13, 2004 Referred to Senate Labor Committee
AB 1183	"The New Jersey Living Wage Act"; sets minimum wage and benefit standards for businesses contracting with or assisted by public bodies.	January 13, 2004 Referred to Assembly Labor Committee
AB 1252	Raises minimum wage to equal 30% of the average hourly wage for all workers in the state annually every July 1.	January 13, 2004 Referred to Assembly Labor Committee
AB 1884	Identical to AB 1252	January 22, 2004 Referred to

no action (still) in committee



		Assembly Labor Committee
AB 2435	The New Jersey Living Wage Act"; requires businesses receiving certain public benefits to pay employees at least \$6.50 per hour.	February 24, 2004 Referred to Assembly Labor Committee
SB 1000	Increases minimum wage to \$.25 higher than the federal minimum wage on July 1, 2004 and to \$.50 higher by July 1, 2005	February 9, 2004 Referred to Senate Labor Committee
New Mexico		
HB 210	Any employee who receives more than \$30/month in tips can be paid a minimum wage of \$2.13 but the combined wages must equal at least \$5.15/hr overall	February 18, 2004 Passed from Senate Committee on Public Affairs
HB 471	Relates to public works; requires registration of certain contractors and subcontractors; imposes a fee; creates a fund for the Public Works Minimum Wage Act.	March 8, 2004 Passed into Law by House concurrence
New York		
AB 1499	Defines lowest responsible bidder for purposes of the prevailing wage law to  include only those who have not been found guilty of an unfair labor practice within a three year period preceding the award of a public works project in order to disqualify as the lowest responsible bidder on a public works contract those bidders who have violated certain federal or state labor laws; permits  challenges to the determination of the lowest possible bidder.	May 20, 2004 Reported referred to code
AB 9710	This bill increases the minimum wage incrementally to \$7.10; authorizes the commissioner to access wage reporting data when a complaint has been received and other information; and clarifies existing law requiring the commissioner to provide wage  and hour records to local governments. Includes farm workers in laws.	March 1, 2004 Passed Assembly, referred to Senate Labor Committee
SB 376	Increases the minimum wage to \$6.75 on and after January 1, 2005, provided that, on or before January first, 2006, and annually thereafter, such statutory wage shall be increased based on the increase in the state average weekly wage  for covered employment.	January 14, 2004 Amended in Senate Committee on Labor
SB 3291	Enacts the empire state wage act of 2004; establishes a statutory minimum wage;  provides for biennial reports and the establishment of a special task force on	March 1, 2004 Amended in Senate Committee on Labor

	indexing.	
SB 5949	Increases minimum wage incrementally to \$7.00 on and after January 1, 2006. Also, adds additional complaint procedures regarding the payment of wages and local laws to enforce them.	January 20, 2004 Referred to Labor Committee
SB 5986	Identical to SB 5949	April 1, 2004 Motion to petition-lost
Oklahoma		
HB 1859	Raises minimum wage to \$6.15 incrementally (\$.25 per year) from current federal minimum wage by Jan. 1, 2008	February 3, 2004 Referred to House Committee on Commerce, Industry, and Labor
Rhode Island		
HB 7308	Would require contractors awarded a contract for public works to post the rights and remedies of employees not paid in compliance with the law. This act would also confer a private right of action of violation of the prevailing wage law.	June 2, 2004 Placed on Senate calendar
HB 7910	Increases penalties for violations of the payment of wages laws.	May 27, 2004 Senate passed Sub A in concurrence
HB 8077	Provides that Jan. 1, 2005 and annually thereafter, the minimum wage would be adjusted by a cost-of-living index calculated for the northeast region of the US.	March 9, 2004 Scheduled for hearing
SB 2777	Clarifies which call for bids would contain provisions stating minimum wages to be paid to various types of employees.	April 7, 2004 Committee recommended measure be held for further study
SB 2809	Regards minimum wages for school bus drivers	April 29, 2004 Committee recommended measure be held for further study
SB 2889	Identical text to HB 8077	February 11, 2004 Referred to Labor Committee
South Dakota		
SB 94	Increases minimum wage incrementally to \$6.25 by April 1, 2005	January 28, 2004 Scheduled for committee hearing on this date
Virginia		
SB 22	Establishes the state minimum wage at \$6.50 per hour.	February 9, 2004 Postponed Indefinitely by Commerce and Labor Committee
SB 290	Provides that no local governing body may establish "living wage" provisions without approval of the General Assembly. Any "living wage" ordinance previously adopted by a local governing body that did not receive the approval of the General Assembly shall be considered void.	February 13, 2004 Continued to 2005 by Rules Committee
SB 428	Provides that no public body may require the payment of a minimum wage that exceeds the federal minimum wage to the employees of an employer, or his subcontractor, contracting to	February 17, 2004 Voted down in Senate

*Deal in committee?*

	provide goods or services to the public body.	
Washington		
HB 2981	Declaring the exclusive authority of the state to establish minimum wage and hour standards.	January 26, 2004 Referred to Commerce and Labor Committee
SB 5462	Relating to the provision of greater predictability and consistency  in the state wage and hour laws, adopts federal guidelines.	March 1, 2004 Referred to Rules Committee "X" file.
SB 5697	Modifies the inflationary adjustment to the minimum wage.	March 11, 2004 After passing Senate and being referred to House Commerce and Labor, re-referred to Senate Rules Committee
SB 6605	Identical to HB 2981	February 6, 2004 Passes out of committee, referred to Rules Committee for Second Reading
West Virginia		
HB 4699	exempts public works projects receiving federal assistance and subject to federal labor standards from the state prevailing wage laws.	February 27, 2004 Referred to Judiciary Committee
Wisconsin		
AB 903	Provides minimum wage and overtime pay exemptions for providers of  companionship services.	March 31, 2004 Failed to pass pursuant to Senate Joint Resolution 1
SB 508	Identical to AB 903	May 26, 2004 Failed to pass notwithstanding the objections of the  Governor pursuant to Joint Rule 82

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Seth Cokaty

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<b>Senate Bill 94</b>		
Senators <b>Koetzle, Kloucek, Moore, and Nachtigal</b> and Representatives <b>Bartling, Burg, Engels, Hanson, Hargens, and Kroger</b>		
An Act to provide for certain increases in the state minimum wage.		
Subject Index: Labor and Employment		
Date	Action	
01/22/2004	First read in Senate and referred to Senate State Affairs S.J. 104	
01/26/2004	Scheduled for committee hearing on this date	
01/26/2004	Deferred by Chair	
01/28/2004	Scheduled for committee hearing on this date	
01/28/2004	State Affairs Deferred to 36th legislative day Passed, YEAS 5, NAYS 3. S.J. 198	

Bill Text Versions		
Date	HTML Version	Acrobat Version
01/22/2004	<a href="#">As Introduced</a>	<a href="#">As Introduced</a>

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# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

853J0522

## SENATE BILL NO. 94

Introduced by: Senators Koetzle, Kloucek, Moore, and Nachtigal and Representatives Bartling, Burg, Engels, Hanson, Hargens, and Kroger

1 FOR AN ACT ENTITLED, An Act to provide for certain increases in the state minimum wage.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 60-11-3 be amended to read as follows:

4 60-11-3. Every employer shall pay to each employee wages at a rate of not less than five  
5 dollars and ~~fifteen~~ fifty cents an hour. Violation of this section is a Class 2 misdemeanor.

6 The provisions of this section do not apply to certain employees being paid an opportunity  
7 wage pursuant to § 60-11-4.1, babysitters, or outside salesmen.

8 Section 2. That § 60-11-3 be amended to read as follows:

9 60-11-3. Every employer shall pay to each employee wages at a rate of not less than five  
10 dollars and ~~fifteen~~ eighty-five cents an hour. Violation of this section is a Class 2 misdemeanor.

11 The provisions of this section do not apply to certain employees being paid an opportunity  
12 wage pursuant to § 60-11-4.1, babysitters, or outside salesmen.

13 Section 3. That § 60-11-3 be amended to read, as follows:

14 60-11-3. Every employer shall pay to each employee wages at a rate of not less than ~~five~~ six  
15 dollars and ~~fifteen~~ twenty-five cents an hour. Violation of this section is a Class 2 misdemeanor.



1       The provisions of this section do not apply to certain employees being paid an opportunity  
2 wage pursuant to § 60-11-4.1, babysitters, or outside salesmen.

3       Section 4. The provisions of section 1 of this Act are effective October 1, 2004. The  
4 provisions of section 2 of this Act are effective January 1, 2005. The provisions of section 3 of  
5 this Act are effective April 1, 2005.



# Minnesota House of Representatives

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House Bill Status Document Display Document 1 of 1

Bill Name: HF2320   [Bill Text](#)   [House Research Summary](#)   Revisor Number: 04-5265The [Senate Status](#) shows the Senate actions on HF2320, if any have occurred.**Short Description:** Annually-adjusted minimum wage provided, and constitutional amendment proposed.[Long Description](#)**Authors:** Rukavina, Anderson, I., Sertich, Wasiluk, Juhnke   [Other authors](#)The log of [Unofficial Actions](#) includes committee actions and initial committee hearings.[Recorded roll call floor votes](#)**Official Actions:**

Date	Action	Committee/Description	Journal Page	Roll Call
02/23/2004	Introduction and first reading, referred to	Commerce, Jobs and Economic Development	4645	

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# Minnesota House of Representatives

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KEY: ~~stricken~~ = old language to be removed  
underscored = new language to be added

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H.F No. 2320, as introduced: 83rd Legislative Session (2003-2004) Posted on Feb 23, 2004

1.1 A bill for an act  
 1.2 proposing an amendment to the Minnesota Constitution,  
 1.3 article XIII; providing for a constitutional minimum  
 1.4 wage that will be adjusted annually.  
 1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:  
 1.6 Section 1. [CONSTITUTIONAL AMENDMENT.]  
 1.7 An amendment to the Minnesota Constitution is proposed to  
 1.8 the people. If the amendment is adopted, a section shall be  
 1.9 added to article XIII to read:  
 1.10 Sec. 13. (a) For purposes of this section, the terms  
 1.11 defined in this paragraph have the meanings given them.  
 1.12 (1) "Large employer" means an enterprise whose annual gross  
 1.13 volume of sales made or business done is not less than \$500,000  
 1.14 (exclusive of excise taxes at the retail level that are  
 1.15 separately stated) and covered by the Minnesota Fair Labor  
 1.16 Standards Act, Minnesota Statutes, sections 177.21 to 177.35.  
 1.17 (2) "Small employer" means an enterprise whose annual gross  
 1.18 volume of sales made or business done is less than \$500,000  
 1.19 (exclusive of excise taxes at the retail level that are  
 1.20 separately stated) and covered by the Minnesota Fair Labor  
 1.21 Standards Act, Minnesota Statutes, sections 177.21 to 177.35.  
 1.22 (b) Except as otherwise provided in Minnesota Statutes,  
 1.23 sections 177.21 to 177.35, every large employer must pay each  
 1.24 employee wages at a rate of at least \$6.15 an hour beginning  
 1.25 January 1, 2005. Every small employer must pay each employee at  
 2.1 a rate of at least \$5.90 an hour beginning January 1, 2005.  
 2.2 (c) Notwithstanding paragraph (b), during the first 90  
 2.3 consecutive days of employment, an employer may pay an employee  
 2.4 under the age of 20 years a wage of \$5.25 an hour. No employer  
 2.5 may take any action to displace any employee, including a  
 2.6 partial displacement through a reduction in hours, wages, or  
 2.7 employment benefits, in order to hire an employee at the wage  
 2.8 authorized in this paragraph.  
 2.9 (d) The minimum wage set under paragraphs (b) and (c) shall  
 2.10 be adjusted each year on January 1 by the percentage increase in  
 2.11 the revised Consumer Price Index for all urban consumers for the  
 2.12 St. Paul-Minneapolis metropolitan area prepared by the United  
 2.13 States Department of Labor.  
 2.14 Sec. 2. [QUESTION.]  
 2.15 The proposed amendment shall be submitted to the people at  
 2.16 the 2004 general election. The question submitted shall be:  
 2.17 "Shall the Minnesota Constitution be amended to provide for  
 2.18 a minimum wage that will be adjusted annually for inflation?  
 2.19 Yes .....  
 2.20 No ....."



STATE/BILL NUMBER	SUMMARY	Last Action
Alaska HB 7	Permits an employee's wage to be reduced below the minimum wage to provide adequate health care	To House Committee on Labor and Commerce
HB 199	Detaches rate of inflation and minimum wage rate hikes	To House Committee on Finance
H.B 255	Revises the State Wage and Hour Act as it relates to flexible work hour plans, the provision of training wages and the definitions of certain terms; repeals the exemption in the Act from the payment of minimum wages for learners	To House Committee on Finance
Arkansas H.B. 1352	Exempts specified persons employed as a nonprofit child care agency houseparent from the Arkansas minimum wage act. Relates to children who are abused, orphans, in foster care, homeless, or in need of services	Introduced
S.B. 57	Adjusts the hourly minimum wage on January 1, 2004, and annually thereafter, to maintain employee purchasing power. Provides that the automatically adjusted minimum wage would be calculated using the California Consumer Price Index. Provides that the bill's provisions may not be construed to preclude an increase in the minimum wage greater than the formula would provide or to result in a reduction in the minimum wage	In Senate. Read second time and amended. Re- referred to Committee on Appropriations
Connecticut H.B. 5036	Increases the state's minimum wage	Failed Joint Favorable deadline
H.B. 5552	Concerns minimum wages for employees of camps and resorts; requires the payment of minimum wages to persons employed by camps or resorts that are open for not more than six months of the year	Failed Joint Favorable deadline

Delaware S.B. 52	Changes the minimum wage	From Senate Committee on Labor Reported favorably
Florida H.B. 321	Forbids local governments from requiring employers to pay minimum wage in excess of federal minimum wage	In House: Temporarily postponed
S.B. 54	Prohibits a political subdivision from requiring employers to pay a minimum wage, other than a federal minimum wage, or to apply a federal minimum wage to wages exempt from a federal minimum wage; provides that political subdivisions may create a minimum wage other than a federal minimum wage for employees of the political subdivisions or other specified employees	In Senate. Amendment(s) failed on Senate floor
Hawaii H.B. 329	Changes the minimum wage formula for tipped employees	To House Committee on Labor and Public Employment
S.B. 66	Changes the minimum wage formula for tipped employees	To Senate Committee on Labor.
Illinois H.B. 816, 817,818,819,820,821,3653, 3688	Modifies minimum Wage Law. Makes technical changes in a Section concerning the short title	To Senate Committee on Executive
H.B. 1179	Modifies the Disabled Persons Rehabilitation Act. Increases a personal care attendant's minimum hourly wage to \$8 beginning July 1, 2003, and \$9 beginning January 1, 2004	To Senate Committee on Health and Human Services
H.B. 1371	Changes the Minimum Wage Law. Makes technical modifications in a Section concerning the short title	Rereferred to House Committee on Rules
H.B. 3444	Modifies the Disabled Persons Rehabilitation Act. Increases a personal care attendant's minimum hourly wage to \$6 beginning July 1, 2002, and \$7 beginning January 1, 2004	Rereferred to House Committee on Rules

H.B. 3636	Changes the Minimum Wage Law	Read third time. Passed House. To Senate
H.B. 3649	Modifies the Minimum Wage Law. Increases the minimum wage for workers 18 years and older to \$6.50 per hour on January 1, 2004. Provides that, beginning in 2005, the minimum wage shall be annually adjusted by the Department of Labor. Provides that the adjustment shall be calculated each September 30, using the consumer price index for urban wage earners and clerical workers, and shall take effect on January 1 of the following year	Rereferred to House Committee on Rules
S.B. 165	Increases the minimum wage for workers 18 years and older to \$6.50 per hour on January 1, 2004. Provides that, beginning in 2005, the minimum wage shall be annually adjusted by the Department of Labor. Provides that the adjustment shall be calculated each September 30, using the consumer price index for urban wage earners and clerical workers, and shall take effect on January 1 of the following year	Rereferred to Senate Committee on Rules
S.B. 600	Provides that through September 5, 2004, every employer shall pay each employee who is 18 years of age or older wages of not less than \$6 per hour. Provides that on and after September 6, 2004, every employer shall pay each employee over the age of 18 wages of not less than \$6.50 per hour	To House Committee on Executive
S. B. 1183	Makes a stylistic change in provisions concerning overtime	To Senate Committee on Rules
S.B. 1642, 1643	Makes a stylistic change in provisions concerning the posting of a summary of the Minimum Wage Law	Rereferred to Senate Committee on Rules
S.B. 1644, 1646	Makes a stylistic change in	In Senate. 3rd Reading Deadline

	provisions concerning the posting of a summary of the Minimum Wage Law	Extended to 12/31/2003
S.B. 1645	Makes a stylistic change in provisions concerning the Director of Labor	To House
Indiana H.B. 1559	Makes technical corrections to the law governing minimum wage, deductions from wage payments, and wage claims	To Senate Committee on Education
Iowa H.B. 29	Relates to a bill increasing the state minimum hourly wage rate	In House Committee on Commerce and Regulation
S.B. 419	Increases the state's minimum hourly wage rate at a rate above the federal minimum hourly wage rate	In Senate Committee on Business and Labor:
Kansas S.B. 112	Concerns public works projects for state agencies; prescribes payment of minimum wages for work thereon and preferences for certain employees to work thereon	To Senate Committee on Commerce
S.B. 114	Concerns the state minimum wage	To Senate Committee on Commerce
Louisiana H.B. 245	Establishes a state minimum wage at a dollar above the federal rate	Introduced
H.B. 1723	Increases minimum wage	To House Committee on Labor and Industrial Relations
S.B. 533	Provides that the minimum wage in Louisiana to be equal to the federal minimum wage plus one dollar	To Senate Committee on Labor and Industrial Relations
S.B. 564	Establishes the state minimum wage at six dollars per hour	To Senate Committee on Labor and Industrial Relations
Maine S.B. 237	Increases minimum wage	House concurs with Senate reference.
L.R. 1503,	Increases minimum wage	Assigned Senate Paper number 237
Massachusetts	Increases the minimum wage	To Joint Committee on Commerce

H.B. 2199		and Labor
H.B. 3291	Provides that summer camps be exempt from the minimum wage law of the Commonwealth	Introduced
S.B. 80	Relates to maintaining the value of the minimum wage	To Joint Committee on Commerce and Labor
S.B. 92	Relates to the minimum wage; clarifies that the minimum wage law applies to governmental employers	Filed as Senate Docket 881
S.B. 771	Provides for reimbursement of human service providers for increases in minimum wage rates	Filed as Senate Docket 1350
H.B. 1045, S.B. 80,92	Relates to the minimum wage	Introduced
Michigan H.B. 4165	Increases minimum wage to \$5.65 and indexes it to inflation rate	To House Committee on Employment Relations, Training, and Safety
Minnesota H.B. 102, 442	Increases the minimum wage	To House Committee on Commerce, Jobs and Economic Policy
S.B. 3	Increases the minimum wage	To Senate Committee on Jobs, Housing and Community Development
S.B. 587	Increases the minimum wage	To Senate Committee on Jobs, Housing and Community Development
Nebraska L.B. 256	Requires a minimum wage for state employees	Indefinitely postponed
L.B. 435	Raises the minimum wage	Amended on Legislative floor
L.S.R. 1173	Relates to the minimum wage	Withdrawn from further consideration
New Jersey A.B. 215, 1686, 2733	Raises minimum wage	To Assembly Committee on Labor
A.B. 2948	Establishes criminal penalties for failure to pay the minimum wage	From Assembly Committee on Labor

S.B. 541	Requires payment of minimum wage under public contracts	To Senate Committee on Labor
S.B. 545, 572	Increases minimum wage	To Senate Committee on Labor
S.B. 2343	Establishes criminal penalties for failure to pay the minimum wage	To Senate Committee on Labor
New Mexico H.B. 38	Modifies the state minimum wage to equal the federal minimum wage	Signed by Governor
H.B. 580	Provides for political subdivisions to elect for exemption from the public minimum wage act	To House Committee on Business and Industry
H.B. 588	Changes the minimum wage act to prohibit local governments from requiring a minimum wage that exceeds the federal minimum wage	From House Committee on Consumer and Public Affairs
S.B. 721	Modifies the minimum wage act to prohibit local governments from requiring a minimum wage that exceeds the federal minimum wage	To House Committee on Judiciary
S.B. 828	Relates to taxation; provides income tax and corporate income tax credits for employers who employ developmentally disabled persons for wages in excess of the federal minimum wage	To Senate Committee on Finance
New York A.B. 4048	Raises the state minimum wage; provides that annually such statutory wage shall be increased	To Assembly Committee on Labor
A.B. 4066	Instructs the commissioner of labor to conduct biennial investigations into the adequacy of wages in the several regions of the state and report thereon to the legislature to ensure that minimum wages are adequate to provide support for a family of three	To Assembly Committee on Labor
A.B. 4889	Provides tax credit against special additional mortgage tax and franchise tax on business corporations for each employee employed in excess of one year at	To Assembly Committee on Ways and Means

	minimum wage for thirty hours per week who was a public assistance recipient for at least two years immediately preceding the commencement of such employment	
S.B. 376	Raises the minimum wage on and after January 1, 2004 provided that, on or before January first, 2005 and annually there after, such statutory wage shall be increased based on the increase in the State average weekly wage for covered employment	To Senate Committee on Labor
S.B. 2247	Provides tax credit against special additional mortgage tax and franchise tax on business corporations for each employee employed in excess of one year at minimum wage for thirty hours per week who was a public assistance recipient for at least two years immediately preceding the commencement of such employment	To Senate Committee on Investigations, Taxation and Government Operations
S.B. 2685;	Changes article heading of article 19-A to read "minimum wage standards" and protective labor practices for farm workers; requires employers of farm workers to utilize written farm work agreements between such employers and farm workers when notifying such workers of the conditions of employment; defines the term "work agreement"	To Senate Committee on Labor
S.B. 3291	Enacts the Empire State Wage Act of 2002; relates to the statutory minimum wage; provides for biennial reports and the establishment of a special task force on indexing	To Senate Committee on Labor
S.B. 3359	Prohibits any regulation relating to minimum wage standards to be adopted which provide that child farm laborers to be paid at a lesser	To Senate Committee on Labor

	rate than adult farm laborers	
North Carolina S.B. 905	Modifies the state wage and hour act to increase the state minimum wage	To Senate Committee on Commerce
Oregon H.B. 2292	Exempts sports officials under 18 years of age from child labor laws; classifies sports officials at youth or adult sports contests as independent contractors for purposes of income tax and minimum wage laws	To House Committee on Business, Labor and Consumer Affairs
H.B. 2624	Deletes annual adjustments of minimum wage	To Senate Committee on General Government
H.B. 2720	Allows reduced minimum wage rate for employees under 18 years of age for first 60 calendar days of employment. Establishes minimum wage for certain tipped employees	To House Committee on Business
H.B. 3392	Exempts minors employed in agricultural labor from minimum wage and overtime requirements	To House Committee on Business, Labor and Consumer Affairs
H.B. 3467	Creates credit against income or corporate excise taxes for wage increases paid by employees engaged in farming or ranching, when increases are caused by increase in minimum wage; limits credit to percentage of wage increases paid	To House Committee on Business, Labor and Consumer Affairs
Pennsylvania H.B. 1063	Provides for minimum wage rates	To House Committee on Labor Relations
Rhode Island H.B. 5115	This act would raise the minimum wage to six dollars and seventy-five cents (\$6.75) per hour on July 1, 2003 and would attach a cost of living index adjustment to future increases in the minimum wage.	From House Committee on Finance: Recommended as substituted
H.B. 6164	Changes the statute relating to operators' and chauffeurs' licenses and minimum wages for school bus drivers	To House Committee on Labor



S.B. 102	Adjusts the minimum wage annually on a cost of living index.	To Senate Committee on Labor
S.B. 204	Increases the minimum wage to six dollars and seventy-five cents (\$6.75) per hour	To Senate Committee on Labor
South Dakota S.B. 77	Provides certain increases in the state minimum wage	In Senate Committee on State Affairs: Deferred to the 41st Legislative Day
Texas H.B. 804	Relates to the minimum wage	Passed House. To Senate
H.B. 915	Relates to the establishment of a minimum wage for public employees	To House Committee on State Affairs
Vermont H.B. 461	Raises the minimum wage rate	To House Committee on General Housing and Military Affairs
S.B. 99, 127	Raises the minimum wage rate	To Senate Committee on General Affairs and Housing
Washington H.B. 1690	Accepts federal definitions for state wage and hour laws	To House Committee on Commerce and Labor
H.B. 1750	Modifies the inflationary adjustment to the minimum wage	To House Committee on Commerce and Labor
H.B. 1774	Creates an urban and rural minimum wage rate	To House Committee on Commerce and Labor
H.B. 1819	Creates an adjusted minimum tipped wage rate	To House Committee on Commerce and Labor
S.B. 5013	Caps the minimum wage rate at a certain percent of the federal rate	To Senate Committee on Commerce and Trade
S.B. 5394	Provides a minimum wage rate for tipped employees	To Senate Committee on Commerce and Trade
S.B. 5462	Adopts federal definitions for state wage and hour laws	To House Committee on Commerce and Labor
S.B. 5681	Modifies minimum wage provisions	From Senate Committee on Rules: Do pass

S.B. 5682	Permits a temporary reduction in the minimum wage for new employees	To Senate Committee on Commerce and Trade
S.B. 5683	Inhibits local jurisdictions from modifying state minimum wage laws	To Senate Committee on Commerce and Trade
S.B. 5684	Modifies minimum wage provisions	To Senate Committee on Commerce and Trade
S.B. 5697	Modifies the inflationary adjustment to the minimum wage	Passed Senate. To House
Wyoming H.B. 257	Raises the minimum wage for tipped employees	Indefinitely postponed
S.B. 119	Raises the minimum wage	To Senate Committee on Labor, Health and Social Services

For more information, please contact

Justin Marks

## 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.

**34-06-04. 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.

**CHAPTER 46-02-07**  
**NORTH DAKOTA MINIMUM WAGE AND WORK CONDITIONS ORDER**

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 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 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. "Nonprofit" means a nonprofit corporation organized under the laws of this or another state.

8. "Occasional and sporadic" means infrequent, irregular, or occurring in scattered instances.

9. "Professional" means an employee 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.

10. "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.

11. "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.

12. "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.

13. "Service industry" means an industry in which the principal activity is to provide goods and services directly to the consuming public.

14. "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.

15. "Tip credit" means the amount or percentage by which an employer is allowed to reduce



the minimum wage for a tipped employee.

16. "Tip pooling" means when two or more tipped employees agree to pool their tips and split them as agreed upon.

17. "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.

18. "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.

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

**History:** Effective May 1, 1994; amended effective 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

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

1. The North Dakota minimum wage is no less than five dollars and fifteen cents per hour and must be paid to all employees in every occupation in the state. 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 worktime 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.

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 worktime.

7. Ordinary travel from home to work need not be counted as worktime. Special and unusual one-day assignments performed for the employer's benefit and at the employer's request is worktime for the employee regardless of driver or passenger status. Travel away from home is worktime when performed during the employee's regular working hours. Time spent traveling on nonworking days during regular working hours is worktime. The time spent as a passenger on an airplane, train, bus, or automobile after normal working hours is not worktime. The driver of a vehicle is working at anytime when required to travel by the employer. Traveltime from jobsite to jobsite, or from office to jobsite, is worktime 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 worktime.

8. Standby time on the employer's premises, or "on call" as in an engaged to wait manner is worktime to be compensated. Waiting to be engaged is not required to be compensated as worktime.

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 worktime.

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.

**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 worktime.

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



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.

**34-06-04. Power to make rules.** The commissioner may prepare, adopt, and promulgate rules and regulations to carry into effect the various provisions of this chapter and may make any rules and regulations which may be required for the selection of members of conferences provided for in this chapter and for the regulation of the mode of procedure at such conferences.

**34-06-04.1. Compensatory time.** The state or a political subdivision of the state may provide for compensatory time 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. 206] and any rules and interpretations adopted by the United States department of labor.

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**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.