



Legislative Bulletin.....January 10, 2007

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H.R. 2—Fair Minimum Wage Act

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: \$0

Effect on Revenue: \$0

Total Change in Mandatory Spending: \$0

Total New State & Local Government Mandates: Several, yielding state and local government costs of about \$1 billion over five years

Total New Private Sector Mandates: Several, yielding private sector costs of about \$17 billion over five years

Number of Bills Without Committee Reports: 1

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 0

H.R. 2—Fair Minimum Wage Act (*George Miller, D-CA*)

Order of Business: The bill is scheduled to be considered on Wednesday, January 10th, pursuant to H.Res. 6, a rule that the House passed last week closing the bill to amendments, waiving all points of order against the bill and its consideration, deeming the previous question as ordered, providing for three total hours of debate, and providing for one motion to recommit. (Note: H.Res. 6 was the resolution changing House Rules for the 110th Congress. It also provided for the consideration of several portions of the Democrats' 100-Hour Agenda.) **In other words, this bill will come to the floor under a closed rule and without the applicability of any of the new House rules that the Democrats have implemented.**

Summary: H.R. 2 would increase the federal minimum wage from \$5.15-per-hour to \$7.25-per-hour over two years—a 41% increase. In other words, this legislation would mandate that employers give some of their employees’ a 41% raise over two years! The minimum wage would first increase to \$5.85 sixty days after this bill’s enactment, then to \$6.55 one year after the first increase, then to \$7.25 one year after the second increase. See “Additional Background” below for more information on the federal minimum wage.

The bill would also apply the minimum wage statute (29 U.S.C. 206), including its exceptions and related regulations, to the Commonwealth of the Northern Mariana Islands, which is currently exempt. The minimum wage just for the Mariana Islands would start at \$3.55 an hour, beginning sixty days after the enactment of H.R. 2, and would increase by fifty cents an hour six months after enactment and then every six months thereafter until it reaches the same amount as the standard minimum wage for the U.S. mainland. The minimum wage could increase by an amount less than fifty cents if necessary to bring it in line with the standard minimum wage.

In other words, the minimum wage for the Mariana Islands would be:

- \$3.55—60 days after enactment of this bill;
- \$4.05—6 months after enactment;
- \$4.55—One year after enactment;
- \$5.05—One-and-a-half years after enactment;
- \$5.55—Two years after enactment;
- \$6.05—Two-and-a-half years after enactment;
- \$6.55—Three years after enactment;
- \$7.05—Three-and-a-half years after enactment; and
- \$7.25—Four years after enactment (bringing it in line with the standard \$7.25 minimum wage that will have already been implemented).

The remaining U.S. territories would remain fully or partially exempt from the minimum wage, as under current law. It is unclear why the Mariana Islands would be given harsher treatment than the other U.S. territories.

The bill does NOT contain any provision regarding the treatment of tips under the minimum wage.

In the 109th Congress, the House voted in favor of a similar minimum wage increase (phased in over three years instead of two) as part of H.R. 5970, which passed 230-180-1: <http://clerk.house.gov/cgi-bin/vote.asp?year=2006&rollnumber=425>. Additionally, the House voted 260-159 to instruct conferees on S. 250 (the vocational education bill) to agree to a minimum wage increase: <http://clerk.house.gov/cgi-bin/vote.asp?year=2006&rollnumber=366>.

In July 2006, 30 RSC Members sent the following letter to House leadership, urging them not to bring a minimum wage increase to the House floor:

http://www.house.gov/pence/rsc/doc/CA_073106_feeneyminwage.pdf. In September 2006, 41 House conservatives sent a similar letter to House leadership urging them not to bring stand-alone legislation to the House floor that would increase the minimum wage: http://www.house.gov/pence/rsc/doc/CA_092506_minwage.pdf.

Additional Background:

41% Minimum Wage Increase

- **Establishment.** The Fair Labor Standards Act of 1938 established the (federal) hourly minimum wage rate at 25 cents an hour for covered workers. Since then, it has been raised 19 separate times. The minimum wage does not rise automatically; raises require separate legislative action by Congress and the President.
- **Recently Raised Twice.** Since Republicans won control of Congress in 1994, the federal minimum wage has been raised twice: once in October 1996 (from \$4.25 to \$4.75) and again in September 1997 (from \$4.75 to \$5.15). The minimum wage remains at \$5.15 an hour today.
- **Application.** The federal minimum wage applies to employees of businesses that do at least \$500,000 in business a year—and to employees of smaller firms if the employees are engaged in interstate commerce or in the production of goods for commerce (such as employees who work in transportation or communications or who regularly use the mails or telephones for interstate communications).
- **Exceptions.** The federal minimum wage does not apply to all workers. For example, current law exempts full-time students working part-time in certain industries, youth under age 20 in their first 90 consecutive calendar days of employment, and tipped workers in retail and service industries from the federal minimum wage.
- **Enforcement.** The federal minimum wage is enforced by the Department of Labor's Wage and Hour Division: <http://www.dol.gov/esa/whd/>.
- **State Minimum Wages.** Some states have a minimum wage requirement that is higher than the federal minimum wage. Where that is the case, *the higher standard prevails*. As of spring 2006, 18 states plus the District of Columbia have minimum wages that are higher than the federal minimum wage, whereas 25 states plus Puerto Rico and Guam have minimum wages at the federal level. The remaining states and territories have either no state minimum wage or a state minimum wage below the federal one. <http://www.dol.gov/esa/minwage/america.htm>. Some states' respective minimum wages increased just a few days ago, thereby reducing the number of states that have minimum wages at or below the current federal level: <http://www.sbecouncil.org/news/display.cfm?ID=2044>.
- **Starting Wage.** The federal minimum wage is overwhelmingly a starting—rather than a permanent living—wage. Research by economists at Miami University of Ohio and

Florida State University found that minimum wage employees are over five times more likely to be new entrants to the labor force.

- Hurts Lower-Skilled Workers; Helps Higher-Skilled Workers. David Neumark, an economist at Michigan State University, and William Wascher, a researcher at the Federal Reserve, examined how teenage employment and school enrollment changed after states raised their minimum wages. They found that when states raised their respective minimum wages, low-skilled teenagers—younger teens and those who had dropped out of school—were more likely to become unemployed. At the same time, higher-skilled teenagers were more likely to get jobs, sometimes leaving school to do so. When employers have to pay higher wages, they hire higher-skilled workers, freezing the least skilled and least productive workers out of the job market. *(Information provided by the Heritage Foundation.)*
- Hurts Sectors Already Hurting. According to the Employment Policies Institute, although the U.S. economy continues to flourish on the whole, certain sectors, like retail, leisure, and hospitality, have shown some weakness. These industries rely disproportionately on minimum wage and lower-skilled workers. Thus a steep minimum wage increase will disproportionately harm these already-hurting sectors. For more information, visit this webpage: http://www.epionline.org/news_detail.cfm?rid=93.
- The Market Has Pushed Wages Upward. Each year fewer workers earn the federal minimum wage. In 1980, according to the Congressional Research Service, over 15% of hourly paid workers earned the federal minimum wage, while in 2005, only 2.5% of hourly paid workers earned the federal minimum wage.
- Most Minimum Wage Earners Don't Stay That Way. According to the Coalition for Job Opportunities, 85% of individuals who would be impacted by a minimum wage hike are teens living with their working parents, adults living alone, or second earners. As these employees gain skills, they receive significant raises, with more than 65% receiving a raise within one year. The median full-time minimum wage employee receives a 14% raise, nearly three times that of all employees.

For more talking points on the federal minimum wage, please see this RSC document: http://www.house.gov/pence/rsc/doc/LA_071706_minimumwage.doc.

To read a recent op-ed by renown columnist George Will, in which he calls for the minimum wage to be zero, visit this webpage: <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/03/AR2007010301619.html>.

Committee Action: On January 5, 2007, the bill was referred to the Education and Labor Committee, which took no subsequent official public action.

Possible Conservative Concerns: Some conservatives might be concerned that the federal minimum wage itself is anti-capitalist, since it prevents an employer and a potential employee

from engaging in free-market labor negotiations. Furthermore, quickly-increased labor costs unrelated to business conditions will encourage or force employers to fire employees, reduce working hours for existing employees, and/or postpone plans to hire additional employees. Conservatives may also be concerned with the pace of this increase, which would mandate employers to give certain employees a whopping 41% raise over two-plus years, yielding tremendous costs (see mandates section below).

Administration Position: The President supports a federal minimum wage increase, but preferably when coupled with tax breaks for businesses to help alleviate some of the economic hardships associated with such an increase.

Cost to Taxpayers: A CBO analysis of H.R. 2429 from the 109th Congress, which is identical to H.R. 2 in the 110th Congress, found that the legislation would have no direct effects on federal expenditures or revenues (since the wage increase is just a federal mandate on private industry). Yet a dynamic analysis, which CBO is not allowed to do, would likely show that raising the federal minimum wage reduces employment, thereby reducing tax payments to the federal government and increasing federal benefit payments. CBO estimated that this dynamic effect would be minimal, but it did not actually conduct the dynamic analysis.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Yes, the bill would prevent private industry from paying its workers below \$7.25 an hour (with certain exceptions) after the full wage increase, and it would preempt minimum wage laws in the Commonwealth of the Northern Mariana Islands. CBO confirmed for H.R. 2429 from the 109th Congress that these provisions would impose mandates, as defined by the Unfunded Mandates Reform Act (UMRA).

CBO estimated the costs of the mandates in this legislation would be about \$1 billion over five years for state and local governments and about \$17 billion over five years for the private sector: <http://www.cbo.gov/ftpdocs/77xx/doc7716/hr2429.pdf>.

Constitutional Authority: A committee report citing constitutional authority is not available.

Outside Organizations: An increase in the federal minimum wage is being opposed by:

- American Beverage Licensees
- American Hotel and Lodging Association
- Americans for Prosperity Foundation
- Bowling Proprietors' Association of America
- Citizens Against Government Waste
- Coalition of Licensed Beverage Associations
- Food Marketing Institute
- FreedomWorks

- International Association of Amusement Parks and Attractions
- International Foodservice Distributors Association
- International Franchise Association
- International Pizza Hut Franchise Holders Association
- National Association of Chain Drug Stores
- National Association of Convenience Stores
- National Association of Manufacturers
- National Association of Theater Owners
- National Club Association
- National Council of Agricultural Employers
- National Council of Chain Restaurants
- National Federation of Independent Business
- National Franchisee Association
- National Grocers Association
- National Restaurant Association
- National Retail Federation
- Small Business & Entrepreneurship Council
- Society of American Florists
- Tire Industry Association
- U.S. Chamber of Commerce

The Heritage Foundation released several papers strongly opposing the notion of increasing the minimum wage.

A minimum wage increase is being supported by such entities as the AFL-CIO; the Service Employees International Union; the American Federation of State, County, and Municipal Employees; United Steelworkers; the NAACP, the Mexican American Legal Defense and Educational Fund; and the National Council of Churches.

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