Agenda Item 7
November 26, 2013
Action

MEMORANDUM

November 22, 2013

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney
Josh Hamlin, Legislative Attorney
Jacob Sesker, Senior Legislative Analyst

SUBJECT: **Action:** Bill 27-13, Human Rights and Civil Liberties – County Minimum Wage – Dollar Amount

Health and Human Services Committee recommendation (2-0, Council Vice President Rice abstained): enact the Bill with amendments.

Bill 27-13, Human Rights and Civil Liberties – County Minimum Wage – Dollar Amount, sponsored by Councilmembers Elrich, Ervin and Council President Navarro, was introduced on October 1. A public hearing was held on October 24 and a Health and Human Services Committee worksession was held on November 21.

Background

Maryland's minimum wage is $7.25 per hour, or $15,000 a year for a full-time, year round worker, and leaves a full-time earner and their families below the Federal poverty line. Twenty-one states have raised their minimum wages above Maryland's rate, including Alaska, Arizona, California, Colorado, Connecticut, Florida, Illinois, Maine, Massachusetts, Michigan, Missouri, Montana, New Mexico, Nevada, New Jersey, New York, Ohio, Oregon, Rhode Island, Vermont, and Washington, as well as the District of Columbia.

Bill 27-13, as introduced, would establish a County minimum wage for private sector employees working in the County unless the State or Federal minimum wage is higher. The County minimum wage would be phased in over 3 years. The rate would be $8.25 per hour on July 1, 2014, $9.75 per hour on July 1, 2015, and $12.00 per hour on July 1, 2016. During the phase-in period between July 1, 2014 and July 1, 2016, an employer would be able to pay the prior year rate for an employee's first 90 days on the job. Beginning on July 1, 2017, the $12.00 rate would be raised by any increase in the Consumer Price Index on an annual basis. The County minimum wage would not apply to a worker who is not covered by the State minimum wage, a tipped employee, or a worker eligible for an opportunity or youth minimum wage under the State or Federal law.

Bill 27-13, as introduced, would also encourage employers to provide health insurance by giving an employer a credit for the cost of the employer's share of the health insurance premium per employee. The County Office of Human Rights would be responsible for enforcement of the law. A worker would be able to file a complaint with the Office of Human Rights and obtain an adjudicatory hearing before the Human Rights Commission.

HHS Committee Worksession

Councilmembers Elrich, Riemer, Ervin, and Andrews joined the 3 HHS Committee members at the November 21 HHS Committee worksession. Steve Silverman, Director of the Department of Economic Development and James Stowe, Director of the Office of Human Rights, represented the Executive.

Judith Hellerstein[1], PhD, Professor, Department of Economics, University of Maryland and Harry Holzer[2], PhD, Professor, School of Public Policy, Georgetown University provided expert testimony on the potential impact of the Bill on the County's economy.

Dr. Hellerstein observed that, historically, the conventional wisdom was that a 10% increase in the minimum wage would reduce employment by 1% to 3% among affected workers. However, during the last several years the conventional wisdom has changed—now the conventional wisdom is that moderate increases in the minimum wage get absorbed through other economic channels (such as higher productivity or lower turnover), and that a *disemployment* effect occurs only with large changes in the minimum wage. In Dr. Hellerstein's estimation, this increase in the minimum wage (from $7.25 to $11.50 over 3 years)[3] is a significant change[4] that could result in *disemployment* among affected workers. In particular, she noted that a significant change at a time when the overall labor market is still relatively weak causes concern.

- Dr. Hellerstein expressed general support for increasing the minimum wage, and noted that an increase in the minimum wage will help some families, and can be viewed as part of our overall social contract.
- Dr. Hellerstein stated that ideally the minimum wage should be addressed at a national or state level, and stated a preference for a regional (labor market) based approach over a purely local one.
- Dr. Hellerstein also favors indexing, which increases predictability by de-politicizing the process of increasing the minimum wage.

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[1] A brief description of Dr. Hellerstein's qualifications is at ©113.
[2] A brief description of Dr. Holzer's qualifications is at ©113-114.
[3] The City of San Francisco's minimum wage has increased from $8.50 in 2004 to $10.74, effective January 1, 2014, with the largest annual increase during that time being $0.46 in 2009. http://sfgsa.org/index.aspx?page=411
[4] According to one news article the estimated 2016 minimum wage in the City of San Francisco would be $11.22, $.28 below the proposed $11.50 wage in Montgomery County in 2016. http://baltimore.cbslocal.com/2013/11/18/dc-to-push-for-11-50-minimum-wage/

- Dr. Hellerstein opined that it is appropriate to consider the cost of living[5] and the cost of doing business in setting a minimum wage. She stated that a minimum wage of $9 per hour indexed to inflation strikes the appropriate balance.
- Dr. Hellerstein was uncomfortable with a minimum wage of $10 per hour or more indexed to inflation.

Dr. Holzer observed that periodic increases in the minimum wage, such as the 2007-2009 increases in the Federal minimum wage, can be absorbed by the economy when the value of the minimum wage has been eroded by inflation. However, Dr. Holzer noted that following the current conventional wisdom the proposed increase of more than 60% in the minimum wage could result in a disemployment effect of more than 6% among affected workers. Of particular concern to Dr. Holzer are the following factors: general weakness of the labor market, the fact that rapid technological changes are rendering some low-wage jobs obsolete, and the possibility that significantly increasing the minimum wage simultaneous to the implementation of the Affordable Care Act could result in greater disemployment effects for employers at or near 50 FTEs. Dr. Holzer also noted that at one point, the minimum wage was established to be 50% of the average private sector wage, but that more recently it has been closer to 40% of the average private sector wage and that 40% represents a more reasonable target.[6]

- Dr. Holzer stated that the risk of disemployment effects is reduced when implementing a minimum wage over a larger geography (e.g., a labor market).
- Dr. Holzer expressed that if the minimum wage is going to be indexed, it should be set at a lower level.
- Dr. Holzer opined that a 2-year ramp up to $9 per hour could be absorbed, and that a Montgomery County minimum wage of up to $10 per hour without an index to inflation could strike the appropriate balance.
- Dr. Holzer was concerned about the risk that a minimum wage higher than $10 per hour would create disemployment effects in the targeted population.

The Committee had a robust discussion of the Bill and its potential impact on the County's economy. The Committee amended the Bill to:

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[5] Using the Office of Personnel Management locality pay scales referenced on p. 11 of this packet as a baseline, it may be reasonable to establish a wage level locally that exceeds the broader national or state minimum wage by 8.8%. This locality pay for the DC-Baltimore area is 8.8% higher than the locality pay for the rest of the U.S. ($10.60/$9.74=1.088) because of cost of living differences for the employees working in this labor market. The labor market/regional economy is probably the proper geography given the large numbers of employees commuting across jurisdictional boundaries in the DC-Baltimore region.

[6] See ©79. In February 1967 the Federal minimum wage was 50% of the average private sector non-supervisory wage. When the Federal minimum wage was increased again in February 1968, the minimum wage was 54% of the average private sector non-supervisory wage. After 1968 the minimum wage fell relative to all wages, and throughout the 1970s the minimum wage remained at 46% to 47% of the average. In January 1981 the minimum wage was 46% of the average wage, but it fell over the next decade. Following the April 1990 increase, the minimum wage was 37% of the average wage. Most of the time since, the minimum wage has remained at 35% to 40% of the average. In July 2013, the minimum wage was 36% of the average—for reference, if the federal minimum wage were currently set at 40% of the average wage it would be $8.06; 45% would be $9.07; 50% would be $10.08 (essentially the same as the current Harkin-Miller proposal to raise the Federal minimum wage to $10.10 per hour). If one were to add a locality pay premium of 8.8% (see footnote 5, above), the combined effect would yield the following local minimum wages: 40% plus locality adjustment would be $8.77; 45% plus locality adjustment would be $9.87; 50% plus locality adjustment would be $10.97.

1. apply the County minimum wage to tipped employees by requiring an employer to pay a base equal to 50% of the County minimum wage with an obligation to make up any shortfall in tips up to the County minimum wage. (3-0);

2. delete the health care credit. (3-0);

3. add an exemption for a person under the age of 19 who works 20 hours or less in a week. (3-0);

4. add a provision requiring the Executive to delegate enforcement to a State agency that enforces the State Wage and Hour Law and is authorized to enforce a County minimum wage law. (2-0, Navarro abstaining);

5. add an anti-retaliation clause. (3-0);

6. change the effective date of the Bill to October 1, 2014 and move each corresponding transition date to October 1. (2-1, Navarro opposed);

7. amend the CPI-U index to require the same index to inflation, beginning October 1, 2017 that is contained in the State law (2-0, Navarro abstained);

8. amend the applicability to clarify that a worker must perform the work in the County. (3-0);

9. apply the County minimum wage to County employees (3-0); and

10. amend the amount of the County minimum wage from $12.00 per hour to $11.50 per hour beginning on October 1, 2016 (2-0, Rice abstained).

The Committee recommended approval of the Bill with these amendments (2-0, Rice abstained).

The Executive's Position

The Executive's position on Bill 27-13 is that the County minimum wage should be higher than the State and urged the Council to enact a minimum wage bill without waiting to see if the State acts in the next 2014 session. Although the Executive did not recommend how much higher he would set the County minimum wage in his letter to Councilmember Berliner, November 12, 2013, DED Director Steve Silverman explained the Executive's position on the amount of the County minimum wage at the HHS Committee worksession. See ©46-48 for the exchange of letters between the Executive and Councilmember Berliner.[7]

The Executive recommended a County minimum wage beginning:

[7] Although we are expecting to receive a letter from the Executive outlining his position on the amount of the County minimum wage, we did not receive the letter before this packet went to the printer.

(a) October 1, 2014, the greater of $8.40 per hour or $.30 higher than the State minimum wage;
(b) October 1, 2015, the greater of $9.55 per hour or $.60 higher than the State minimum wage; and
(c) October 1, 2016, $10.75 per hour, with no indexing to the CPI-U.

The Executive also recommended continuing to exempt tipped employees from the County minimum wage due to potential enforcement problems.

Legal Authority

Montgomery County can enact its own minimum wage law even though the State of Maryland has a minimum wage law. In *City of Baltimore v. Sitnick*, 254 Md. 303 (1969), the Maryland Court of Appeals upheld a city ordinance establishing a minimum wage standard that was higher than the State standard. In that case, the plaintiffs argued that State law had preempted the field of minimum wage. In rejecting that argument, the Court held that the City of Baltimore could enact its own minimum wage law based on the city's exercise of concurrent power because the city law did not conflict with the State law. The County Attorney's Office recently issued an opinion similarly concluding that the County has the authority to enact a County minimum wage. See ©9-12.

A Regional Approach

Similar bills have been introduced in Prince George's County and the District of Columbia that would increase the minimum wage in those jurisdictions to at least $11.50 per hour over the next 3 years.

Fiscal and Economic Impact

The OMB and Finance Fiscal and Economic Impact Statement is at ©13-19. OMB estimated that the Office of Human Rights would need to hire an additional 3 investigators to handle minimum wage complaints at an annual cost of $346,980. OMB also estimated that the revenue from civil fines ordered by the Human Rights Commission could reach $87,500 to $125,000 per year.

Finance noted that economists disagree on the potential economic impact of an increase in the minimum wage. In addition, available Bureau of Labor Statistics employment data does not single out Montgomery County. Finance was unable to predict the economic impact of the Bill.

Public Hearing

Thirty-eight people testified at the October 24, 2013 hearing, presenting a number of perspectives on the Bill. Supporters frequently cited the inability of workers making the minimum wage to be self-sufficient in the County. Some supporters said that County social safety net benefits amounted to a government subsidy of businesses that rely on low-wage labor. Peter Davis of the Center for the Study of Responsive Law said that "when big businesses do not pay a living wage, low-wage workers become more reliant on public programs to get by and taxpayers end up footing the bill." Some speakers indicated a need for a higher minimum wage in Montgomery County. Stating that "as a County, we have an exceedingly high cost of living," LaTonya King of Progressive Maryland said that "here in Montgomery County we need to go further" than an increase in the State minimum wage.

Several speakers spoke in favor of the Bill but requested amendments. Specifically, the following amendments were requested by several of the Bill's supporters: 1) apply the County minimum wage to tipped workers; 2) remove the health insurance credit; and 3) remove the ability to pay a lower wage during an employee's first 90 days during the transition period.

Many opponents of the Bill said that the minimum wage should not be raised at the County level, but rather at the State or Federal level. They reasoned that a County increase would put businesses in the County at a competitive disadvantage, even with other counties within the State. Several speakers cautioned that the proposed increase at the County level could result in County residents facing more competition for low-wage jobs from out-of-County residents. Concerns were also raised that an increase in the minimum wage would result in employers reducing the number of employees, the number of hours employees work, or benefits provided to employees. Some small business owners indicated that it would be difficult or impossible for their businesses to absorb the additional cost associated with the proposed increase.

"Wage compression," the narrowing of the gap between the pay for the lowest skilled and paid workers and the pay for higher skilled and paid workers, was another oft-cited concern among the speakers opposed to the Bill. The alternative is to give pay increases up the wage scale. Marilyn Balcombe of the Gaithersburg-Germantown Chamber of Commerce argued that "if you increase the minimum wage from $7.25 to $11.50, you must increase the wages of everyone in the salary structure." Opponents also questioned whether the minimum wage is intended to be a living wage. Lynn Martins of Seibel's Restaurant said that "the minimum wage is not meant to be a wage to raise a family on." This sentiment was echoed by Jeff Owens of Clyde's Restaurant Group, who said that the "minimum wage is not a breadwinner's wage, but rather a new worker's wage to gain a first job experience."

Discussion Issues

1. How might the economy absorb an increase in the minimum wage?

Some labor economists perceive that there is monopsonistic competition in the low-skill, low-wage labor market—the buyer (employer) has a disproportionate amount of power in the market for low-wage, low-skill labor.[8] Governments respond to this imperfect market by requiring employers to pay minimum wages—the results of which may include increased employment (by increasing an individual worker's incentive to work), increased economic

[8] If you tuned out at *monopsonistic* here is the short version: whereas in a monopoly a very small number of sellers enters a market place with many buyers, in a monopsony a very small number of buyers enters a market place with many sellers. In the low-wage, low-skill labor market there are many more or less interchangeable sellers of labor (potential workers), and relatively few buyers (employers). That under some circumstances employers have an advantage in this marketplace is an idea that is older than West Virginia—John Stuart Mill first opined on this topic in 1848.

activity, and reduced poverty. Other economists argue that the labor market is competitive, and that government interference in the labor market harms both employers and employees by requiring employers to pay a wage that exceeds the marginal value of labor. These economists argue that the minimum wage thereby results in reduced demand for labor, leading to reduced employment.

The following is a summary of the economic channels through which an increase in the minimum wage might flow:

Earnings: Hourly wages for individual employees earning below the new minimum wage would increase. Increasing the wage in the first year from $7.25 to $8.25 would clearly increase the hourly wage of workers earning $7.25 by $1.00 (↑13.8%). Employers may respond to changes in the minimum wage by reducing the hours of their employees—if wages are increased by 13.8% and hours are reduced by 13.8% then the employee will not experience an increase in earnings.

Wage compression: While it is easy to calculate the increase in hourly wage for a worker earning the minimum wage, it is less clear what effect an increase in the minimum wage would have on those workers currently earning $8.00 (just below the minimum wage) or $8.50 (just above the minimum wage). Employers required to pay a higher minimum wage may compress wages for workers earning above the minimum wage. In their study of the impacts of the 2007-2009 increases in the Federal minimum wage on restaurants in Georgia and Alabama, Hirsch, Kaufman and Zelenska found that almost half of the employers that they interviewed said that they would delay or limit pay increases or bonus pay for more experienced employees as a result of the increase in the Federal minimum wage.[9] Broad empirical studies of US economic data have also indicated that the minimum wage compresses wage distribution (see, e.g. DiNardo, Fortin, and Lemieux 1996).[10]

Employment: There is substantial disagreement among labor economists with respect to the economic and employment impacts of a minimum wage. *See ©20-21 Washington Post, "Economists disagree on whether the minimum wage kills jobs. Why?"* For example, one think tank (the Economic Policy Institute) projected that the 2013 Harkin-Miller proposal—to increase the Federal minimum wage to $10.10 per hour—would increase total employment in Maryland by 2,000 FTEs.[11] Another think tank (the Employment Policies Institute) projected that the 2012 Harkin-Miller proposal—to increase the Federal minimum wage to $9.80 per hour—would reduce total employment in Maryland by approximately 3,800 to 11,500 jobs.[12]

Teen employment: Neumark and Wascher observed that past studies of the impacts of the minimum wage found that employers respond to an increase in the minimum wage by decreasing employment of younger workers.[13] Critics of Neumark and Wascher's work tend to point to the

[9] *Minimum wage channels of adjustment.* IZA DP 6132.
http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf
[10] *Labor market institutions and the distribution of wages: 1973-1992.*
http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf
[11] *Raising the minimum wage to $10.10 would give working familes, and the overall economy, a much needed boost.*
http://www.epi.org/publication/bp357-federal-minimum-wage-increase/
[12] The impact of a $9.80 Federal minimum wage. http://www.epionline.org/study/r143/
[13] *Minimum wages and employment.* IZA DP No. 2570. http://ftp.iza.org/dp2570.pdf

subjectivity involved in selecting which studies to include in the analysis, and to the fact that many of the studies involved were measuring the effect of a statutory minimum wage in the UK rather than in the US. A different 2009 meta-study of 64 minimum wage studies published between 1972 and 2007 tried to measure the impact of minimum wages on teenage employment. The authors (Doucouliagos and Stanley) graphed employment estimates and found that the most precise estimates were heavily clustered at or near zero effects on teen employment.[14]

Workforce composition: Allegretto, Dube and Reich (2011), in their study of employment from 1990-2009, found no statistically significant effect of the minimum wage on teens as a whole or on white, black, or Latino teens.[15] In a separate study, Dube, Lester and Reich (2012) found no evidence that employers changed the age or gender composition of the workforce in the restaurant sector in response to changes in the minimum wage.[16]

Efficiency: While the direct quantifiable evidence is sparse, Hirsch, Kaufman and Zalenska found in their interviews with restaurant managers in Georgia and Alabama that about 90% of managers planned to respond to the minimum wage increase with increased performance standards (requiring better attendance and punctuality, raising productivity expectations, faster termination of poor performers, etc.).

Turnover: Typically the turnover rate among low-wage employees is high and the cost to employers is high (in recruitment/screening costs, training, lost efficiency). Turnover is reduced when wages are higher. The savings that accrue to the employer as a result of reduced turnover may offset a portion of the cost of the wage increase. Dube, Lester, and Reich used a contiguous counties approach to study the effect of differences in minimum wages on teens and restaurant employees across U.S. counties. They find "evidence that separations, new hires, and turnover rates for teens and restaurant workers fall substantially following a minimum wage increase."

Motivation: A higher minimum wage may motivate workers to work harder independent of any actions by employers to improve productivity. Because higher pay increases the cost to workers of losing their job, workers may work harder (increase productivity) to keep their job.

Non-wage benefits: Most low-wage workers receive few non-wage benefits. Card and Krueger, in their seminal study of the labor market behavior of restaurants in response to an increase in New Jersey's minimum wage in the 1990s, observed that the nonwage benefit most frequently offered was free or reduced price meals.[17] Their study indicated that restaurants did not respond to an increase in the minimum wage by changing their free or reduced price meal benefits. A more recent study by Simon and Kaestner (2004) found small or no effect on non-wage benefits.[18]

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[14] *Publication selection bias in minimum wage research: A meta-regression analysis.* http://www.deakin.edu.au/buslaw/aef/workingpapers/papers/2008_14eco.pdf

[15] *Do minimum wages really reduce teen employment? Accounting for heterogeneity and selectivityin state panel data.* http://www.irle.berkeley.edu/workingpapers/166-08.pdf

[16] *Minimum wage effects across state boundaries.* http://www.irle.berkeley.edu/workingpapers/157-07.pdf

[17] *Minimum wages and employment: A case tudy of the fast food industry in New Jersey and Pennsylvania.* http://davidcard.berkeley.edu/papers/njmin-aer.pdf

[18] *Do minimum wages affect non-wage job attributes? Evidence on fringe benefits and working conditions. NBER Working Paper 9688.* http://www.nber.org/papers/w9688

Training: There is no conclusive empirical evidence that an increase in the minimum wage affects the amount of training that employees receive or the amount that employers expend on training. Neumark and Wascher tend to find negative effects of minimum wages on training, but they acknowledge that most other recent research finds no evidence of an effect. Some economists have the perspective that employers might respond to an increase in the minimum wage by increasing training (i.e., to raise productivity to a level befitting the new higher wage).

Increased demand: The minimum wage has the effect of transferring income from employers, who generally have a high savings rate, to employees, who generally have a low savings rate. This transfer could spur additional consumer spending, with the result being an increase in GDP and employment.

Pricing: Some employers might choose to increase prices in response to an increase in the minimum wage. One review of studies (Lemos, 2008) concluded that "most studies reviewed...found that a 10% US minimum wage increase raises food prices by no more than 4% and overall prices by no more than 0.4%."[19] Other studies have reached different conclusions—for example, Dube, Naidu and Reich found that prices "increased significantly" at fast food restaurants, but not at table service restaurants.[20]

Profits: Firms could accept reduced profits in response to an increase in the minimum wage. There has been very little study of this in the United States, though a study of the impact of a British minimum wage law found that profitability was negatively affected by introduction of a minimum wage.

2. What has been the effect of increasing the minimum wage in other cities, such as San Francisco and Santa Fe?

Schmitt and Rosnick (2011) studied wage and employment effects of local minimum wage laws in Washington (DC), San Francisco (CA), and Santa Fe (NM).[21] Overall, their findings were consistent with the view that modest changes in the minimum wage have little effect on employment. In Santa Fe, it appeared that hours fell, but not enough to offset the increased hourly wage. In San Francisco, wages increased without a statistically significant change in employment. In both cities the minimum wage laws included small business exemptions or phased-in increases in the minimum wages small businesses were required to pay—the evidence did not suggest that small firms react differently to an increase in the minimum wage than larger firms.

3. Which occupations are most likely to be affected by an increase in Montgomery County's minimum wage?

[19] *The effect of the minimum wage on prices. IZA DP No. 1072.* http://ftp.iza.org/dp1072.pdf
[20] The economic effects of a citywide minimum wage.
http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1293&context=ilrreview

[21] *The wage and employment impact of minimum wage laws in three cities.*
http://www.cepr.net/documents/publications/min-wage-2011-03.pdf

The Montgomery Business Development Corporation submitted analysis prepared by the University of Maryland. Using data derived by Economic Modeling Specialists Intl. (EMSI), the analysis indicates that 11.7% of Montgomery County total employment earns a wage under $12/hour (77,000 workers), some of whom would not be affected by this bill. Approximately 7.7% and 9.2% of total employment earns less than $12/hour and is not exempt under the bill (roughly 50,000 to 60,000 workers). See © 22-23.

According to the analysis, the proposed 2014 increase from $7.25/hour to $8.25/hour would affect only 0.04% of employment in the County. In 2015, when the minimum wage is increased from $8.25/hour to $9.75/hour, between 0.04% and 1.28% of employment will be affected. In 2016, when the minimum wage is increased from $9.75 to $11.50, 4.4% to 5.7% of employment would be affected.

The EMSI data illustrates that most of the employees likely to be affected over the three year phase-in are in the following general occupations: restaurants/food service, housekeeping and maids, and cashiers. The American Community Survey finds similar results—Montgomery County occupations with the lowest median annual earnings (as distinct from hourly earnings) include food preparation, grounds cleaning and maintenance, personal care and service, material moving and healthcare support. See M-NCPPC analysis of ACS data at ©24.

4. What are the commuting patterns of affected workers and residents?

Census data show that in 2011 approximately 83,000 individuals were employed in the private sector in Montgomery County whose income from their primary jobs was $1,250 per month or less (approximately full time employment at the minimum wage). Of those, slightly less than half lived inside the County. Of those commuting in for work, by far the most in-commuters from any one jurisdiction commute from Prince George's County (10,730), with Washington, DC (3,915) a distant second. See ©27.

The same data show that approximately 78,000 individuals living in Montgomery County are employed in primary jobs with income of $1,250 per month or less. Of those, half live in the County but are employed outside of the County. Montgomery County residents earning $1,250 per month or less from their primary jobs were more likely to commute to Washington, DC (9,570) and Prince George's County (6,205) than to any other jurisdictions. See ©25.

5. What are the social characteristics of workers in low-income jobs?

The population that is both targeted and affected by a change in the minimum wage is the "working poor." According to a recent report by Brookings Institute ("The Social Genome Project at Brookings—Strategies for Assisting Low-Income Families") in 2011 there were 36 million able-bodied adults between the ages of 25 and 55 living in low-income households (households in the bottom third of the income distribution). Of households in the bottom third, 36% live in poverty while 84% live below 200% of the federal poverty line. See ©31-35.

These "bottom-third" households are much more likely than households in the upper two-thirds to be black or Hispanic, have much lower levels of educational attainment, and are much less likely to be married, more likely to have children, and much more likely to be single parents.

Strikingly, 50% of bottom-third households had only 1 earner in the household—in contrast, 78% of top two-thirds households had two earners.

"Bottom-third" households with working heads of households have an average total household income of $15,607, 88% of which is earned. In contrast, average household income in bottom third households in which the head of household did not work was $4,888 (93% of which was non-earned income). Bottom-third households rely more heavily on non-earned income than do top two-thirds households.

The social and economic characteristics of households in Maryland likely to be affected by an increase in the minimum wage are analyzed by the Economic Policy Institute (see ©36-39) and the Employment Policies Institute (see ©40-44) in their respective analyses of the 2013 and 2012 proposals to increase the Federal minimum wage. Relative to other jurisdictions, affected workers in Maryland tend to be younger, less likely to have children, and more likely to live in higher income households.

6. Should the County have a higher minimum wage than the State due to the higher cost of living in the County?

Labor crosses political boundaries—for example, according to the Maryland Department of Planning, about half of all workers in Montgomery County live outside the County, and about half of Montgomery County residents work outside of the County. See ©28-29. Consequently, most indicators of cost of living are calculated at the level of the metropolitan area (or some similar geography that represents an economic area or market) rather than at the county level (or some other geography representing a political or legal boundary).

The US Department of Housing and Urban Development calculates Fair Market Rents (FMRs) annually for 530 metropolitan areas and 2,045 nonmetropolitan county FMR areas.[22] FMRs are used for a number of purposes; for example, FMRs are used to determine payment amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, and to serve as a rent ceiling in the HOME rental assistance program. The Fair Market Rent for a two-bedroom unit in Montgomery County, Prince George's County, Frederick County and Charles County is $1,469. Columbia, Maryland ($1,556) is the only market in which the FMR exceeds Montgomery County. Baltimore area jurisdictions are lower—Anne Arundel County, Baltimore City, Baltimore County, and Howard County ($1,252). Examples of FMRs in other counties include Cecil County ($1,135), Washington County ($968), and Garrett County ($691).

The US Office of Personnel Management locality pay scales set higher pay for the same work based on the cost of living. Workers stationed in jurisdictions within the Washington DC-Baltimore-Northern Virginia metro area receive locality pay that is approximately 10% higher than that of workers in the rest of the United States. A Grade 1 Step 1 employee wage in

[22] FMRs are gross rent estimates, and include the shelter rent plus the cost of some tenant-paid utilities (but exclude telephones, cable or satellite television service, and internet service). FMRs are expressed as the dollar amount which represents a percentile point within the rent distribution of standard-quality rental housing units—the current definition expresses the FMR as the 40th percentile rent (the dollar amount below which 40 percent of the standard-quality rental housing units fall).

Montgomery County is $10.60 per hour (OPM Salary Schedule 2013-DCB), whereas a Grade 1 Step 1 employee wage in Maryland counties outside of the metro area (e.g. Garrett County or Wicomico County) would be $9.74 (OPM Salary Schedule 2013-RUS).

The Consumer Price Index is not exactly a cost-of-living calculator, but it does track changes in prices for consumer goods over time. While it cannot be used to compare prices among geographies, it can be used to compare price changes among geographies. The CPI for all urban consumers in the Washington-Baltimore-Northern Virginia area increased by 9.03% between July 2009 (the last increase in the Federal minimum wage) and September 2013. This increase outpaced the increase in prices for all urban consumers nationally over this same period of time (up 8.73% from July 2009 to September 2013).

7. Should the County defer action on this Bill until after the 2014 General Assembly Session in light of the Governor's public statements that he plans to seek a raise in the minimum wage in 2014?

The current Maryland minimum wage is the same as the Federal minimum wage of $7.25 per hour. Governor O'Malley recently launched an online petition seeking support to raise the minimum wage in Maryland and said that his administration plans to introduce a bill to do that in the next General Assembly session.[23] Governor O'Malley did not reveal the amount of the proposed increase he will be seeking, but the 2014 General Assembly Session is scheduled to begin on January 8, 2014 and end on April 7, 2014. We will know if the legislation to increase the Maryland minimum wage is enacted on or before April 7. Bill 27-13, as introduced, would not take effect until July 1, 2014.[24]

If the General Assembly fails to enact legislation raising the minimum wage,[25] then the Council could act on this Bill without any potential conflicts. If the General Assembly enacts legislation increasing the minimum wage, then the Council could tailor this Bill to be consistent with the new State law. For example, if the State minimum is raised to the level of the proposed County minimum wage, then the Council might want to defer action on the Bill. If the State increase is less than the proposed County minimum wage, then the Council could decide what the County minimum wage should be with that knowledge. As described above, economists disagree on the possible effect of a County-wide minimum wage that is higher than surrounding jurisdictions on unemployment and County businesses. It is impossible to estimate the potential effect without knowing what the spread will be. Establishing a County minimum wage is a significant step that may have significant positive and negative consequences for the County's economy. The largest unknown variable in this matrix is what the State minimum wage will be in 2014. We have the opportunity to wait for this variable to become known before the Bill would take effect. Although the General Assembly session ends on April 7, we may know if the State minimum will be increased and if so, by how much, earlier if the House and Senate enact the Bill sooner.

[23] See the November 7, 2013 Washington Post article at ©45.

[24] A letter from Delegate Tom Hucker to Councilmember Elrich, concerning the potential impact of the enactment of Bill 27-13 on the likelihood of action by the General Assembly in raising the State minimum wage, was distributed to the Committee and is at ©115-116.

[25] A Bill that would have raised the State minimum wage to $10 per hour failed in the 2013 Session.

Although the General Assembly has not preempted the County from enacting a higher County minimum wage, the General Assembly has the authority to enact a public general law that expressly prohibits the counties from enacting a higher minimum wage. Action by the County now may make it more difficult, but not impossible, for the State to preempt the counties in the next session of the General Assembly as they consider the Governor's proposal to raise the State minimum wage.

Bill 27-13, as introduced, would establish a County minimum wage independent of the State minimum. Enactment of the Bill in this form now would leave the spread between the State and County minimum unknown. However, if the Council believes that the minimum should be higher in Montgomery County than the rest of the State due to the higher cost of living in the County, the Council may want to consider amending Bill 27-13 to establish a County minimum wage at a specific dollar amount above the State minimum.[26] An example of this approach would be to set a County minimum wage rate at $1 more than the State minimum.

If the Committee decides to establish a County minimum wage at a specific dollar amount above the State minimum, there is little reason to wait for the State to act because the spread would remain constant. However, if the Committee wants to establish a County minimum wage independent of the State minimum, the Committee may want to defer action on Bill 27-13 until we know what the State minimum wage will be in 2014.

8. Would the County Minimum Wage apply in municipalities?

As with most County laws, the County minimum wage would not automatically be applicable in certain municipalities. Md. Local Gov't Code, §4-111 provides that a municipality can exempt itself from certain types of County laws. See ©49-51. The County Attorney's Office created a chart that lists the Chapters of the County Code from which each municipality has exempted itself.[27] According to the most recent chart, there are 6 municipalities in which the Bill would **not** apply unless they expressly opt in: Barnesville, Chevy Chase Village, Glen Echo, Laytonsville, and Poolesville.[28] The Bill would apply in all of the other municipalities unless they expressly opt out, including Rockville and Gaithersburg. We would note that with the possible exception of Poolesville, there are few large employers located in these municipalities.

The State law does permit the County to enact a law that applies in each municipality under a specific emergency procedure with 6 votes. However, the Council would have to hold a new public hearing after giving each municipality 30 days actual notice, and make a legislative finding that "there will be a significant adverse impact on the public health, safety, or welfare

[26] The Executive's position on Bill 27-13 is that the County minimum wage should be higher than the State and urged the Council to enact a minimum wage bill without waiting to see if the State acts in the next 2014 session. The Executive did not recommend how much higher he would set the County minimum wage. See ©46-48 for the exchange of letters between the Executive and Councilmember Berliner.

[27] The Chart can be found at: http://www.montgomerycountymd.gov/cat/services/index.html

[28] Although the County Attorney's chart indicates that Takoma Park exempted itself from Chapter 27, the Takoma Park City Attorney told Council staff that the City agreed to be bound by Chapter 27 of the County Code and therefore this minimum wage Bill. See ©52-53, 11-19-13 email from Jennifer Young.

affecting residents of the County in unincorporated areas if the law does not apply in all municipalities." This finding by the Council would be subject to judicial review in the Circuit Court. Furthermore, the County Code contains the following provision in §1-203:

> (f) *Emergency override authority.* The County declares that it will not exercise the authority granted to it by the General Assembly under section 2B(b)(3), article 23A, Annotated Code of Maryland 1957, as amended.[29]

Therefore, in order for the Bill to apply in all municipalities, the Council would either need to amend §1-203 of the County Code or add a section to Bill 27-13 expressly voiding this provision for this Bill only to use the emergency override authority granted under State law.

9. What is the status of the bills introduced in Prince George's County and the District of Columbia to adopt a "regional minimum wage?"

Bill 27-13 was introduced on October 1, 2013; on October 9, members of the Montgomery and Prince George's County Councils and the District of Columbia Council held a joint news conference in which they announced a plan to create a "regional minimum wage." See ©54-55. Each Council is considering legislation which would ultimately establish a minimum wage of $11.50 per hour within the respective jurisdiction. Presumably, this regional approach would avoid putting businesses in any of the jurisdictions at a competitive disadvantage against the others. It is one thing to propose legislation in all of the jurisdictions that would result in an $11.50 per hour "regional minimum wage." However, given the different legislative processes and political realities in the three jurisdictions, it may prove challenging to enact such consistent legislation in all three jurisdictions.

In Prince George's County, CB-94-2013 was presented on October 1 and heard in the County's Public Safety and Fiscal Management Committee on October 17. Two relatively minor amendments were made to the Bill in committee, and the revised Bill was introduced on October 22. A public hearing on the Bill was held on November 19, and the County Council deferred action on the Bill until December 3. It should be noted that the Prince George's County Charter provides that "any bill not enacted by the last day of November of each year shall be considered to have failed." In light of this provision, the County Council may reconvene and act on the Bill prior to December 1. If they do not act by then, the Bill would have to be reintroduced as a new bill in 2014.

The District of Columbia Council is considering three separate bills that would increase the minimum wage:

1) B20-438, the "Minimum Wage and Accrued Sick and Safe Leave Amendment Act of 2013," which would raise the city minimum wage to $10.50 per hour over 3 years and does not include a provision for future increases;

2) B20-459, the "Minimum Wage Amendment Act of 2013," which would raise the city minimum wage to $12.50 per hour over 4 years beginning in 2015, provide for annual increases indexed to the Consumer Price Index for All Urban

[29] This code section was recently recodified as Md. Local Gov't Code §4-111.

Consumers (CPI-U) thereafter, and raise the "tipped" minimum wage in the District to 70% of the regular minimum wage; and

3) B20-460, the "Living Wage for All Act of 2013," which would raise the city minimum wage to $10.25 per hour over 2 years, index future increases to the CPI-U thereafter, and increase the standard deduction for taxpayers in the District.

A public hearing on all 3 bills was held on October 28, and there is some expectation of a committee mark-up combining the proposals into a bill implementing the "regional minimum wage" being championed by Council Chair Mendelson. The Washington Post reported yesterday that Councilmember Vincent Orange, Chair of the Committee on Business, Consumer and Regulatory Affairs, expects his Committee to produce a single marked up Bill with the minimum wage rising to $11.50 per hour at a worksession on Monday, November 25. See ©56-57.

The different status of minimum wage legislation pending before our regional partners illustrates the complexity of coordinated legislative action across jurisdictions to implement a consistent policy. Even if there are increases in the minimum wage in Prince George's County and the District of Columbia, it is not certain that they will be consistent with any increase enacted in Montgomery County.

10. What employees would be excluded from the County minimum wage?

The County minimum wage in Bill 27-13 would not apply to an employee who is exempt from the minimum wage requirements of the State or Federal Act.[30] Md. Labor and Employment Code, Sec. 3-403 lists the general exclusions from the State Act, which would also be excluded from the County minimum wage. See Maryland DLLR Wage & Hour Fact Sheet at ©58. There are also certain exemptions from the Federal Act, beyond those in the State Act.

Two notable State law exclusions relate to the age of, and number of hours worked by, the employee. Specifically, Md. Labor & Employment Code Ann. §3-403 excludes an employee who is under the age of 16 years and is employed no more than 20 hours per week, and an employee who is at least 62 years of age and is employed no more than 25 hours per week. Sec. 3-403 also excludes employees of certain small businesses. These employees must employed in a cafe, drive-in, drugstore, restaurant, tavern, or other similar establishment that sells food and drink for consumption on the premises and has an annual gross income of $ 250,000 or less.

Bill 27-13 would exempt employees eligible for the youth minimum wage under the State Act or the Federal Act. The Federal Act permits an employer to pay a worker who is under 20 years old $4.25 per hour for the first 90 days of the worker's employment with that employer. The pay rate must be increased to the minimum wage required for other workers after the earlier of 90 calendar days or the worker's 20th birthday. See the Department of Labor Youth Minimum Wage Factsheet at ©61-62. The State Act includes the same youth minimum wage. This Federal exception is designed to encourage an employer to hire unskilled youths for up to 90 calendar days at a lower wage to give the worker time to learn the job before the full minimum

[30] A list of exclusions from the State Act is at ©117-118. A list of exclusions from the Federal Act is at ©119.

wage is applied. The County minimum wage would apply on the earlier of the worker's 91st day of employment or the worker's 20th birthday.

The Federal Act exemption most likely to be implicated is the exclusion of employees of certain seasonal and recreational establishments from the Federal minimum wage requirements. See ©59-60. While employees of these establishments would not be subject to the County minimum wage, they would be subject to the State minimum wage, as there is no corresponding State Act exemption.

11. How would a County minimum wage affect a worker's eligibility for social services programs?

Each social services program has its own maximum income eligibility levels. If a low-wage worker receives a higher wage due to a new County minimum wage, that person's eligibility for such programs may change. Although there are too many variables to predict how many County residents would lose eligibility due to a higher County minimum wage, we can make some general observations. The County Department of Health and Human Services (HHS) produced a spreadsheet showing the maximum income levels for the different social services programs at ©70-72.

For example, if a worker earns the current minimum wage of $7.25 per hour for 2000 hours in a year (roughly full-time work), the worker would have an annual gross income of $14,500. If the worker receives a raise to $8.25 per hour, the annual gross income climbs to $16,500. A raise to $11.50 per hour brings the annual gross income up to $23,000. Since the maximum income for Medicaid eligibility for an individual is $15,856, a raise to $8.25 makes the worker ineligible. However, if the worker has 1 child, the worker would remain eligible for Medicaid at $8.25 per hour, but still would lose eligibility at $11.50 per hour. In contrast, the maximum income to be eligible for the Montgomery Cares Program is $28,725 for an individual. The same worker would remain eligible for Montgomery Cares even if paid $11.50 per hour. The other variables include number of hours worked and other family income.

It is logical to conclude that a significantly higher County minimum wage would reduce the number of residents eligible for different social services programs. However, Council staff did not find any studies that could be used to predict the effect of a County minimum wage on the number of residents eligible for these programs.

Academic labor economists do not agree on whether an increase in the minimum wage would reduce poverty. Neumark and Wascher argue that the movement into poverty by households negatively affected by increases in the minimum wage (for example, by lost employment or by reduced hours) more than offsets movement out of poverty by households positively affected by increases in the minimum wage. In their view, increasing the minimum wage redistributes wages among poor households rather than redistributing wages from wealthier to poorer households. Other studies, for example Hirsch, Kaufman, and Zalenska have reached the opposite conclusion. In their study of the impact of the 2007-2009 increases in the Federal minimum wage on restaurants in Georgia and Alabama, they found no statistically significant impact on employment or hours and concluded, on the basis of interviews with restaurant managers, that reductions in employment and/or hours can be costly or counter-productive, and are typically choices of last resort.

12. What are the reasonable alternative methods to determine the amount of the County minimum wage?

Bill 27-13 would establish a minimum dollar amount that must be paid to an employee working in the County independent of the State or Federal Acts. At the end of the 3-year phase-in period, the County minimum wage would be $12.00 per hour (or $11.50 per hour if Councilmember Elrich's amendment is approved). The County minimum wage would then be indexed to any increases in the CPI-U. However, an alternative would be to amend the Bill to require employers in the County to pay workers at least the greater of the State or Federal minimum plus an additional dollar amount.

For example, if the Bill was amended to set the County minimum at the State or Federal minimum plus $1, the current minimum would be $8.25 per hour. If the General Assembly raises the minimum in its 2014 session as the Governor proposes, the County minimum wage would then be $1 above the new State minimum. Under this alternative, the spread between the County minimum wage and the rest of the State would remain constant and be known. It would also guarantee that the County minimum wage would be higher than the State minimum to compensate for the higher cost of living in the County. The disadvantage of this alternative is that the Council would have less control over the actual amount of the County minimum wage. A chart showing the different minimum wages in each State is at ©73-76.

Issues for Decision

1. Should a County minimum wage exclude tipped employees?

Bill 27-13 excludes tipped employees.[31] This is an area where the State and Federal laws differ slightly. Md. Labor and Employment Code Ann, §3-419 defines a tipped employee as an employee who:

> *(i) is engaged in an occupation in which the employee customarily and regularly receives more than $30 each month in tips;*
> *(ii) has been informed by the employer about the provisions of this section; and*
> *(iii) has kept all of the tips that the employee received.*
>
> *(2) Notwithstanding paragraph (1)(iii) of this subsection, this section does not prohibit the pooling of tips.*

The State law requires an employer to pay a tipped employee 50% of the minimum wage, or $3.63 per hour. If the employee does not receive enough tips to make up the difference, the employer must pay the employee the difference. The Federal law works similarly, but the base pay for a tipped employee is only $2.13 per hour.

Enforcement of the minimum wage for a tipped employee is more complicated because an investigator would have to determine how much the employee actually received in tips to

[31] A fact sheet prepared by the National Restaurant Association explaining how tipped employees' wages are calculated is at ©120-122.

determine if the employer did not meet its obligation to make up the difference. Although several speakers at the public hearing asked the Council to include tipped employees in the law, we do not have any statistics on the number of tipped employees in the County who are currently earning close to $7.25 per hour with tips. Establishing a County minimum wage is a significant step without including tipped employees. If the Committee wants to include tipped employees in the Bill, the Committee would need to decide whether an employee should remain at a base of 50% of the State minimum with an employer obligation to make up the difference up to the County minimum or raise both the base and the ultimate minimum for base plus tips.

Committee recommendation (3-0): apply the County minimum wage to tipped employees by requiring an employer to pay a base equal to 50% of the County minimum wage with an obligation to make up any shortfall in tips up to the County minimum wage. See lines 121 and 131-150 at ©6-7.

2. Should the County minimum wage provide a credit for the cost of health insurance provided to employees?

Bill 27-13 provides an employer with a credit for the per-employee hourly cost of the employer's share of the health insurance premium for any employer-provided health insurance. The purpose of this provision is to discourage an employer who is currently providing health insurance from dropping it in order to pay a higher minimum wage. However, the Federal Patient Protection and Affordable Care Act is changing this equation. By 2015, any employer with more than 50 employees will have to provide affordable health insurance to all of its full-time employees. Beginning in 2014, Maryland residents will be able to purchase health insurance without exclusions for pre-existing conditions in the new Maryland health care exchange.

Low-wage workers are eligible for tax subsidies to reduce the cost of health insurance on the exchange. Therefore, a credit for health insurance provided by Federal mandate will reduce the County minimum wage that must be paid by an employer with more than 50 employees. A minimum wage worker who is employed in a small company with less than 50 employees and who can purchase subsidized insurance on the Maryland Health Care Exchange might be better off earning the full County minimum wage than having it reduced by the employer's cost of providing health insurance.

For example, an individual earning $8.25 per hour who works 2000 hours in a year has an annual income of $16,500. Using the current online calculator for the Kaiser Family Foundation, this individual would be eligible for a subsidy of $1402 of the total $2000 annual premium, leaving an annual health care premium of $598 or 3.63% of income.[32] Therefore, this hypothetical employee would have more disposable income purchasing insurance on the exchange rather than having the minimum wage reduced by the employer's cost of the insurance.

[32] The Kaiser calculator can be found at: http://kff.org/interactive/subsidy-calculator

Committee recommendation (3-0): delete the credit for employer provided health care. See lines 85-88 at ©5, lines 101-102 at ©5, and lines 112-116 at ©6.

3. Should the County minimum wage apply to teenagers?

Testimony was offered at the public hearing expressing concern that raising the minimum wage would lead to an increase in teen unemployment. As discussed above, there is evidence both supporting and refuting the proposition that an increase in the minimum wage will result in an increase in teen unemployment. Also, as has been noted, there are existing State law provisions which would limit the applicability of the County minimum wage by age and tenure. The State Act does not apply to an individual who is under the age of 16 years and is employed no more than 20 hours in a week.[33] Also, as discussed above, both the State and Federal Acts provide for the payment of the opportunity wage, or youth minimum wage, to workers under 20 years old for their first 90 days of employment with a particular employer.

Smokey Glen Farm, one of the largest single-unit youth employers in the County, recently submitted an email indicating that the increased minimum wage would pose a particular hardship due to its large youth workforce. According to the email, prices would rise by 5% to 8% to cover the additional expense associated with the wage increase, and that this would prevent the business from being competitive with other facilities in the region that are not subject to the higher minimum wage. A copy of the email from Smokey Glen Farm is at ©110-112.

In Prince George's County, CB-94-2013 was amended to exempt from the County's minimum wage an employee who is "under the age of 18 years and is employed no more than twenty (20) hours in a week." The Committee may wish to consider whether to go beyond the existing State law exclusions in order to limit any negative impact on teen employment as a result of an increase in the minimum wage. Exempting part-time workers aged 18 (or 21) years of age and younger from a County minimum wage requirement may prevent a possible increase in teen unemployment, and may lessen the impact of the increase on businesses that rely largely on part-time, teenage employees. However, it may also have the effect of incentivizing employers to increase reliance on teen labor as a means of paying lower wages at the expense of workers who are relying on minimum wage jobs as their primary source of income.

Committee recommendation (3-0): exempt a worker who is under 19 and who works 20 hours per week or less. See lines 121-122 at ©6.

4. How should the County minimum wage be enforced?

Bill 27-13 would authorize a person to file a County minimum wage complaint with the Office of Human Rights. The complaint would be handled in the same manner as a complaint alleging a violation of the County employment discrimination laws. The Director has authority to issue subpoenas and investigate the complaint. If the Director finds reasonable cause to

[33] Section 3-403 of the Labor and Employment Article of the Maryland Code contains a list of "general exclusions" from the State Wage and Hour law, including an individual under age 16 who is employed no more than 20 hours in a week. Bill 27-13 specifically exempts an employee who is exempt from the minimum wage requirements of the State or Federal Act.

believe a violation occurred, the Director must try to settle the case. If unable to settle the case, the Director must certify the complaint to the Human Rights Commission, which must appoint a case review board to consider and decide the complaint. If the Director does not find reasonable cause to believe a violation has occurred, the complainant may appeal the Director's decision to the Commission. An adjudicatory hearing may be conducted by the Commission case review board or a hearing examiner.

The Commission has the authority to award compensatory damages to the complainant, including reasonable attorney's fees. The Commission also has the authority to order the defendant employer to pay a civil fine to the County of up to $500 for each violation. The Commission's final decision is subject to judicial review on the record by the Circuit Court.

The State minimum wage law is enforced by the Wage and Hour Division of the Maryland Department of Labor, Licensing, and Regulation (DLLR). Council staff spoke with the Assistant Attorney General responsible for advising and representing DLLR about enforcement. The State has reduced its enforcement staff from a high of 40 employment standards investigators to a current complement of 5 investigators covering the entire State. Each investigator is responsible for complaints alleging a violation of the minimum wage law, the overtime law, and the unpaid wages law. Unpaid wages make up most of the complaints. The State has been able to reduce its staff, in part, because the State minimum wage and overtime provisions are virtually identical to the Federal Fair Labor Standards Act. DLLR investigators often refer complainants to the US Department of Labor. For comparison, the OMB Fiscal Impact Statement estimates that the Office of Human Rights would need to hire 3 additional investigators to handle enforcement of the County minimum wage at an annual cost of $346,980. See ©14. News reports indicate that the City of San Francisco has adopted a $3 million budget for enforcement of their city minimum wage. See ©64.

Although we do not have a formal opinion, the Assistant Attorney General believes that the State law would have to be amended to authorize DLLR to enforce a County minimum wage that was higher than the State minimum. Therefore, if the Committee believes State enforcement would be preferable, the County should seek State legislation authorizing it. Absent State legislation, Bill 27-13 could be amended to authorize the Executive to enter into an agreement with DLLR to enforce the County minimum wage.

Committee recommendation (2-0, Council President Navarro abstained): require the Executive to delegate enforcement to a State agency that enforces the State Wage and Hour Law and is authorized to enforce a County minimum wage law. See lines 155-158 at ©7.

Bill 27-13 does not contain an express prohibition on retaliation against a person for filing or assisting on a complaint alleging a minimum wage violation. This is a standard provision in most anti-discrimination laws, and Council staff believes it should be added to Bill 27-13.

Committee recommendation (3-0): add the following new language at lines 124-130 of the Bill at ©6:

(e) *Retaliation prohibited.* A person must not:

(1) retaliate against any person for:

(A) lawfully opposing any violation of this Article; or

(B) filing a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under this Article; or

(2) obstruct or prevent enforcement or compliance with this Article.

5. Should the effective date of the Bill be changed to October 1, 2014 to be consistent with the probable effective date for any increase in the State minimum wage?

The Committee discussed changing the effective date to October 1, 2014 to allow for the possibility that the State would enact a law permitting the State DLLR to enforce a County minimum wage law that was higher than the State minimum.

Committee recommendation (2-1, Council President Navarro opposed): change the effective date of the Bill to October 1, 2014 and move each corresponding transition date to October 1. See lines 163, 166, 169, and 173 at ©7a.

6. Should the County Minimum Wage be indexed to the CPI-U?

Bill 27-13 provides that, beginning in 2017, the County minimum wage is to be adjusted annually by the annual percentage increase, if any, in the CPI-U.[34] Providing for an annual adjustment to the minimum wage would largely depoliticize the regular increases, and would ensure a measure of predictability to employers. However, annual increases in the minimum wage could result in wage compression being a yearly problem for employers, as employers would be required to increase wages for workers making the minimum wage without regard to whether the business could provide corresponding raises up the wage scale. In addition, if the County indexes its minimum wage to inflation and the State does not, the spread between the County minimum wage and the State minimum may become very large. At the HHS worksession, both economists, Dr. Hellerstein, and Dr. Holzer, favored indexing to the CPI-U, but **only** if the County minimum wage was lower than the wage rate contained in Bill 27-13.

Indexing to inflation does not, however, result in higher wages each indexed year. Since 1990, the real value of the minimum wage has been as low as $6.61 (in 2007) and as high as $7.90 (in 2009). See ©77-79, Congressional Research Service, 2013 *"Inflation and the Real Minimum Wage: A Fact Sheet."* Similarly, indexing the minimum wage to inflation does not mean that hourly wages at the minimum wage will keep up with total economic productivity, the earnings of the top earners, or the average or median wages of all non-supervisory employees.[35]

[34] In 2014, eleven states will index the minimum wage. See ©73-76

[35] For example, the Economic Policy Institute compared the change in the minimum wage since 1968 (the year in which the real value of the minimum wage was the highest in the history of the minimum wage) to changes in other economic indicators— if the minimum wage had increased at the same rate as economic productivity it would be $18.72; if the minimum wage had increased at the same rate as the wages of the top 1% of earners it would be $28.34; if the minimum wage had increased at the same rate as real average wages since 1968 the minimum wage would be $10.46.

For a thorough explanation of the issue, please see attached statement by Arindrajit Dube, Ph.D. to the U.S. Senate Committee on Health, Education, Labor and Pensions for a hearing on indexing the minimum wage. See ©80-100.

Committee recommendation (2-0, Councilmember Navarro abstained): amend the Bill to provide the same index to inflation used by the State, if any, beginning on October 1, 2017. See lines 68-71 at ©4 and 103-111 at ©5-6.

7. Should a County minimum wage apply to County employees?

Bill 27-13 does not apply to Federal, State, County, or municipal employees. The County does not have authority to prescribe a minimum wage for Federal, State, or municipal employees. The County may apply the County minimum wage to County employees. The County's Wage Requirements Law requires a County contractor providing certain services to the County to pay its employees working on the County contract a living wage, currently $13.95 per hour. According to Human Resources, no County merit system employee is paid less than the $13.95 living wage. However, there are 2,227 temporary (seasonal, substitute, or intermittent) employees earning less than the County living wage, located in the following departments:

Recreation	2030
Libraries	119
HHS	23
Liquor Control	33
DOCR	5
CEC	10
County Attorney	5
Elections	2

We understand that some of these temporary employees earn less than the proposed County minimum wage of $11.50 per hour. A County minimum wage imposed upon private employers in the County should also apply to temporary employees hired by the County.

Committee recommendation (3-0): amend the Bill to include County employees. See lines 81-82 at ©5.

8. Would the Bill apply to workers who work in the County for an employer located outside of the County or who work outside the County for an employer located in the County?

The County Attorney explained in the Bill review memorandum that the law must apply only to work performed in the County by an employer who is located in the County in order to be an authorized local law. See ©9. The dual requirement that the employer be located in the County and the work be performed in the County would apply to any municipality that has exempted itself from this law as well as other counties inside and outside of Maryland. Council staff agrees with this analysis.

Committee recommendation (3-0): clarify this issue by amending lines 93-95 of the Bill at ©5 as follows:

(a) *County minimum wage.* Except as provided in Subsection (d), an employer must pay wages to each employee [[working]] for work performed in the County at least the greater of:

9. What are the proposed amendments?

Council President Navarro moved an amendment that Councilmember Elrich intended to introduce at the full Council to reduce the minimum wage in 2016 from $12.00 per hour to $11.50 per hour to be consistent with the anticipated regional minimum wage that may be adopted by Prince George's County and the District of Columbia. See ©101.

Committee recommendation (2-0, Council Vice President Rice abstained): amend the Bill to reduce the minimum wage, effective October 1, 2016, from $12.00 per hour to $11.50 per hour. See lines 100 and 170-171 at ©5, 7a.[36]

Councilmember Riemer intends to introduce an amendment that would set the County minimum wage in 2016 at the greater of $10.75 or $1 over the State minimum and remove the index to the CPI-U. Councilmember Riemer's amendment would make similar changes to the County minimum wage during the phase-in period. See ©102-106. Councilmember Riemer's memo describing the reasons for his amendment is at ©107. The Committee did not consider this amendment.

[36] Councilmember Leventhal stated that he was voting for this amendment at Committee, but that he may re-evaluate this decision when the Bill was up for action.

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Bill No. 27-13
Concerning: Human Rights and Civil Liberties – County Minimum Wage – Dollar Amount
Revised: November 21, 2013 Draft No. 6
Introduced: October 1, 2013
Expires: April 1, 2015
Enacted: ____________
Executive: ____________
Effective: July 1, 2014
Sunset Date: None
Ch. _____, Laws of Mont. Co. ________

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Elrich, Ervin and Council President Navarro

AN ACT to:
(1) require certain employers in the County to pay a minimum wage to certain employees working in the County;
(2) [[provide a credit for certain employers who provide health insurance to employees working in the County;
(3)]] provide enforcement by the Office of Human Rights and the Human Rights Commission or the appropriate State agency;
[[(4)]] (3) authorize the Human Rights Commission to award certain relief; and
[[(5)]] (4) generally regulate the minimum wage paid to an employee working in the County for certain employers.

By amending
Montgomery County Code
Chapter 27, Human Rights and Civil Liberties
Sections 27-7 and 27-8

By adding
Montgomery County Code
Chapter 27, Human Rights and Civil Liberties
Article XI, Minimum Wage

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets]	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets]]	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 27-7 and 27-8 are amended and Chapter 27, Article XI is added as follows:

27-7. Administration and enforcement.

(a) *Filing complaints*. Any person subjected to a discriminatory act or practice in violation of this Article, or any group or person seeking to enforce this Article or [Article] <u>Articles</u> X <u>or</u> <u>XI</u>, may file with the Director a written complaint, sworn to or affirmed under the penalties of perjury, that must state:

(1) the particulars of the alleged violation;

(2) the name and address of the person alleged to have committed the violation; and

(3) any other information required by law or regulation.

* * *

(f) *Initial determination, dismissal before hearing.*

(1) The Director must determine, based on the investigation, whether reasonable grounds exist to believe that a violation of this Article or [Article] <u>Articles</u> X <u>or</u> <u>XI</u> occurred and promptly send the determination to the complainant and the respondent.

(2) If the Director determines that there are no reasonable grounds to believe a violation occurred, and the complainant appeals the determination to the Commission within 30 days after the Director sends the determination to the complainant, the Director promptly must certify the complaint to the Commission. The Commission must appoint a case review board to consider the appeal. The board may hear oral argument and must:

(A) dismiss the complaint without a hearing;

(B) order the Director to investigate further; or

(C) set the matter for a hearing by a hearing examiner or the board itself, and consider and decide the complaint in the same manner as if the Director had found reasonable grounds to believe that a violation of this Article or [Article] Articles X or XI occurred.

(3) If the Director determines that there are reasonable grounds to believe a violation occurred, the Director must attempt to conciliate the matter under subsection (g).

* * *

27-8. Penalties and relief.

(a) *Damages and other relief for complainant.* After finding a violation of this Article or [Article] Articles X or XI, the case review board may order the payment of damages (other than punitive damages) and any other relief that the law and the facts warrant, such as:

* * *

(2) equitable relief to prevent the discrimination or the violation of [Article] Articles X or XI and otherwise effectuate the purposes of this Chapter;

* * *

(4) any other relief that furthers the purposes of this Article or [Article] Articles X or XI or is necessary to eliminate the effects of any discrimination prohibited under this Article.

* * *

ARTICLE XI. County Minimum Wage.

27-67. Findings and Definitions.

(a) *Findings.*

(1) Many persons employed in the County are paid wages which are insufficient to sustain minimum standards of living in the County.

(2) Minimum standards of living in the County are higher than the minimum standards of living in many other areas of the State.

(3) Minimum wage standards in the County are necessary to:

(A) promote the health and welfare of County residents;

(B) safeguard employers and employees against unfair competition;

(C) increase the stability of industry in the County;

(D) increase the buying power of employees in the County; and

(E) decrease the need for the County to spend public money for the relief of employees who also live in the County.

(b) *Definitions*. As used in this Article:

[[*Consumer Price Index* means the Consumer Price Index for All Urban Consumers: All items in Washington-Baltimore, DC-MD-VA-WV (CMSA), as published by the United States Department of Labor, Bureau of Labor Statistics, or a successor index.]]

Director means the Executive Director of the Office of Human Rights and includes the Executive Director's designee.

Employ means to engage a person to work for compensation.

Employee means any person permitted or instructed to work or be present by an employer in the County and who is an employee subject to the minimum wage requirements of the Federal Act or the State Act.

Employer means any person, individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that employs 2 or more persons in the County. Employer includes the County government, but does not include the United States, any State, or any other local government.

Federal Act means the federal Fair Labor Standards Act of 1938, as amended.

[[*Health insurance* means insurance coverage that is part of an employer benefit package that pays for medical expenses incurred by an employee and an employee's family either by reimbursing the employee or by paying the care provider directly.]]

State Act means the Maryland Wage and Hour Law, as amended.

Wage means all compensation that is due to an employee for employment.

27-68. Minimum Wage Required.

(a) *County minimum wage.* Except as provided in Subsection [[(d)]] (c), an employer must pay wages to each employee [[working]] for work performed in the County at least the greater of:

(1) the minimum wage required for that employee under the Federal Act;

(2) the minimum wage required for that employee under the State Act; or

(3) [[the County minimum wage of $12]] $11.50 per hour, as adjusted under Subsection (b)[[, less any health insurance credit under Subsection (c)]].

(b) *Annual adjustment.* The Chief Administrative Officer must adjust the minimum wage rate required under Subsection (a)(3), effective [[July]] October 1, 2017, and [[July]] October 1 of each subsequent year, by the [[annual average increase, if any, in the Consumer Price Index for the previous calendar year]] same measure, if any, used to adjust the minimum wage under the State Act. The Chief Administrative Officer must calculate the adjustment to the nearest multiple of 5 cents, and must publish the amount of this adjustment not later than [[March]] June 1 of each year.

(c) [[*Health insurance credit.* An employer who provides health insurance to any employee who works in the County may reduce the County minimum wage payable under paragraph (a)(3) to any employee who is eligible to receive health insurance by all or part of the per-employee hourly cost of the employer's share of the premium for that insurance.

(d)]] *Exclusions.* The County minimum wage does not apply to an employee who:

(1) is exempt from the minimum wage requirements of the State or Federal Act;

(2) [[is a tipped employee under the State Act]] is under the age of 19 years and is employed no more than 20 hours per week; or

(3) is subject to an opportunity wage under the State or Federal Act.

(d) *Retaliation prohibited.* A person must not:

(1) retaliate against any person for:

(A) lawfully opposing any violation of this Article; or

(B) filing a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under this Article; or

(2) obstruct or prevent enforcement or compliance with this Article.

27-69. Tipped Employees.

(a) *Definition.* As used in this Section, *tipped employee* means:

(1) an employee who:

(A) is engaged in an occupation in which the employee customarily and regularly receives more than $30 each month in tips;

(B) has been informed by the employer about the provisions of this Section; and

(C) has kept all of the tips that the employee received.

(2) Notwithstanding paragraph (1)(C), this Section does not prohibit the pooling of tips.

(b) *Computation of wage.* Except as provided in subsection (c), an employer may include, as part of the wage of a tipped employee:

(1) an amount that the employer sets to represent the tips of the employee; or

(2) if the employee or representative of the employee satisfies the Director that the employee received a lesser amount in tips, the lesser amount.

(c) *Limit.* The tip credit amount that the employer may include under subsection (b) must not exceed 50% of the County minimum wage.

27-70 Enforcement.

(a) A covered employee who was paid a wage rate less than the County minimum wage in violation of this Article may file a complaint with the Director under Section 27-7.

(b) The County Executive must delegate the authority to enforce this Article to a State agency that:

(1) enforces the State Act; and

(2) is legally authorized to enforce the County minimum wage.

Sec. 2. Transition.

Notwithstanding Section [[27-68(a)(3)]] 27-68, as added in Section 1, the County minimum wage must be the greater of the minimum wage required under the Federal or State Act or:

(a) effective [[July]] October 1, 2014, \$7.25 per hour for an employee during the employee's first 90 days of employment and \$8.25 per hour beginning on the employee's 91st day of employment;

(b) effective [[July]] October 1, 2015, \$8.25 per hour for an employee during the employee's first 90 days of employment and \$9.75 per hour beginning on the employee's 91st day of employment; and

(c) effective [[July]] October 1, 2016, \$9.75 per hour for an employee during the employee's first 90 days of employment and [[\$12.00]] \$11.50 per hour beginning on the employee's 91st day of employment.

Sec. 3. Effective Date.

This Act takes effect on [[July]] October 1, 2014.

Approved:

Nancy Navarro, President, County Council | Date

Approved:

Isiah Leggett, County Executive | Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council | Date

LEGISLATIVE REQUEST REPORT

Bill 27-13

Human Rights and Civil Liberties – County Minimum Wage – Dollar Amount

DESCRIPTION:	The Bill would establish a County minimum wage that must be paid to certain employees working in the County for a private sector employer. The Bill would also encourage an employer to provide health insurance to its employees by providing a credit against the County minimum wage based upon the cost per employee for the insurance. If the State or federal minimum wage is greater than the County minimum wage, an employer would still need to satisfy the State or federal law.
PROBLEM:	The State and federal minimum wage of $7.25/hour is insufficient to support a full-time worker in the County.
GOALS AND OBJECTIVES:	To maintain a reasonable living wage for workers in the County when the State and federal minimum wage is insufficient.
COORDINATION:	Human Rights Commission
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Robert H. Drummer, Senior Legislative Attorney, 240-777-7895
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	Class A civil citation and equitable relief.

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BILL 27-13

NAN
cc
SBF
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BD
JH

Isiah Leggett
County Executive

Marc P. Hansen
County Attorney

OFFICE OF THE COUNTY ATTORNEY

MEMORANDUM

TO: James Stowe, Director
Office of Human Rights

FROM: Erin J. Ashbarry
Associate County Attorney

VIA: Marc P. Hansen, County Attorney

DATE: October 11, 2013

RE: Bill 27-13, Human Rights and Civil Liberties – County Minimum Wage – Dollar Amount

RECEIVED

2:05

Bill 27-13 amends the County's Human Rights law to set a minimum wage paid to by employers to employees for work in the County, and provides for enforcement by the Office of Human Rights and the Human Rights Commission.

In our view, this law would withstand legal challenge. This law would survive a challenge on the issue of preemption by Federal or State minimum wage laws: the Federal minimum wage law expressly preserves local laws that may set higher rates, and the Court of Appeals found State law did not preempt a local minimum wage law in *Mayor of Baltimore v. Sitnick*, 254 Md. 303, 255 A.2d 376 (1969). The County needs to ensure, however, that its law is clearly crafted to be a local law, applying only to work performed in the County for employers in the County.

Both the Federal and State government have minimum wage laws. The Federal minimum wage rate of $7.25 is set forth in the Fair Labor Standards Act ("FLSA").[1] This is also the minimum wage rate in effect under the State of Maryland's Wage and Hour Law.[2] Notably, bills failed in the Maryland General Assembly's 2013 session that would have raised the State's

[1] *See* 29 U.S.C. § 206(a)(1) (2012). The $7.25 minimum wage rate has been in effect since July 2009. *See id.*

[2] *See generally*, Md. Code Ann., Labor & Empl. §§ 3-401 – 431 (2008 Repl. Vol.); *see id.* § 413(b)(1) (setting a minimum wage at the greater of $6.15 or the minimum wage under the FLSA).

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minimum wage.[3]

The County's proposed law, which sets a minimum wage rate of $12.00 per hour with increases phased in thereafter, would not be subject to federal preemption because the FLSA expressly contemplates that State and local jurisdictions may enact higher wage rates.[4]

The question of whether the State's minimum wage law preempts a local minimum wage law was resolved by the Court of Appeals in *Mayor of Baltimore v. Sitnick*, 254 Md. 303, 255 A.2d 376 (1969). The Court found that Maryland's minimum wage rate did not preempt Baltimore's minimum wage law, as Baltimore's law supplemented the State law by setting a higher rate. *See Sitnick*, 254 Md. at 317. Baltimore's minimum wage law is still in effect and enforced.[5]

Since the *Sitnick* decision, the Court of Appeals reviewed the issue of implied preemption[6] by State law on many occasions and developed a detailed analysis. In reviewing this issue today, the Court would look to "the primary indicia of a legislative purpose to pre-empt an entire field of law," by reviewing "the comprehensiveness with which the General Assembly has legislated the field."[7] Secondarily, the Court would examine:

1) Whether local laws existed prior to enactment of the state laws governing the same subject matter;
2) Whether the state laws provide for pervasive administrative regulation;
3) Whether the local ordinance regulates an area in which some local control has traditionally been allowed;

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[3] *See* S.B. 683, H.B. 1204, "Labor and Employment - Maryland Wage and Hour Law - Payment of Wages" Gen. Assem., Reg. Sess. (Md. 2013). The Senate Bill received an unfavorable vote before the Senate Finance Committee on March 20, 2013.

[4] *See* 29 U.S.C. § 218(a) (2012) ("No provision of this Act or of any order thereunder shall excuse noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this Act…").

[5] *See generally* Baltimore, Md., Code §§ 1-1 – 6-3 (2010); *id.* § 3-1 (setting minimum wage for "every employer operating and doing business in Baltimore City" at a rate "not less than the minimum wage required by the Fair Labor Standards Act"); *id.* §§2-1 – 2-6 (establishing Wage Commission to receive and investigate wage law violations); *id.* §§ 4.1 – 4.11 (establishing enforcement protocols for the minimum wage law).

[6] State law may preempt local law in one of three ways: preemption by conflict, express preemption, or implied preemption. *See Altadis U.S.A., Inc. v. Prince George's County*, 431 Md. 307, 311, 65 A.3d 118, 120 (2013). As the Court in *Sitnick* found a local minimum wage law that set a higher rate did not create a conflict with State law, and there is no express statement in the State's Wage and Hour Law that indicates it supersedes all local laws, a reviewing court would likely proceed using the Court of Appeals' implied preemption analysis.

[7] *See Allied Vending, Inc. v. Bowie*, 332 Md. 279, 299, 631 A2d 77 (1993) (citations omitted).

4) Whether the state law expressly provides concurrent legislative authority to local jurisdictions or requires compliance with local ordinances;
5) Whether a state agency responsible for administering and enforcing state law has recognized local authority to act in the field;
6) Whether the particular aspect of the field sought to be regulated by the local government has been addressed by the state legislation; and
7) Whether a two-tiered regulatory process existing if local laws are not pre-empted would engender chaos and confusion.[8]

Under these factors, the County's minimum wage law is valid and not preempted by the State's Wage and Hour Law. Baltimore's minimum wage law has been in effect since 1966 and enforced concurrently with the State's minimum wage law. Additionally, the State agency that oversees enforcement of the Wage and Hour Law expressly recognizes local authority to act in the field in its publications, which identify Baltimore as jurisdiction in which an individual may pursue a violation of minimum wage laws.[9] Under the analysis developed by the Court of Appeals after *Sitnick*, the ongoing existence for four decades of minimum wage laws and enforcement schemes at both the State and local level weighs in favor of finding that the State did not preempt the field of minimum wage regulation.[10]

To avoid any claim that the minimum wage law is not a local law designed to regulate only within the County, the County should be clear in the law, its legislative history, and its enforcement that the law only applies to employers in the County and for work performed in the County.[11]

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[8] *See Allied Vending, Inc. v. Bowie*, 332 Md. 279, 299-300, 631 A.2d 77 (1993) (citations omitted).

[9] *See The Maryland Guide to Wage Payment and Employment Standards*, published by the Employment Standards Service of the Maryland Division of Labor and Industry, Department of Labor, Licensing and Regulation, *available at* http://www.dllr.state.md.us/labor/wagepay/wpremedies.shtml#jurisdiction (identifying Baltimore as a potential jurisdiction in which a claimant may file a claim).

[10] The Court of Appeals in *Sitnick* also noted that "[t]here is a presumption of statutory construction that the Legislature acts with the knowledge of existing laws on the subject matter under construction." *See Sitnick*, 254 Md. at 322, 255 A.2d at 385. The Court found that General Assembly's silence on Baltimore's 1966 minimum wage law in its 1967 and 1968 sessions undermined any argument that the State intended to preempt the field of minimum wage regulation. *See id.* at 308, 322, 255 A.3d at 378, 385. Four decades' worth of General Assembly sessions without a repeal of Baltimore's minimum wage law only adds more weight to the view that the State did not intend to preempt local minimum wage laws.

[11] *See, e.g., Holiday Universal, Inc. v. Montgomery County*, 377 Md. 305, 833 A.2d 518 (2003) (holding County law was invalid under Maryland Constitution because of its substantial territorial affect outside the County and was not a local law). Baltimore's minimum wage law is clearly restricted to employees and employers in Baltimore City. *See* Baltimore, Md. Code §§ 1-1 (2010) (defining employer as certain entities or individuals employing 2 or more persons "in the City of Baltimore"); *id.* § 3.1 (requiring payment of minimum wage by "every employer operating and doing business *in Baltimore City*" to "each employee *in the City*" (emphasis added)).

If you have any concerns or questions concerning this memorandum please call me.

Enclosure (bill)

cc: Kathleen Boucher, Assistant CAO
Robert H. Drummer, Senior Legislative Attorney

ROCKVILLE, MARYLAND

MEMORANDUM

October 21, 2013

TO: Nancy Navarro, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget
Joseph F. Beach, Director, Department of Finance

SUBJECT: Bill 27-13, Human Rights and Civil Liberties – County Minimum Wage – Dollar Amount

Please find attached the fiscal and economic impact statements for the above-referenced legislation.

JAH:ha

c: Fariba Kassiri, Assistant Chief Administrative Officer
Kathleen Boucher, Assistant Chief Administrative Officer
Lisa Austin, Offices of the County Executive
Joy Nurmi, Special Assistant to the County Executive
Patrick Lacefield, Director, Public Information Office
Joseph F. Beach, Director, Department of Finance
Michael Coveyou, Department of Finance
Robert Hagedoorn, Department of Finance
David Platt, Department of Finance
James Stowe, Human Rights Commission
Pam Jones, Department of General Services
Philip Weeda, Office of Management and Budget
Henri Apollon, Office of Management and Budget

Fiscal Impact Statement
Bill 27-13, Human Rights and Civil Liberties – County Minimum Wage – Dollar Amount

1. Legislative Summary.

   Bill 27-13 would establish a minimum wage in the County for private sector employees working in the County unless the State or federal minimum wage is greater than the County's minimum wage. The County's minimum wage would be phased in over several years. The minimum wage would start at $8.25 per hour beginning on July 1, 2014, increase to $9.75 per hour beginning on July 1, 2015, and increase to $12.00 per hour beginning on July 1, 2016. Beginning on July 1, 2017, the $12.00 rate would be raised by any increase in the Consumer Price Index on an annual basis. The bill provides a credit to employers who provide health insurance to employees in the County. The bill authorizes the Director of the Office of Human Rights to enforce its provisions and the Human Rights Commission to award relief for any violations.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

   A person may file a complaint with the Director of the Office of Human Rights for a violation of the wage requirements in this bill. According to the Office of Human Rights, a similar program in the city of Baltimore's Office of Civil Rights and Wage Enforcement has three investigators enforcing its living wage law and investigates between 175 and 250 complaints each year. It is unknown how many complaints would be filed in Montgomery County each year so the effect on the Office of Human Rights' caseload cannot be determined at this time. The Office would need to monitor its workload for a period of time to assess the legislation's actual impact. Assuming the city of Baltimore's experience, however, the County's cost could be $346,980 annually for three investigators and an office services coordinator.[1]

   The Office of Human Rights would be authorized to assess civil penalties of $500 each for violations of the minimum wage requirement. It is unknown how many complaints would result in civil penalties, but assuming 175 to 250 complaints annually, fine revenue could be up to $87,500 to $125,000 per year. This is an upper limit estimate since it is possible that not all complaints would result in the assessment of a penalty.

   The bill would not affect the County's contracts subject to the living wage or prevailing wage requirements since they are both above the minimum wage requirement in this bill.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

   Assuming the complaint rate noted above, expenditures over six years could be $2,081,880 and revenues could be between $525,000 and $750,000.

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[1] Two grade 23 Investigator II positions, one grade 25 Investigator III, and one grade 16 Office Services Coordinator, all at mid-point. The cost estimate includes group insurance, retirement, and payroll taxes. According to the Office of Human Rights, the skill set needed to investigate and enforce the minimum wage requirement is different than the Office's existing complement of investigators, therefore, the implementation of this legislation will require some level of additional staffing.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

   Not applicable.

5. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

   Not applicable.

6. An estimate of the staff time needed to implement the bill.

   See number 2.

7. An explanation of how the addition of new staff responsibilities would affect other duties.

   See number 2.

8. An estimate of costs when an additional appropriation is needed.

   See number 2.

9. A description of any variable that could affect revenue and cost estimates.

   The number of complaints, resulting investigations, and assessment of civil penalties are the primary variables that could affect the County's revenues and costs.

10. Ranges of revenue or expenditures that are uncertain or difficult to project.

    See number 2.

11. If a bill is likely to have no fiscal impact, why that is the case.

    Not applicable.

12. Other fiscal impacts or comments.

    Not applicable.

13. The following contributed to and concurred with this analysis:

    James Stowe, Office of Human Rights

    Pam Jones, Grace Denno, Department of General Services

    Phil Weeda, Office of Management and Budget

Jennifer A Hughes

Jennifer A. Hughes, Director
Office of Management and Budget

10/21/13
Date

Economic Impact Statement
Bill 27-13, Human Rights and Civil Liberties –
County Minimum Wage – Dollar Amount

Background:

This legislation would:

- Require certain private sector employers in the County to pay a minimum wage to employees working in the County,
- Provide a credit for an employer who provides health insurance to employees working in the County,
- Provide enforcement by the Office of Human Rights and the Human Rights Commission,
- Authorize the Human Rights Commission to award relief for violations; and
- Generally regulate the minimum wage paid to a private sector employee working in the County.

Bill 27-13 (Bill) would establish a minimum wage in the County for private sector employees working in the County unless the State or Federal minimum wage is greater than the County's minimum wage. The County's minimum wage would be phased in over several years. The minimum wage would start at $8.25 per hour beginning on July 1, 2014, increase to $9.75 per hour beginning on July 1, 2015, and increase to $12.00 per hour beginning on July 1, 2016. Beginning on July 1, 2017, the $12.00 rate would be raised by any increase in the Consumer Price Index on an annual basis.

1. The sources of information, assumptions, and methodologies used.

The sources of information include various economic studies that analyzed the effects of increasing the minimum wage on employment. Those studies include the following:

- David Card and Alan B. Krueger, "Minimum Wages and Employment: A Case Study of the Fast-Food Industry in New Jersey and Pennsylvania", *The American Economic Review,* Volume 84, Number 4, September 1994.

- David Neumark and William Wascher, "Minimum Wages and Employment: A Review of Evidence from the New Minimum Wage Research, NBER Working Paper Series, National Bureau of Economic Research, November 2006.

- Olli Ropponen, "Reconciling the Evidence of Card and Krueger (1994) and Neumark and Wascher (2000)", Discussion Paper No. 325, Helsinki Center of Economic Research, April 2011.

- Saul D Hoffman and Diane M. Trace, "NJ and PA Once Again: What Happened to Employment When the PA-NJ Minimum Wage Differential Disappeared?", *Eastern Economic Journal,* Volume 35, 2009.

- John P. Fornby, John A. Bishop, Hoseong Kim, "The Redistributive Effects and Cost Effectiveness of Increasing the Federal Minimum Wage", Employment Policy Institute, October 2009.

There is disagreement among economists as to the economic impact of minimum wages. This disagreement is based on two models of economic analysis:

- The "neoclassical" model of demand and supply that by requiring a minimum wage above the equilibrium wage established by the demand and supply of labor would result in unemployment. The result, it is argued by some economists, is there would be a greater number of individuals willing to work at the higher wage rate while a lower number of jobs would be available at that rate.

- An alternative model to the "neoclassical" model is that low-wage labor markets are characterized as *monopsonistic* competition whereby employers have significantly more *market power* than do workers. This monopsony could be the result of pricing power by the employer, that is, he or she is able to pass along the increase in the wage rate through higher prices. This ability to pass on the wage increase is attributed to the *elastic/inelastic* demand for the product by the consumers.

Card and Krueger argued that the negative employment effects on the minimum wage laws range from minimal to non-existent. In subsequent research, Neumark and Wascher analyzed the effect of increases in the minimum wage for large fast food restaurant chains that were followed by decreases in employment.

Ropponen reconciled the differences between Card-Krueger conclusion and Neumark-Wascher conclusion. Both studies, according to Ropponen, lead to the conclusion that the conditional employment effects are positive for small fast-food restaurants but negative for big fast-food restaurants. He suggests that the effect of an increase in the minimum wage on employment is based on the location of restaurants and a demand side effect: An increase in the minimum wage would have multiplier effect on the local economy, that is, the increase in wages would result in an increase spending by the employees.

Alan Blinder, former Vice Chairman of the Board of Governors of the Federal Reserve System, suggests three reasons minimum wages do not affect employment: higher wages may reduce turnover and therefore training costs, raising the minimum wage may eliminate the problem of recruiting workers at a higher wage than current workers, and minimum wage earners represent a small portion of the employer's cost that an increase is relatively insignificant to the employer's total cost of production.

Based on 2012 data from the Bureau of Labor Statistics (BLS) and the Maryland Department of Labor, Licensing and Regulation, there were 67,000 employees in Maryland earning at or below the minimum wage which represents just 2.3% of the total state workforce as measured by the labor force series data. Since the 2012 data are based on a survey of households nationwide, there is no specific data on minimum wage employees in Montgomery County. Based on BLS data, minimum wage employees are typically in the leisure and hospitality industry, retail, and education and health services. In terms of occupations, nearly 44% are in food preparation and serving related occupations nationwide.

2. A description of any variable that could affect the economic impact estimates.

- The ability of the employer to pass the increase of the minimum wage to his or her customers
- The share of minimum wage earners to total employment for a particular business
- The elastic/inelastic demand for the business's product or service
- The costs of retraining workers
- The extent to which higher minimum wages induce greater spending in the local economy

3. The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.

As stated previously, there is no consensus among economists on the effects of the minimum wage and employment. Based on the review of the research, it is not certain whether an increase in the minimum wage would increase or decrease employment. This uncertainty is based on the following factors presented in Section 2:

- The ability of the employer to compensate for the increase in the minimum wage by passing such increase onto customers with higher prices
- The proportion of the wage costs among workers earning the minimum wage to the total costs of production
- The multiplier effect of increasing the minimum wage on the local economy

Finally, in the research studies presented above, the conclusions are based on the datasets used to determine the effect of the minimum wage on employment, the statistical methods used to reach those conclusions, and the model used as the theoretical framework to conduct the analysis.

4. If a Bill is likely to have no economic impact, why is that the case?

It is uncertain whether increasing the minimum wage would increase or decrease employment among low-wage workers. As stated in Section 3, the economic impact would be based on the assumptions and the characteristics and location of those businesses that would be required to raised the minimum wage.

5. **The following contributed to and concurred with this analysis**: David Platt and Rob Hagedoorn, Finance.

Michael Coveyou for Joseph F. Beach

Joseph F. Beach, Director
Department of Finance

10/18/13
Date

The Washington Post Print

Economists disagree on whether the minimum wage kills jobs. Why?

By Brad Plumer, Updated: February 14, 2013

What happens when the minimum wage goes up? In theory, this should be simple. A hike in the minimum wage raises the cost of low-wage workers. That should make firms less likely to hire those people. Unemployment should rise. Basic Econ 101, right?

Except that the real world seems to be much murkier. Yes, a number of studies have found a link between a higher minimum wage and higher unemployment. But many others, such as this recent paper from U.C. Berkeley that exploited differences across state borders, have found no effect at all. Quite often, hiking the minimum wage by a buck or two doesn't appear to worsen unemployment in any noticeable way.

This poses a conundrum. Why might the basic theory be wrong? That's a question that John Schmitt of the Center for Economic and Policy Research explores in this new paper (pdf). He runs through a slew of theories for why a modest minimum-wage hike might not affect employment levels much. Basically, there are a variety of ways that labor markets can respond — and they don't all involve more unemployment:

1) Employers can respond by cutting back on benefits or hours or training: Yes, a higher minimum wage means that companies have to pay their low-wage workers more. But that doesn't mean they have to hire fewer workers. Perhaps businesses adapt by cutting back on other things, like health-care benefits or hours. Schmitt notes, however, that there's little conclusive evidence that employers do this.

2) Employers can respond by cutting wages for *other*, higher-paid workers. One survey found that half of employers faced with a minimum-wage hike "would delay or limit pay raises/bonuses for more experienced employees." If that actually happens, then the minimum wage might help low-wage workers at the expense of better-paid workers. This could even boost GDP in the short run if poorer workers are more likely to spend the cash.

3) Companies can raise their prices in response. One obvious possibility is that firms with lots of low-wage workers — say, fast-food restaurants — simply pass along their extra costs to customers. One major literature review found that a 10 percent hike in the minimum wage leads, on average, to a 4 percent increase in prices at companies affected.

4) Companies can just settle for fewer profits. Another possibility is that companies just take the hit and accept lower profits rather than laying people off. Research on whether this happens is pretty inconclusive, however.

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5) Employers can respond by becoming more efficient. If minimum-wage workers suddenly cost a bit more, perhaps businesses will react by trying to squeeze more productivity out of them. Schmitt notes that there's some evidence that this happened in fast-food chains in Georgia and Alabama. Managers started requiring better attendance and asking their employees to take on extra duties in response to a minimum-wage hike.

6) Workers themselves might respond by voluntarily working harder. Schmitt notes that there have been plenty of theoretical papers written about how people might work harder and be more productive if they're suddenly paid more. Some of these models could even explain why a hike in the minimum wage doesn't lead to higher unemployment. But, Schmitt adds, there's not much empirical evidence here.

7) Companies might actually *save* money from a minimum-wage hike because there's less employee turnover. If minimum-wage workers get a raise, they're far more likely to stay on the job longer. And that's good for employers. After all, constant worker turnover is a pain — there's the cost of screening, of training, of vacancies. Schmitt notes that lower turnover could ease the costs of higher wages. That could explain why employment levels don't really change.

So what's the right answer? A mix of these, most likely. "Individual establishments will follow different paths that depend on a complex set of circumstances that economists... cannot fully capture or explain," Schmitt concludes. Some companies bump up their prices in response to a minimum-wage hike. Others make their workers take on more tasks. Still others reap the benefits of reduced turnover.

This could explain why economists often have trouble establishing a clear link between a higher minimum wage and higher unemployment. There are lots of possible ways that companies can adjust to modest wage hikes besides hiring fewer people. (Obviously if the minimum wage shot up to $100 per hour, that'd be much more disruptive, but no one is proposing that.) The basic economic theory is alluring. But the world isn't always that simple.

Further reading:

--The full paper (pdf) by CEPR's John Schmitt, titled "Why Does the Minimum Wage Have No Discernible Effect on Employment?"

--Four things to know about President Obama's proposal to raise the federal minimum wage to $9 per hour.

--Adam Ozimek argues that we could settle this debate by experimenting with randomized trials for the minimum wage.

Area	SOC	Description	2012 Jobs	2013 Jobs	Change	% Change	Median Hourly Earnings	Avg. Hourly Earnings	Exemption Reasons
	27-1012	Craft Artists	266	265	-1	0.3%	$7.44	$7.57	
	27-1013	Fine Artists, Including Painters, Sculptors, and Illustrators	353	362	9	3%	$11.49	$11.59	
	31-1011	Home Health Aides	4535	4876	341	8%	$11.59	$11.82	
	31-1013	Psychiatric Aides	157	167	10	6%	$10.18	$10.61	
	31-2022	Physical Therapist Aides	232	233	1	0	11.9	11.83	
	31-9095	Pharmacy Aides	229	233	4	0.02	10.32	11.51	
	33-9092	Lifeguards, Ski Patrol, and Other Recreational Protective Service Workers	246	259	13	0.05	10.61	10.95	Working in seasonal and recreational establishments
	35-2011	Cooks, Fast Food	1494	1582	88	0.06	8.93	9.49	
	35-2021	Food Preparation Workers	1849	1931	82	0.04	10.45	11.18	
	35-3021	Combined Food Preparation and Serving Workers, Including Fast Food	6570	7094	524	0.08	9.48	10.01	
	35-3022	Counter Attendants, Cafeteria, Food Concession, and Coffee Shop	2028	2111	83	0.04	9.03	9.55	
	35-3031	Waiters and Waitresses	7312	7562	250	0.03	9.56	11.06	Tipped workers
	35-3041	Food Servers, Nonrestaurant	646	668	22	0.03	10.04	10.7	
	35-9011	Dining Room and Cafeteria Attendants and Bartender Helpers	1515	1551	36	0.02	9.62	11.12	
	35-9021	Dishwashers	1740	1796	56	0.03	9.34	9.84	
	35-9031	Hosts and Hostesses, Restaurant, Lounge, and Coffee Shop	1016	1047	31	0.03	9.3	9.77	
	37-2012	Maids and Housekeeping Cleaners	10619	10828	209	0.02	10.18	10.27	
	39-1012	Slot Supervisors	57	59	2	4%	$10.91	$10.94	
	39-2011	Animal Trainers	460	480	20	4%	$10.15	$10.14	
	39-2021	Nonfarm Animal Caretakers	3264	3397	133	0.04	10.09	10.52	
	39-3021	Motion Picture Projectionists	30	30	0	0%	$9.06	$9.10	Employees of motion picture and drive-in theaters
	39-3031	Ushers, Lobby Attendants, and Ticket Takers	221	228	7	0.03	8.9	9.27	Exempt for employees of motion picture
Montgomery County, MD	39-3091	Amusement and Recreation Attendants	835	860	25	0.03	9.72	10.16	Working in seasonal and recreational establishments
	39-3093	Locker Room, Coatroom, and Dressing Room Attendants	58	59	1	0.02	10.19	10.86	might be tipped
	39-5092	Manicurists and Pedicurists	974	1008	34	0.03	10.58	10.79	tipped workers
	39-5093	Shampooers	272	274	2	0.01	8.64	9.34	might be tipped workers
	39-9011	Childcare Workers	7717	7964	247	0.03	8.71	9.18	Some of them might be babysitters on a casual basis

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41-2011	Cashiers	10628	10649	21	0	9.51	11.02	
41-9091	Door-to-Door Sales Workers, News and Street Vendors, and Related Workers	2400	2337	-63	-0.03	10.63	10.62	Newspaper delivery, Outside salesmen and individuals compensated on a commission basis
45-2041	Graders and Sorters, Agricultural Products	18	18	0	0	9.56	10.38	
45-2092	Farmworkers and Laborers, Crop, Nursery, and Greenhouse	408	402	-6	-0.01	10.16	10.67	
45-3011	Fishers and Related Fishing Workers	53	53	0	0	10.88	10.88	Farming, Fishing, and Forestry Occupations: employed on small farms
45-4022	Logging Equipment Operators	14	14	0	0	11.3	11.24	
47-3012	Helpers--Carpenters	151	161	10	0.07	9.52	10.33	
47-3016	Helpers--Roofers	41	39	-2	-0.05	9.83	11.09	
49-3091	Bicycle Repairers	12	12	0	0	9.57	9.8	
51-3022	Meat, Poultry, and Fish Cutters and Trimmers	37	38	1	0.03	10.24	11.27	Employees of establishments engaged in the first canning, packing or freezing of fruits, vegetables, poultry and seafood.
51-3023	Slaughterers and Meat Packers	43	43	0	0	8.56	8.6	
51-6011	Laundry and Dry-Cleaning Workers	1230	1263	33	0.03	10.39	11.94	
51-6021	Pressers, Textile, Garment, and Related Materials	190	199	9	0.05	9.76	9.8	
51-6051	Sewers, Hand	38	39	1	0.03	11.76	11.74	
53-3031	Driver/Sales Workers	1377	1410	33	0.02	9.41	11.29	Some of them might be tipped workers, such as delivery of resturants take-out food
53-3041	Taxi Drivers and Chauffeurs	2594	2654	60	0.02	10.23	10.39	Tipped workers
53-6021	Parking Lot Attendants	661	694	33	0.05	10.45	10.43	
53-6031	Automotive and Watercraft Service Attendants	205	199	-6	-0.03	9.95	11.06	

Occupation might be exempt from minimum wage law

A portion of employees under this occupation group might be exempt

2013 Total Employment with hourly wage below $12	**77148**
2013 Total Employment in Montgomery County, MD	**659443**
Percent of Total Employment with hourly wage below $12 for Montgomery County, MD	**11.70%**
Average hourly wage in Montgomery County, MD	**$27.18**

Source: EMSI

Most of these occupations with wage lower than $12 have experienced some growth during 2012 to 2013

S2401: OCCUPATION BY SEX AND MEDIAN EARNINGS IN THE PAST 12 MONTHS (IN 2012 INFLATION-ADJUSTED DOLLARS) FOR THE CIVILIAN EMPLOYED POPULATION 16 YEARS AND OVER

2012 American Community Survey 1-Year Estimates

Subject	Montgomery County, Maryland											
	Total		Male		Female		Median earnings (dollars)		Median earnings (dollars) for male		Median earnings (dollars) for female	
	Estimate	Margin of	Estimate	Margin of	Estimate	Margin of	Estimate	Margin of	Estimate	Margin of	Estimate	Margin of
Civilian employed population 16 years and over	530,886	+/-5,949	51.20%	+/-0.5	48.80%	+/-0.5	51,190	+/-764	60,412	+/-2,179	42,449	+/-2,234
Management, business, science, and arts occupations:	297,930	+/-5,956	50.90%	+/-1.1	49.10%	+/-1.1	79,444	+/-2,443	95,381	+/-3,554	65,767	+/-1,989
Management, business, and financial occupations:	118,444	+/-4,242	52.10%	+/-1.8	47.90%	+/-1.8	86,601	+/-3,637	100,820	+/-1,588	77,584	+/-4,548
Management occupations	76,741	+/-3,626	56.80%	+/-2.3	43.20%	+/-2.3	94,652	+/-5,963	105,640	+/-7,921	84,137	+/-5,251
Business and financial operations occupations	41,703	+/-3,072	43.40%	+/-4.2	56.60%	+/-4.2	75,750	+/-5,007	85,037	+/-11,241	69,888	+/-5,993
Computer, engineering, and science occupations:	68,853	+/-3,975	65.90%	+/-2.4	34.10%	+/-2.4	90,074	+/-3,538	96,407	+/-3,479	78,969	+/-3,777
Computer and mathematical occupations	38,923	+/-2,903	67.30%	+/-3.5	32.70%	+/-3.5	91,174	+/-3,307	96,275	+/-5,097	81,378	+/-4,884
Architecture and engineering occupations	11,066	+/-1,550	80.80%	+/-5.3	19.20%	+/-5.3	86,709	+/-6,709	92,828	+/-7,845	75,246	+/-8,986
Life, physical, and social science occupations	18,864	+/-1,805	54.40%	+/-4.7	45.60%	+/-4.7	86,658	+/-8,239	100,630	+/-5,016	77,419	+/-10,807
Education, legal, community service, arts, and media	78,347	+/-3,550	41.90%	+/-2.5	58.10%	+/-2 5	56,837	+/-2,832	80,325	+/-8,738	48,699	+/-2,924
Community and social services occupations	8,951	+/-1,560	41.90%	+/-8.6	58.10%	+/-8.6	46,770	+/-5,638	47,346	+/-10,341	45,331	+/-7,085
Legal occupations	18,200	+/-1,928	59.90%	+/-5.2	40.10%	+/-5.2	130,266	+/-11,235	155,595	+/-11,017	84,005	+/-22,846
Education, training, and library occupations	35,233	+/-2,797	29.70%	+/-3.4	70.30%	+/-3.4	46,557	+/-3,426	63,032	+/-12,690	40,722	+/-4,619
Arts, design, entertainment, sports, and media occupations	15,963	+/-1,855	48.30%	+/-4.9	51.70%	+/-4.9	56,424	+/-7,612	66,609	+/-8,767	48,062	+/-4,722
Healthcare practitioner and technical occupations:	32,286	+/-3,047	36.20%	+/-4.1	63.80%	+/-4.1	73,401	+/-4,054	100,934	+/-14,654	64,375	+/-6,652
Health diagnosing and treating practitioners and other	25,746	+/-2,829	37.80%	+/-4.7	62.20%	+/-4.7	84,755	+/-6,907	131,031	+/-33,050	72,164	+/-6,625
Health technologists and technicians	6,540	+/-1,315	29.90%	+/-9.9	70.10%	+/-9.9	39,201	+/-13,423	46,411	+/-21,588	37,581	+/-11,230
Service occupations:	83,638	+/-5,031	42.00%	+/-2.8	58.00%	+/-2.8	20,843	+/-1,027	25,465	+/-1,413	17,810	+/-1,732
Healthcare support occupations	9,514	+/-1,535	16.00%	+/-6.5	84.00%	+/-6.5	25,294	+/-3,220	32,582	+/-20,225	24,784	+/-3,395
Protective service occupations:	7,820	+/-1,203	81.80%	+/-5.4	18.20%	+/-5.4	45,367	+/-7,670	45,756	+/-9,500	42,054	+/-21,835
Fire fighting and prevention, and other protective service workers including supervisors	5,873	+/-1,137	82.30%	+/-6.8	17.70%	+/-6.8	32,304	+/-14,362	37,168	+/-13,013	19,857	+/-23,841
Law enforcement workers including supervisors	1,947	+/-672	80.00%	+/-12.0	20.00%	+/-12.0	75,161	+/-10,437	75,773	+/-13,891	71,767	+/-21,053
Food preparation and serving related occupations	22,920	+/-3,588	56.90%	+/-6.7	43.10%	+/-6.7	20,911	+/-1,310	22,748	+/-2,575	17,849	+/-4,600
Building and grounds cleaning and maintenance occupations	23,996	+/-2,654	42.40%	+/-5.1	57.60%	+/-5.1	18,029	+/-1,703	22,781	+/-5,752	15,360	+/-1,947
Personal care and service occupations	19,388	+/-2,337	20.70%	+/-4 2	79 30%	+/-4.2	18,231	+/-3,965	23,270	+/-5,106	17,062	+/-3,446
Sales and office occupations:	95,188	+/-4,874	37.90%	+/-2.3	62.10%	+/-2.3	34,830	+/-2,597	40,163	+/-3,869	32,038	+/-1,881
Sales and related occupations	41,891	+/-3,364	54.70%	+/-3.9	45.30%	+/-3.9	30,444	+/-2,592	37,956	+/-4,787	19,890	+/-4,609
Office and administrative support occupations	53,297	+/-3,566	24.70%	+/-2.9	75.30%	+/-2.9	37,557	+/-2,723	42,190	+/-7,339	36,877	+/-1,725
Natural resources, construction, and maintenance	31,050	+/-2,647	97.30%	+/-1.4	2.70%	+/-1.4	36,134	+/-3,769	36,434	+/-4,249	13,408	+/-13,303
Farming, fishing, and forestry occupations	141	+/-132	100.00%	+/-53.7	0.00%	+/-53.7	33,384	+/-59,481	33,384	+/-59,430	-	**
Construction and extraction occupations	22,149	+/-2,831	97.40%	+/-1.9	2.60%	+/-1.9	34,582	+/-4,563	35,246	+/-4,702	11,859	+/-10,817
Installation, maintenance, and repair occupations	8,760	+/-1,557	97.20%	+/-2.4	2.80%	+/-2.4	40,991	+/-8,493	40,782	+/-8,179	60,399	+/-54,790
Production, transportation, and material moving occupations:	23,080	+/-2,749	81.40%	+/-3.9	18.60%	+/-3.9	28,605	+/-2,461	29,063	+/-2,345	26,743	+/-4,178
Production occupations	8,075	+/-1,474	64.70%	+/-8 8	35.30%	+/-8.8	31,408	+/-5,143	36,595	+/-10,743	26,826	+/-4,892
Transportation occupations	11,834	+/-1,770	90.80%	+/-4.6	9.20%	+/-4.6	30,522	+/-2,483	30,445	+/-2,442	40,864	+/-45,926
Material moving occupations	3,171	+/-1,019	88.80%	+/-8.0	11.20%	+/-8.0	21,141	+/-2,130	20,593	+/-2,520	23,601	+/-1,676
PERCENT IMPUTED												
Occupation	5.70%	(X)	(X)	(X)	(X)	(X)	(X)	(X)	(X)	(X)	(X)	(X)

(24)

Workers Earning $1,250 per month or less

Work Destination Report - Where Workers are Employed Who Live in the Selection Area - by Counties

Total All Private Jobs

	2011	
	Count	Share
Total All Private Jobs	77,839	100.0%

Jobs Counts by Counties Where Workers are Employed - All Private Jobs

	2011	
	Count	Share
Montgomery County, MD	39,945	51.3%
District of Columbia, DC	9,570	12.3%
Prince George's County, MD	6,205	8.0%
Baltimore County, MD	2,893	3.7%
Howard County, MD	2,751	3.5%
Anne Arundel County, MD	2,541	3.3%
Fairfax County, VA	2,325	3.0%
Baltimore city, MD	1,600	2.1%
Frederick County, MD	1,520	2.0%
Arlington County, VA	921	1.2%
All Other Locations	7,568	9.7%

Source: U.S. Census Bureau, OnTheMap Application, http://lehdmap.ces.census.gov

Report Settings

Analysis Type	Destination
Destination Type	Counties
Selection area as	Home
Year(s)	2011
Job Type	All Private Jobs
Selection Area	Montgomery County, MD from Counties
Selected Census Blocks	10,592
Analysis Generation Date	11/19/2013 12:53 - OnTheMap 6.1.2
Code Revision	9d7fa6cdc7ba3d7a4fcd786475dbfc9a2ddda386
LODES Data Version	20130430

Source: U.S. Census Bureau, OnTheMap Application and LEHD Origin-Destination Employment Statistics (Beginning of Quarter Employment, 2nd Quarter of 2002-2011).
Notes:

1. Race, Ethnicity, Educational Attainment, and Sex statistics are beta release results and are not available before 2009.
2. Educational Attainment is only produced for workers aged 30 and over.
3. Firm Age and Firm Size statistics are beta release results and are not available before 2011.

Source: U.S. Census Bureau, OnTheMap Application, http://lehdmap.ces.census.gov

Workers Earning $1,250 per month or less

Home Destination Report - Where Workers Live Who are Employed in the Selection Area - by Counties

Total All Private Jobs

	2011 Count	2011 Share
Total All Private Jobs	83,851	100.0%

Jobs Counts by Counties Where Workers Live - All Private Jobs

	2011 Count	2011 Share
Montgomery County, MD	39,945	47.6%
Prince George's County, MD	10,730	12.8%
District of Columbia, DC	3,915	4.7%
Baltimore County, MD	3,569	4.3%
Frederick County, MD	3,265	3.9%
Anne Arundel County, MD	3,002	3.6%
Howard County, MD	2,815	3.4%
Baltimore city, MD	2,411	2.9%
Fairfax County, VA	2,247	2.7%
Carroll County, MD	988	1.2%
All Other Locations	10,964	13.1%

Source: U.S. Census Bureau, OnTheMap Application, http://lehdmap.ces.census.gov

Report Settings

Analysis Type	Destination
Destination Type	Counties
Selection area as	Work
Year(s)	2011
Job Type	All Private Jobs
Selection Area	Montgomery County, MD from Counties
Selected Census Blocks	10,592
Analysis Generation Date	11/19/2013 12:52 - OnTheMap 6.1.2
Code Revision	9d7fa6cdc7ba3d7a4fcd786475dbfc9a2ddda386
LODES Data Version	20130430

Source: U.S. Census Bureau, OnTheMap Application and LEHD Origin-Destination Employment Statistics (Beginning of Quarter Employment, 2nd Quarter of 2002-2011).

Notes:

1. Race, Ethnicity, Educational Attainment, and Sex statistics are beta release results and are not available before 2009.
2. Educational Attainment is only produced for workers aged 30 and over.
3. Firm Age and Firm Size statistics are beta release results and are not available before 2011.

Source: U.S. Census Bureau, OnTheMap Application, http://lehdmap.ces.census.gov

Journey to Work Commutation

MONTGOMERY COUNTY	IN FROM:	OUT TO:	NET(In - Out)
TOTAL COMMUTERS	**474,516**	**453,758**	**20,758**
BALTIMORE REGION	**75,182**	**44,022**	**31,160**
Anne Arundel County	16,624	10,288	6,336
Baltimore County	16,447	10,362	6,085
Carroll County	7,026	1,716	5,310
Harford County	4,428	1,794	2,634
Howard County	20,794	11,732	9,062
Baltimore City	9,863	8,130	1,733
WASHINGTON REGION	**303,594**	**266,046**	**37,548**
Frederick County	27,279	6,814	20,465
Montgomery County	224,087	224,087	0
Prince George's County	52,228	35,145	17,083
SOUTHERN MARYLAND	**9,056**	**2,674**	**6,382**
Calvert County	2,405	453	1,952
Charles County	3,875	1,483	2,392
St. Mary's County	2,776	738	2,038
WESTERN MARYLAND	**6,224**	**2,053**	**4,171**
Allegany County	559	486	73
Garrett County	236	77	159
Washington County	5,429	1,490	3,939
UPPER EASTERN SHORE	**3,859**	**962**	**2,897**
Caroline County	530	70	460
Cecil County	1,570	196	1,374
Kent County	387	64	323
Queen Anne's County	745	260	485
Talbot County	627	372	255
LOWER EASTERN SHORE	**2,405**	**1,207**	**1,198**
Dorchester County	560	132	428
Somerset County	315	63	252
Wicomico County	996	598	398
Worcester County	534	414	120
SURROUNDING STATES			
District of Columbia	**23,164**	**88,172**	**-65,008**
VIRGINIA	**36,001**	**42,533**	**-6,532**
Accomack County	53	23	30
Arlington County	4,829	8,403	-3,574

Journey to Work Commutation

MONTGOMERY COUNTY	IN FROM:	OUT TO:	NET(In - Out)
Fairfax County	17,186	22,518	-5,332
Fauquier County	583	90	493
Frederick County	154	52	102
King George County	66	62	4
Loudoun County	4,845	3,422	1,423
Prince William County	2,078	730	1,348
Spotsylvania County	247	56	191
Stafford County	388	128	260
Alexandria city	2,065	3,626	-1,561
Fairfax city	284	552	-268
Falls Church city	331	422	-91
Manassas city	295	201	94
Rest of Virginia	2,597	2,248	349
WEST VIRGINIA	**3,986**	**208**	**3,778**
Berkeley County	1,450	40	1,410
Grant County	95	-	95
Hampshire County	223	-	223
Jefferson County	1,170	86	1,084
Mineral County	276	3	273
Morgan County	237	6	231
Preston County	7	-	7
Rest of West Virginia	528	73	455
PENNSYLVANIA	**5,518**	**1,377**	**4,141**
Adams County	1,008	31	977
Bedford County	30	3	27
Chester County	244	74	170
Delaware County	94	61	33
Franklin County	893	50	843
Fulton County	5	-	5
Lancaster County	279	75	204
Philadelphia County	221	237	-16
Somerset County	54	3	51
York County	1,239	97	1,142
Rest of Pennsylvania	1,451	746	705
DELAWARE	**1,199**	**347**	**852**
Kent County	203	61	142
New Castle County	772	239	533
Sussex County	224	47	177
ELSEWHERE	**4,328**	**4,157**	**171**

Prepared by the Maryland Department of Planning, August 2012
Source: U.S. Census Bureau, OnTheMap Application and LEHD Origin-Destination Employment Statistics

BROOKINGS

Paper | July 1, 2013

Strategies for Assisting Low-Income Families

By: Isabel V. Sawhill and Quentin Karpilow

Most Americans aspire to join the middle class, but many are failing to do so. In 2011, there were 36 million working-age (25 to 55), able-bodied[1] adults in the United States whose low wages or insecure attachment to a job in combination with their family responsibilities put them in a low-income household. By low-income we mean a household in the bottom third of the income distribution. For one reason or another—lack of a job or low wages—they have failed to achieve the American dream. In this paper we look at who they are, why their incomes are low, and what might be done to help them climb the ladder and join the middle class. Throughout the paper we compare them to their more fortunate counterparts, those in the top two-thirds of the income distribution. In 2011, the upper two-thirds had an average income of approximately $65,000 while bottom-third households had only $14,000.

We focus on short, intermediate, and longer-term policies that might improve the economic prospects of low-income households. In the short-run, what they most need is jobs. In the intermediate term, even if they were employed, many of them would not earn enough to support a family unless their wages were boosted by programs such as the Earned Income Tax Credit (EITC) or a higher minimum wage. In the longer-term, they need better education and stronger families. Accordingly, we look at each of these four paths to moving more low-income households into the middle class, showing what each might achieve based on new estimates of the impact of each strategy on annual earnings.

We look first at who is a part of this bottom third group and why their incomes are so low. Our data are for 2011 (the most recent year available) and come from the Census Bureau's annual survey of households in the U.S. We begin the paper with a focus on total household income. After showing that most income comes from earned sources, we then focus entirely on annual earnings adjusted for family size.[2] One reason we do so is because the evidence suggests that earnings are more accurately reported in the data than income.

Using these data, we estimate how a return to full employment would affect their earnings. We also estimate how increasing the minimum wage to $9.00 an hour, improving education, and increasing marriages or cohabiting relationships among single parents would affect their economic circumstances.

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In summary, we find that low-income households are disproportionately female, minority, and young. Most of these households have minor children at home, and many are headed by single parents. Their low incomes are partly due to their low wages, but even more to a lack of employment. Sixty percent of bottom-third household heads don't work at all or work less than full time, while only 40 percent work full time (40 hours a week for 50 weeks a year or 2000 hours in total). In the upper two-thirds, 86 percent of household heads work full time. Another reason for the greater success of the upper two-thirds is that they are more likely to have two earners in the family. In short, and not surprisingly, a scarcity of second earners combined with a shortage of work hours and low pay rates keep the bottom third out of the middle class. However, the most important reason by far for the low incomes of these households is a lack of work. They are less likely to be employed and work fewer hours when they do hold a job. We refer to this as the "work gap."

We then do a series of simulations to determine what might help the bottom third improve their prospects and find that some of the work gap is related to the high unemployment rates that existed in 2011. Were the economy to return to full employment, the earnings of these low-income households would increase by 15 percent and the relative earnings gap between them and the upper two-thirds would narrow considerably. This 15 percent increase reflects the impact of a stronger economy on both the availability of work, including full-time work, and higher pay. While a full-employment economy will help this group of low-income households substantially, it will not move them very far up the ladder.[3] Larger improvements in their economic status will require that they work more (even when jobs are available), obtain more education, and/or live in families with more working-age adults and/or fewer dependent children.

Even when the economy is at full employment, a work gap remains. Some individuals have trouble finding work even when jobs are plentiful because of factors such as a lack of education or skills, health problems, or a prison record. In addition, some of the work gap appears to be voluntary. Based on their own reports, many of these low-income individuals have retired early (before age 55), have returned to school as adults, or are keeping house, even though, according to the data, these activities clearly leave them and their households with a low income (less than $26,000). They may be supplementing their low incomes by drawing down their savings or by getting help from friends or relatives. They are also much more dependent than more affluent households on government assistance. Overall, one quarter of their income comes from non-earned sources, especially government programs such as unemployment insurance, welfare, veteran's benefits, disability payments to children in the household, and educational assistance. It is possible that the availability of such non-earned income has encouraged or permitted them to work less than they otherwise would. However, we believe based on other research that such effects are relatively modest.[4]

We also find that a higher minimum wage would have very small effects on this group. When we ask what would happen to the annual earnings of low-income households if all of the workers in these families earned at least $9 an hour, as recently proposed by President Obama, we find that the higher minimum wage would increase their annual earnings from $11,047 to $11,828, or by 7 percent

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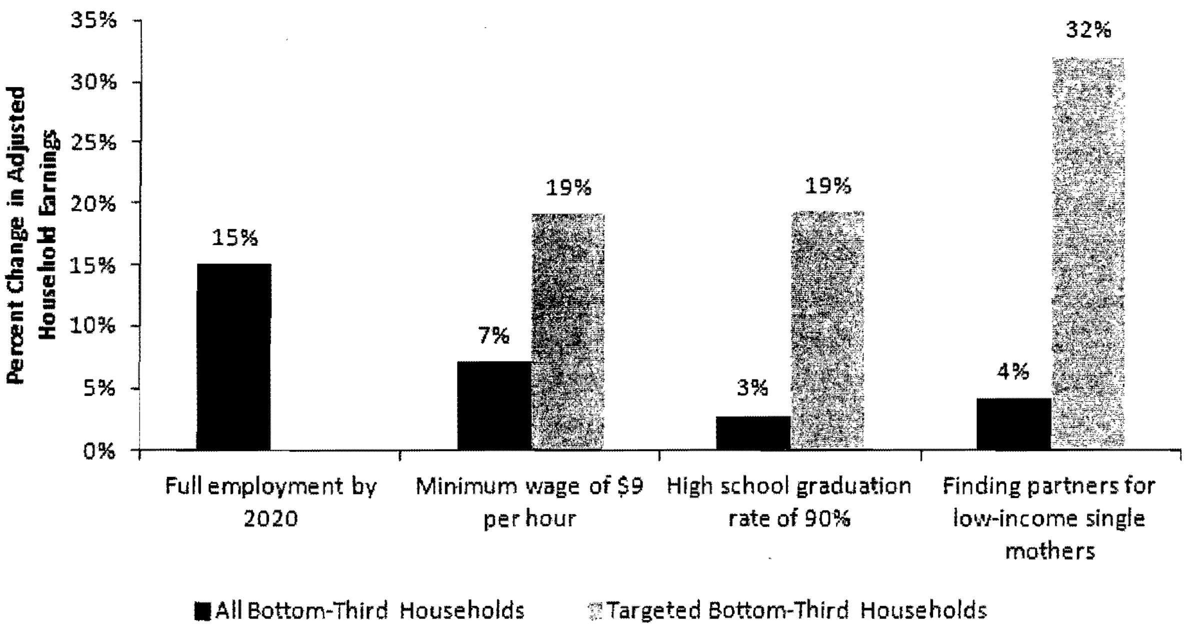
[5], although by more than this if a higher minimum wage encouraged employers to adjust their pay practices for employees earning more than the new minimum and not just for those currently earning less than $9 an hour.[6] It is worth noting that 36 percent of low-income households contained at least one person earning less than the minimum wage. Other policies, such as a generous EITC and child care assistance may be even more helpful because they more strongly encourage (or facilitate) work in addition to supplementing income (or reducing household expenses).

Lack of education is clearly a problem for these low-income households. However, when we estimate the effects of increasing the high school graduation rate from 77 percent to 90 percent, we find that average household earnings improve by only 3 percent.

These households would also tend to move up the ladder if more of them had two earners. A surprising number of them have a second working-age adult in the household who was not employed at all in 2011. We find that if these adults were employed, low-income household earnings would rise by 22 percent. This effect would be even larger if fewer of these households were single parents and thus had another potential earner in the household. For example, when we increased marriage or cohabitation between single mothers and unrelated men who—based on their age, education, and race—looked like appropriate partners, we were able to increase the incomes of all low-income households by 4 percent.

The above estimates of the effects of a lower unemployment rate, a higher minimum wage, fewer high school dropouts, and more earners per family focus on the effects on the earnings of the entire group of bottom third households. The effects on the group specifically targeted (households with below minimum wage earnings, households with high school dropouts, and single mother households without a second earner) are far larger (see Figure 1).[7]

Figure 1: Strategies For Raising Low-Income Household Earnings



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These estimates also do not take into account the likelihood that behavior may change in response to some of these impacts. For example, a higher minimum wage may induce more people to work. The presence of a second earner may cause the household head to work less, and so forth. Where such responses are likely to be important, we report on their likely magnitude in the sections that follow.

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[1] Adults are considered to be "able-bodied" if they did not receive any type of disability income in the previous year.

[2] See appendix. Note that the family size adjustment causes the income reported to be lower than the non-adjusted figures for any family with more than one person and is one reason that our average income figures are lower than in some other reports.

[3] Our definition of full employment is the level of unemployment that Congressional Budget Office (CBO) predicts will prevail at the end of the current recession, projected to be 5.4 percent in 2020.

[4] The increase of unemployment benefits during the recession has been estimated to reduce employment by about a quarter of a percentage point, for example. See Levine (2013) and Rothstein (2011).

[5] If we just focus on households that have at least one worker earnings less than $9/hr, our intervention raises average household earnings from $11,361 to $13,533 – a 19% increase.

[6] This does not include any effects of a higher minimum wage in both encouraging more people to work or in discouraging employers from hiring the less skilled. Based on other research, we believe both effects would be small, as well as potentially offsetting.

[7] Note that, since improving the labor market is expected to impact all low-income households, we do not show a target group for the full employment simulation.

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FROM FULL REPORT: STRATEGIES FOR ASSISTING LOW-INCOME FAMILIES

Approximately 36 million working-age adults lived in these low-income households in 2012. Nearly all lived below 200% of the federal poverty line.[10] A majority of them were women, and over half were minority (Table 1). Compared to their more affluent counterparts in the upper-two-thirds of the income distribution, members of low-income households were younger, less educated, and much more likely to be single parents. They were more likely to live in households with minor children, and typically had more children to support and fewer hands to help them. In fact, while children slightly outnumbered adults in bottom-third families, the reverse was true among upper-two-thirds families.

Table 1: Demographic Characteristics of Able-Bodied, Working-Age Adults

	Adults in bottom-third households	Adults in upper-two-thirds households
Gender		
% female	54%	50%
Race		
% White	45%	70%
% Black	17%	9%
% Hispanic	30%	12%
% Other	8%	8%
Age		
% 25-29 (inclusive)	21%	15%
% 30-39 (inclusive)	36%	30%
% 40-49 (inclusive)	30%	35%
% 50-54 (inclusive)	13%	19%
Educational Attainment		
% less than high school	23%	5%
% high school diploma	36%	24%
% some college	27%	28%
% college degree	11%	28%
% higher degree	3%	15%
Family Structure		
% live alone	17%	13%
% married	48%	65%
% parents	53%	44%
% single parents	18%	5%

[10] Approximately 84% of bottom-third households lie below 200% of the federal poverty line, while 36% live in poverty.

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RAISING THE FEDERAL MINIMUM WAGE TO $10.10 WOULD GIVE WORKING FAMILIES, AND THE OVERALL ECONOMY, A MUCH-NEEDED BOOST

BY DAVID COOPER AND DOUG HALL

United States

Characteristics of workers who would be affected by increasing the federal minimum wage to $10.10 by July 1, 2015

Category	Estimated workforce	Directly affected	Indirectly affected	Total affected	% of total affected	Total wage increase	Total avg. increase to annual wage income
TOTAL	**129,359,000**	**21,267,000**	**8,997,000**	**30,264,000**	**100.0%**	$51,490,800,000	$2,356
Gender							
Female	62,517,000	12,185,000	4,757,000	16,942,000	56.0%	$28,579,799,000	$2,299
Male	66,842,000	9,081,000	4,240,000	13,321,000	44.0%	$22,911,001,000	$2,430
Age							
20+	124,979,000	18,182,000	8,532,000	26,714,000	88.3%	$45,480,495,000	$2,410
Under 20	4,379,000	3,084,000	465,000	3,549,000	11.7%	$6,010,305,000	$2,013
Race/ethnicity							
Non-Hispanic white	85,007,000	11,404,000	4,970,000	16,374,000	54.1%	$25,859,882,000	$2,185
Black	14,215,000	3,076,000	1,204,000	4,280,000	14.1%	$8,096,418,000	$2,528
Hispanic	20,445,000	5,293,000	2,161,000	7,454,000	24.6%	$13,887,988,000	$2,614
Asian/other	9,691,000	1,494,000	662,000	2,156,000	7.1%	$3,646,512,000	$2,418
Family structure							
Married parent	34,807,000	3,383,000	1,827,000	5,210,000	17.2%	$8,934,825,000	$2,517
Single parent	9,904,000	2,281,000	965,000	3,246,000	10.7%	$5,966,641,000	$2,518
Married, no kids	35,937,000	3,654,000	1,962,000	5,616,000	18.6%	$9,026,256,000	$2,327
Unmarried, no kids	48,711,000	11,948,000	4,244,000	16,192,000	53.5%	$27,563,079,000	$2,285
Work hours							
Part time (< 20 hours)	7,491,000	3,341,000	946,000	4,287,000	14.2%	$3,822,212,000	$1,146
Mid time (20–34 hours)	18,700,000	7,336,000	2,145,000	9,481,000	31.3%	$15,546,066,000	$2,133
Full time (35+ hours)	103,168,000	10,589,000	5,906,000	16,495,000	54.5%	$32,122,522,000	$2,859
Education							
Less than high school	11,789,000	5,065,000	1,383,000	6,448,000	21.3%	$12,511,893,000	$2,506
High school	35,263,000	7,205,000	3,347,000	10,552,000	34.9%	$18,227,951,000	$2,421
Some college	25,173,000	5,495,000	2,300,000	7,795,000	25.8%	$12,197,690,000	$2,166
Associate degree	13,662,000	1,621,000	845,000	2,466,000	8.1%	$3,868,988,000	$2,272
Bachelor's degree or higher	43,472,000	1,880,000	1,121,000	3,001,000	9.9%	$4,684,278,000	$2,342
Family Income							
Less than $10,000	4,579,000	1,933,000	527,000	2,460,000	8.1%	$4,773,091,000	$2,489
$10,000–$14,999	4,635,000	1,931,000	573,000	2,504,000	8.3%	$4,943,761,000	$2,575
$15,000–$19,999	4,158,000	1,473,000	584,000	2,057,000	6.8%	$3,732,572,000	$2,478
$20,000–$24,999	5,696,000	1,638,000	752,000	2,390,000	7.9%	$4,219,864,000	$2,483
$25,000–$29,999	6,540,000	1,634,000	717,000	2,351,000	7.8%	$4,140,419,000	$2,454
$30,000–$34,999	6,910,000	1,499,000	696,000	2,195,000	7.3%	$3,720,079,000	$2,398
$35,000–$39,999	6,839,000	1,358,000	612,000	1,970,000	6.5%	$3,326,247,000	$2,368
$40,000–$49,999	11,547,000	1,863,000	901,000	2,764,000	9.1%	$4,586,211,000	$2,356
$50,000–$59,999	12,288,000	1,692,000	806,000	2,498,000	8.3%	$4,096,581,000	$2,341
$60,000–$74,999	15,636,000	1,895,000	866,000	2,761,000	9.1%	$4,434,076,000	$2,256
$75,000–$99,999	18,710,000	1,859,000	875,000	2,734,000	9.0%	$4,155,099,000	$2,140
$100,000–$149,999	18,900,000	1,612,000	704,000	2,316,000	7.7%	$3,450,931,000	$2,069
$150,000 or more	12,920,000	879,000	385,000	1,264,000	4.2%	$1,911,870,000	$2,127

	Estimated # of children	Directly affected	Indirectly affected	Total affected	% of children
Children with at least one affected parent	75,265,000	11,582,000	5,984,000	17,566,000	23.3%

Category	Average share of family income earned by affected worker	Share of affected who are sole providers of family income
All affected	49.9%	18.6%
Parents affected	58.6%	23.8%

Note: Estimates describe affected population, where indicated, within specified state of Harkin/Miller proposal to raise the federal minimum wage to $10.10 via three incremental increases over three years. Demographic profile reflects affected population in third year (i.e., in step up to $10.10/hour). The total wage increase and total average increase to annual wage income are the totals over all three steps.

Source: Authors' analysis of Harkin/Miller proposal using Current Population Survey Outgoing Rotation Group microdata

Maryland

Characteristics of workers who would be affected by increasing the federal minimum wage to $10.10 by July 1, 2015

Category	Estimated workforce	Directly affected	Indirectly affected	Total affected	% of total affected	Total wage increase	Total avg. increase to annual wage income
TOTAL	**2,670,000**	**317,000**	**155,000**	**472,000**	**100.0%**	$764,742,000	$2,170
Gender							
Female	1,362,000	178,000	84,000	262,000	55.5%	$422,033,000	$2,126
Male	1,308,000	139,000	71,000	210,000	44.5%	$342,708,000	$2,226
Age							
20+	2,579,000	254,000	147,000	401,000	85.0%	$648,588,000	$2,247
Under 20	91,000	63,000	8,000	71,000	15.0%	$116,154,000	$1,819
Race/ethnicity							
Non-Hispanic white	1,466,000	154,000	61,000	215,000	45.6%	$341,700,000	$2,064
Black	726,000	101,000	47,000	148,000	31.4%	$242,749,000	$2,156
Hispanic	272,000	45,000	38,000	83,000	17.6%	$139,854,000	$2,547
Asian/other	206,000	18,000	10,000	28,000	5.9%	$40,438,000	$2,084
Family structure							
Married parent	707,000	40,000	25,000	65,000	13.8%	$108,495,000	$2,330
Single parent	188,000	26,000	14,000	40,000	8.5%	$72,528,000	$2,499
Married, no kids	725,000	48,000	30,000	78,000	16.5%	$129,921,000	$2,365
Unmarried, no kids	1,050,000	203,000	87,000	290,000	61.4%	$453,798,000	$2,045
Work hours							
Part time (< 20 hours)	137,000	67,000	16,000	83,000	17.6%	$82,992,000	$1,164
Mid time (20–34 hours)	314,000	103,000	43,000	146,000	30.9%	$218,673,000	$1,946
Full time (35+ hours)	2,220,000	147,000	97,000	244,000	51.7%	$463,076,000	$2,744
Education							
Less than high school	192,000	65,000	32,000	97,000	20.6%	$158,033,000	$2,148
High school	681,000	106,000	59,000	165,000	35.0%	$275,973,000	$2,307
Some college	462,000	89,000	32,000	121,000	25.6%	$185,665,000	$1,956
Associate degree	225,000	23,000	15,000	38,000	8.1%	$51,069,000	$1,902
Bachelor's degree or higher	1,110,000	34,000	18,000	52,000	11.0%	$94,002,000	$2,506
Family Income							
Less than $10,000	41,000	10,000	6,000	16,000	3.4%	$24,633,000	$1,958
$10,000–$14,999	55,000	16,000	8,000	24,000	5.1%	$40,089,000	$2,346
$15,000–$19,999	38,000	12,000	8,000	20,000	4.2%	$36,301,000	$2,552
$20,000–$24,999	70,000	22,000	10,000	32,000	6.8%	$64,892,000	$2,611
$25,000–$29,999	92,000	21,000	13,000	34,000	7.2%	$52,677,000	$2,288
$30,000–$34,999	104,000	21,000	8,000	29,000	6.1%	$52,256,000	$2,214
$35,000–$39,999	102,000	19,000	6,000	25,000	5.3%	$55,631,000	$2,777
$40,000–$49,999	172,000	24,000	16,000	40,000	8.5%	$57,691,000	$2,098
$50,000–$59,999	226,000	29,000	17,000	46,000	9.7%	$61,990,000	$1,945
$60,000–$74,999	257,000	26,000	9,000	35,000	7.4%	$63,132,000	$2,257
$75,000–$99,999	462,000	47,000	23,000	70,000	14.8%	$117,133,000	$2,222
$100,000–$149,999	551,000	37,000	16,000	53,000	11.2%	$73,973,000	$1,798
$150,000 or more	499,000	33,000	14,000	47,000	10.0%	$64,345,000	$1,794

	Estimated # of children	Directly affected	Indirectly affected	Total affected	% of children
Children with at least one affected parent	1,368,000	131,000	85,000	216,000	15.8%

Category	Average share of family income earned by affected worker	Share of affected who are sole providers of family income
All affected	39.4%	9.7%
Parents affected	51.3%	17.0%

Note: Estimates describe affected population, where indicated, within specified state of Harkin/Miller proposal to raise the federal minimum wage to $10.10 via three incremental increases over three years. Demographic profile reflects affected population in third year (i.e., in step up to $10.10/hour). The total wage increase and total average increase to annual wage income are the totals over all three steps.

Source: Authors' analysis of Harkin/Miller proposal using Current Population Survey Outgoing Rotation Group microdata

District of Columbia

Characteristics of workers who would be affected by increasing the federal minimum wage to $10.10 by July 1, 2015

Category	Estimated workforce	Directly affected	Indirectly affected	Total affected	% of total affected	Total wage increase	Total avg. increase to annual wage income
TOTAL	**313,000**	**22,000**	**14,000**	**36,000**	**100.0%**	$58,290,000	$3,041
Gender							
Female	159,000	10,000	7,000	17,000	47.2%	$29,162,000	$3,282
Male	154,000	12,000	7,000	19,000	52.8%	$29,128,000	$2,833
Age							
20+	309,000	21,000	13,000	34,000	94.4%	$54,005,000	$2,977
Under 20	3,000	1,000	1,000	2,000	5.6%	$4,285,000	$4,191
Race/ethnicity							
Non-Hispanic white	146,000	2,000	2,000	4,000	11.1%	$4,591,000	$2,149
Black	111,000	13,000	7,000	20,000	55.6%	$34,649,000	$3,173
Hispanic	37,000	7,000	4,000	11,000	30.6%	$18,062,000	$3,240
Asian/other	19,000	-	1,000	1,000	2.8%	$988,000	$1,850
Family structure							
Married parent	43,000	3,000	1,000	4,000	11.1%	$8,143,000	$3,236
Single parent	19,000	2,000	2,000	4,000	11.1%	$7,236,000	$3,239
Married, no kids	62,000	3,000	2,000	5,000	13.9%	$8,522,000	$3,377
Unmarried, no kids	188,000	14,000	9,000	23,000	63.9%	$34,389,000	$2,892
Work hours							
Part time (< 20 hours)	8,000	2,000	2,000	4,000	11.1%	$1,793,000	$1,189
Mid time (20–34 hours)	26,000	6,000	3,000	9,000	25.0%	$13,514,000	$2,826
Full time (35+ hours)	279,000	15,000	9,000	24,000	66.7%	$42,982,000	$3,338
Education							
Less than high school	21,000	6,000	3,000	9,000	25.0%	$17,043,000	$3,301
High school	45,000	9,000	6,000	15,000	41.7%	$22,380,000	$3,014
Some college	31,000	4,000	3,000	7,000	19.4%	$10,675,000	$3,148
Associate degree	10,000	1,000	-	1,000	2.8%	$1,794,000	$4,120
Bachelor's degree or higher	207,000	3,000	2,000	5,000	13.9%	$6,398,000	$2,324
Family Income							
Less than $10,000	11,000	2,000	1,000	3,000	8.3%	$5,207,000	$2,982
$10,000–$14,999	9,000	3,000	1,000	4,000	11.1%	$6,887,000	$3,074
$15,000–$19,999	8,000	1,000	1,000	2,000	5.6%	$3,481,000	$3,791
$20,000–$24,999	8,000	2,000	1,000	3,000	8.3%	$3,658,000	$2,364
$25,000–$29,999	11,000	1,000	1,000	2,000	5.6%	$2,168,000	$2,468
$30,000–$34,999	15,000	2,000	2,000	4,000	11.1%	$5,455,000	$3,421
$35,000–$39,999	13,000	2,000	2,000	4,000	11.1%	$6,031,000	$3,282
$40,000–$49,999	22,000	2,000	1,000	3,000	8.3%	$7,091,000	$3,838
$50,000–$59,999	24,000	2,000	1,000	3,000	8.3%	$3,999,000	$2,620
$60,000–$74,999	29,000	3,000	1,000	4,000	11.1%	$6,592,000	$3,019
$75,000–$99,999	36,000	1,000	1,000	2,000	5.6%	$2,784,000	$2,828
$100,000–$149,999	50,000	1,000	1,000	2,000	5.6%	$1,896,000	$2,816
$150,000 or more	77,000	1,000	1,000	2,000	5.6%	$3,042,000	$2,564

	Estimated # of children	Directly affected	Indirectly affected	Total affected	% of children
Children with at least one affected parent	111,000	9,000	7,000	16,000	14.4%

Category	Average share of family income earned by affected worker	Share of affected who are sole providers of family income
All affected	54.4%	21.8%
Parents affected	60.8%	16.7%

Note: Estimates describe affected population, where indicated, within specified state of Harkin/Miller proposal to raise the federal minimum wage to $10.10 via three incremental increases over three years. Demographic profile reflects affected population in third year (i.e., in step up to $10.10/hour). The total wage increase and total average increase to annual wage income are the totals over all three steps.

Source: Authors' analysis of Harkin/Miller proposal using Current Population Survey Outgoing Rotation Group microdata

THE IMPACT OF A $9.80 FEDERAL MINIMUM WAGE

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Appendix

Projected Employment Loss from a $9.80 Minimum Wage			
State	One Percent	Three Percent	6 Percent for Young Dropouts, 2 Percent for All Others
All States	-256,203	-768,608	-674,613
Alabama	-5,031	-15,093	-13,236
Alaska	-238	-714	-620
Arizona	-4,742	-14,227	-12,991
Arkansas	-3,728	-11,185	-9,000
California	-21,241	-63,724	-53,480
Colorado	-3,358	-10,075	-8,918
Connecticut	-868	-2,605	-2,273
Delaware	-652	-1,955	-1,726
District of Columbia	-99	-298	-234
Florida	-11,970	-35,910	-29,583
Georgia	-10,389	-31,167	-27,126
Hawaii	-1,137	-3,411	-2,457
Idaho	-1,937	-5,812	-5,115
Illinois	-4,993	-14,979	-13,120
Indiana	-6,547	-19,640	-18,389
Iowa	-3,622	-10,867	-10,788
Kansas	-3,379	-10,137	-9,230
Kentucky	-4,730	-14,189	-12,684
Louisiana	-4,596	-13,788	-12,531
Maine	-973	-2,920	-2,619
Maryland	-3,822	-11,467	-10,279
Massachusetts	-2,800	-8,399	-8,615
Michigan	-9,486	-28,457	-23,836
Minnesota	-4,399	-13,196	-12,724
Mississippi	-3,763	-11,289	-9,764
Missouri	-6,435	-19,304	-18,280
Montana	-935	-2,805	-2,520
Nebraska	-2,175	-6,526	-6,546
Nevada	-958	-2,874	-2,317
New Hampshire	-890	-2,670	-2,547
New Jersey	-7,060	-21,181	-18,590
New Mexico	-1,592	-4,777	-3,848
New York	-14,496	-43,489	-37,516
North Carolina	-9,152	-27,455	-22,344

Projected Employment Loss from a $9.80 Minimum Wage			
State	One Percent	Three Percent	6 Percent for Young Dropouts, 2 Percent for All Others
North Dakota	-727	-2,180	-2,355
Ohio	-11,878	-35,634	-30,948
Oklahoma	-3,884	-11,653	-9,956
Oregon	-1,282	-3,846	-3,212
Pennsylvania	-12,260	-36,780	-35,236
Rhode Island	-825	-2,475	-2,228
South Carolina	-4,745	-14,234	-12,107
South Dakota	-827	-2,481	-2,318
Tennessee	-6,643	-19,930	-15,666
Texas	-31,042	-93,125	-80,848
Utah	-2,649	-7,946	-7,283
Vermont	-173	-518	-518
Virginia	-7,603	-22,808	-19,462
Washington	-852	-2,555	-2,227
West Virginia	-2,202	-6,605	-5,774
Wisconsin	-5,899	-17,696	-17,202
Wyoming	-519	-1,557	-1,428

Family Status of Employees Impacted by a $9.80 Minimum Wage					
State	Single Adults	Unmarried Single Earners with Children	Married Single Earners with or without Children	Married Dual Earners with or without Children	Living with Family (e.g. Parents or Relatives)
All States	**24.6%**	**9.2%**	**9.3%**	**20.6%**	**36.28%**
Alabama	25.5%	12%	12.9%	17%	32.58%
Alaska	29.3%	5.2%	12.2%	18.9%	34.38%
Arizona	25.2%	10%	11%	15.7%	38.13%
Arkansas	29.7%	8.5%	9.4%	22.1%	30.36%
California	23.4%	8.4%	10.9%	19.1%	38.2%
Colorado	29.7%	7.4%	7.1%	19.6%	36.11%
Connecticut	19.2%	6.8%	4.7%	18.4%	50.95%
Delaware	19%	8%	9.1%	20.7%	43.27%
DC	37.9%	10.8%	5%	15.4%	30.89%
Florida	27.3%	9.7%	12%	21.4%	29.58%
Georgia	27.5%	11.1%	8.8%	24%	28.67%
Hawaii	23.3%	7.5%	10.3%	17.7%	41.23%
Idaho	23.8%	6%	12.2%	31.7%	26.32%
Illinois	23.9%	10.2%	11.2%	20.2%	34.45%
Indiana	24.9%	9.4%	8.3%	24.1%	33.35%
Iowa	28.2%	6.7%	6%	23.8%	35.33%
Kansas	28.9%	8.4%	3.4%	25.9%	33.39%
Kentucky	28.8%	9.5%	9.1%	22.3%	30.36%
Louisiana	18.7%	15.8%	8.7%	20%	36.83%
Maine	26.4%	7.9%	9.1%	16%	40.57%
Maryland	24.1%	6.4%	6.3%	21.7%	41.53%
Massachusetts	16.1%	4.9%	5%	17.6%	56.33%
Michigan	21.3%	9.3%	7.6%	22.9%	38.9%
Minnesota	29.2%	7.5%	5.1%	16%	42.28%
Mississippi	24.2%	16.2%	6.7%	22.9%	29.95%
Missouri	24.7%	9.6%	7.5%	22.1%	36.11%
Montana	40%	9%	8.6%	16.9%	25.58%
Nebraska	23%	7.7%	6.7%	23.5%	39.15%
Nevada	31.9%	10.6%	10.8%	16.1%	30.63%
New Hampshire	20.1%	4.7%	6.6%	18.6%	49.99%
New Jersey	20.7%	6.7%	7.3%	16.9%	48.32%
New Mexico	28.2%	15.9%	9.5%	17.6%	28.83%
New York	22%	9.4%	9.1%	18.3%	41.23%
North Carolina	27.6%	9.8%	13%	18.8%	30.86%
North Dakota	30.6%	8.2%	3.9%	18.8%	38.47%

Family Status of Employees Impacted by a $9.80 Minimum Wage					
State	Single Adults	Unmarried Single Earners with Children	Married Single Earners with or without Children	Married Dual Earners with or without Children	Living with Family (e.g. Parents or Relatives)
Ohio	26.6%	6%	7.1%	20.7%	39.5%
Oklahoma	24.5%	13.7%	10.9%	21.8%	29.03%
Oregon	30.5%	5.1%	8.2%	20.3%	35.86%
Pennsylvania	22.8%	6%	6.9%	19.6%	44.68%
Rhode Island	21.8%	9.6%	7.4%	18.8%	42.38%
South Carolina	23.6%	12.9%	8.2%	17.8%	37.43%
South Dakota	32.8%	8.8%	8.9%	21.4%	28.15%
Tennessee	29.7%	7.8%	11.2%	28.8%	22.51%
Texas	22.3%	12.3%	10.5%	21.4%	33.37%
Utah	17%	8.5%	10%	29.7%	34.8%
Vermont	32.7%	8.9%	7.1%	16.4%	34.84%
Virginia	24.3%	5.6%	8.8%	21.9%	39.38%
Washington	28.4%	9.5%	7.2%	15.7%	39.16%
West Virginia	20%	11.3%	16%	23.5%	29.27%
Wisconsin	26.5%	7.4%	7.1%	18.7%	40.22%
Wyoming	31.7%	7.1%	6.5%	25.8%	28.78%

The Washington Post

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O'Malley launches petition drive to raise Maryland's $7.25 an hour minimum wage

By John Wagner, Published: November 7

Maryland Gov. Martin O'Malley (D) on Thursday launched an online petition drive to raise the state's minimum wage, saying, "We must take action to strengthen and grow the middle class."

O'Malley's office has been working on a bill to introduce in next year's legislative session, but the governor has not said how much he would increase the current minimum wage of $7.25 an hour or how quickly.

In an e-mail sent out by his political action committee on Thursday, O'Malley asked supporters to join what he said will be a "long and difficult effort."

Bills to raise the minimum wage went nowhere during this year's 90-day legislative session in Annapolis, in part because of staunch resistance from retailers and other employers. But supporters — including the state's labor unions — hope the dynamic will be different when lawmakers return in January.

Several Democrats — including all three candidates running next year to succeed O'Malley as governor — have promised to make the issue a priority.

Attorney General Douglas F. Gansler (D) has signed onto a plan that would set a minimum of $10.10 an hour by July 2016.

Another Democrat seeking her party's nomination, Del. Heather R. Mizeur (D-Montgomery), on Wednesday proposed a plan that would gradually raise the rate to $16.70 an hour by October 2022.

Lt. Gov. Anthony G. Brown (D) has also pledged to push minimum-wage legislation.

Nineteen states and the District mandate a minimum wage higher than the federal minimum of $7.25 an hour.

"Moms and dads are working harder, but falling farther behind," O'Malley wrote. "As we move Maryland forward out of this recession and into better times, we must make the important choices necessary to expand opportunity and strengthen families — choices that grow the ranks of a diverse middle class."

MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

ROGER BERLINER
COUNCILMEMBER
DISTRICT 1

CHAIRMAN
TRANSPORTATION, INFRASTRUCTURE
ENERGY & ENVIRONMENT COMMITTEE

November 12, 2013

The Honorable Isiah Leggett
Montgomery County Executive
101 Monroe Street
Rockville, MD 20850

Dear County Executive Leggett,

Ike

Whether our county should raise the minimum wage -- either alone or in conjunction with Prince George's and/or the District of Columbia -- is a significant issue that our Council may soon be deliberating. My colleagues and I are spending a lot of time thinking about this issue, as are many others in our community.

To be clear, I am a strong supporter of an increase of the minimum wage at the state level. On the most fundamental level, the gap between those at the top and those at the bottom continues to grow, and we need to tend to those who are laboring hard but can hardly make it. No one questions that the federal minimum wage has not kept up with the cost of living, and that is a tougher pill to swallow here where the cost of living is arguably the highest in the state.

A number of other states, including California, Oregon, New York, Connecticut, Rhode Island and most recently, New Jersey, have addressed this inequity. Maryland should not fail to do so this session and all signs suggest that we will. The Governor, to his credit, has made it clear it will be a priority of his. I am betting on success.

Given these favorable prospects at the state level, I do not see the value in moving county legislation before the next legislative session ends. However, Councilmember Elrich's legislation raises another distinct and fundamental issue – should our County have a higher minimum wage than what is established throughout the state. I am aware that there are a few local governments such as San Francisco and Santa Fe who have established higher minimum wages, in some instances, several dollars more. I am not aware of any major jurisdiction in the Midwest or East -- including New York City, Chicago, or Boston that have higher costs of living than their respective states -- that have adopted such an approach.

I am writing to request that you share with my colleagues on the Council and the broader community at the earliest opportunity your views on this issue and Mr. Elrich's legislation, including:

1. Do you believe that the Council should wait to consider this matter until after the next session of the General Assembly?

2. If the state were to increase the minimum wage, do you support having a higher minimum wage than the rest of the state? If so, by how much, and what analysis has your administration performed to select the appropriate higher amount?

3. Do you think that acting either alone or in concert with Prince George's and/or the District of Columbia would undermine our county's economic competitiveness and/or the County's reputation within the business community? What weight do you believe we should give to such considerations?

4. In the District, Mayor Gray is reportedly seeking a study to determine the economic impacts of raising the minimum wage. Director Silverman advises me that the Department of Economic Development has not conducted any analysis of the impact of raising the minimum wage above the state level. Do you believe there should be some form of cost/benefit analysis conducted before acting on this measure?

As our County's leader, your views are important -- to me, to the public, and to the public debate. I look forward to your recommendations and responses to the issues raised herein at your earliest opportunity.

Sincerely,

Roger Berliner
Councilmember, District 1
Montgomery County Council

cc: Steve Silverman, Director, Department of Economic Development
Councilmembers

OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

November 13, 2013

Dear Councilmember Berliner,

Thank you for your recent letter concerning the minimum wage.

The federal minimum wage of $7.25 is, of course, woefully inadequate. It has not been increased since 2009 and is not indexed to inflation. That is why more than 20 states, and other local jurisdictions, have already increased the minimum wage in their jurisdictions above the federal minimum.

Last year, I supported the effort at the State level to increase the minimum wage in Maryland to $10 per hour. It was unsuccessful. There is no guarantee that such an effort will succeed in the General Assembly this year or in the foreseeable future. Accordingly, I support Bill 27-13 to increase the minimum wage now.

I believe that a higher minimum wage for Montgomery County is justified, given the higher cost of living in the County as compared to the rest of the State. I am open to discussing what the right level is and, of course, what the appropriate phase-in period should be but, on principle, I think a higher level for the County is justifiable.

I do not believe raising our minimum wage will have a significant negative impact on either the reality or the perception of "economic competitiveness." Nationally, fewer than five percent of workers earn at or below the minimum wage and I believe that percentage is even lower in Montgomery County. But for those workers who are supporting themselves and their families on a very thin financial margin, an increase in the minimum wage will provide them with additional money, much of which will probably be spent in the County which could have a positive economic impact for many of our businesses.

I do not believe that delaying action for a potentially lengthy "study" would prove useful. There is already experience in other jurisdictions, and the Council can draw information from that experience.

Given all this, I support action in the Council to increase the minimum wage. It is a practical issue, yes, but also a moral one as well. Should Bill 27-13 be approved by the Council, I will sign it into law.

Sincerely,

Ike Leggett
County Executive

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1 of 100 DOCUMENTS

Annotated Code of Maryland

*** Statutes current through the 2013 General Assembly Regular Session ***
*** Annotations current through October 7, 2013 ***

LOCAL GOVERNMENT
DIVISION II. **MUNICIPALITIES**
TITLE 4. IN GENERAL
SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS

GO TO MARYLAND STATUTES ARCHIVE DIRECTORY

Md. LOCAL GOVERNMENT Code Ann. § 4-111 (2013)

§ 4-111. Application of **county legislation to municipalities**

(a) "**Legislation**" defined. -- In this section, "**legislation**" means any form of **county** or municipal legislative enactment, including a law, an ordinance, a resolution, or any action by which a **county** budget is adopted.

(b) **Municipality** exempt. -- Except as provided in subsection (c) of this section, **legislation** enacted by a **county** does not apply in a **municipality** located in the **county if the legislation:**

(1) by its terms, exempts the **municipality**;

(2) conflicts with **legislation of the municipality** enacted under a grant of legislative authority provided by public general law or the municipal charter; or

(3) (i) relates to a subject on which a public general law or the municipal charter grants the **municipality** legislative authority; and

(ii) the **municipality** by ordinance or charter amendment:

1. specifically exempts itself from the **county legislation;** or

2. generally exempts itself from **county legislation** covered by the type of grant of authority to the **municipality**.

(c) **Municipality** not exempt. -- The following categories of **county legislation,** if within the scope of legislative powers granted to a **county** by the General Assembly, apply in all **municipalities** in the **county:**

(1) **county legislation** made applicable to all **municipalities** in the **county** under a law enacted by the General Assembly;

(2) **county** revenue or tax **legislation,** subject to Title 16, Subtitle 5 and Title 20 of this article, the Tax - General Article, and the Tax - Property Article, or **legislation** adopting a **county** budget; and

(3) subject to subsection (e) of this section, **county legislation** that is enacted in accordance with **county** requirements for **legislation** that is to become effective immediately and for which the legislative body of the **county:**

49

(i) makes a specific finding based on evidence of record after a hearing held under item (ii) of this item that there will be significant adverse impact on the public health, safety, or welfare affecting residents of the **county** in unincorporated areas if the **legislation** does not apply in all **municipalities** in the **county;**

(ii) conducts a public hearing at which all **municipalities** in the **county** and any interested persons have an opportunity to be heard;

(iii) 1. provides notice of the hearing by certified mail to all **municipalities** in the **county** at least 30 days before the hearing; and

2. publishes notice in a newspaper of general circulation in the **county** for 3 successive weeks, beginning at least 30 days before the hearing; and

(iv) enacts the **county legislation** by an affirmative vote of at least two-thirds of the authorized membership of the **county** legislative body.

(d) Judicial review of **county legislation.** --

(1) **County legislation** enacted in accordance with subsection (c)(3) of this section is subject to judicial review by the circuit court of the **county,** in accordance with the Maryland Rules governing appeals from administrative agencies, of:

(i) the finding made under subsection (c)(3)(i) of this section; and

(ii) the **legislation's** applicability to **municipalities** located in the **county.**

(2) An appeal under this subsection shall be filed within 30 days after the effective date of the **county legislation.**

(3) In a judicial proceeding under this subsection, the only issues that may be considered are whether the **county** legislative body:

(i) complied with the procedures of subsection (c)(3) of this section; and

(ii) had sufficient evidence from which a reasonable person could conclude that there will be a significant adverse impact on the public health, safety, or welfare affecting residents of the **county** in unincorporated areas if the **county legislation** does not apply in all **municipalities** in the **county.**

(4) The court shall decide the issues under paragraph (3) of this subsection without a jury.

(5) If a court reverses a legislative body's finding under subsection (c)(3)(i) of this section:

(i) the **legislation** shall continue to apply in unincorporated areas of the **county;** and

(ii) the applicability of the **legislation** in a **municipality** is governed by subsection (b) of this section.

(6) A **county or municipality** in the **county** may appeal the decision of a circuit court in a proceeding under this subsection to the Court of Special Appeals.

(e) Areas of municipal **legislation. -- County legislation** enacted in accordance with subsection (c)(3) of this section does not apply, or becomes inapplicable, in a **municipality** that has enacted or enacts municipal **legislation** that:

(1) covers the same subject matter and furthers the same policies as the **county legislation;**

(2) is at least as restrictive as the **county legislation;** and

(3) includes provisions for enforcement.

(f) **County** enforcement of municipal **legislation.** --

(1) By ordinance, a **municipality** may request and authorize the **county** in which it is located to administer or enforce any municipal **legislation.**

(2) After a **municipality** enacts an ordinance under paragraph (1) of this subsection, a **county** may administer or enforce the municipal **legislation** on mutually agreed terms.

(g) Construction. -- The other provisions of this article are considered amended as provided in this section.

HISTORY: An. Code 1957, art. 23A, §§ 2B(a)-(d), (e)(2), 2C; 2013, ch. 119, § 2.

NOTES: REVISOR'S NOTE

This section is new language derived without substantive change from former Art. 23A, §§ 2C and 2B(a) through (d) and (e)(2).

In subsection (b)(3)(ii) of this section, the former reference to an ordinance or amendment "having prospective or retrospective applicability, or both" is deleted as unnecessary because it is inclusive of every application.

In the introductory language of subsection (c) of this section, the former phrase "[n]otwithstanding the provisions of [subsection (b)(2) and (3)] of this section," is deleted as surplusage.

In subsection (c)(1) of this section, the reference to **county legislation** "made applicable to all **municipalities** in the **county** under a law enacted by the General Assembly" is substituted for the former reference to **county legislation** "where a law enacted by the General Assembly so provides" for clarity.

In the introductory language of subsection (d)(3) of this section, the reference to issues "that may be considered" in a judicial proceeding is added for clarity.

In subsection (f) of this section, the former reference to "conditions" is deleted as included in the reference to "terms".

In subsection (g) of this section, the former reference to "modified" is deleted as included in the reference to "amended".

Former Art. 23A, § 2B(e)(1), which defined "**county**" to mean any **county** regardless of the form of government, is deleted in light of the definition of "**county**" in § 1-101 of this article.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the meaning and intent of subsection (g) of this section is unclear. The General Assembly may wish to clarify the meaning of this subsection or repeal it.

DEFINED TERMS:

"**County**"	§ 1-101
"Municipal charter"	§ 4-101
"**Municipality**"	§ 1-101
"Person"	§ 1-101

UNIVERSITY OF BALTIMORE LAW REVIEW. --For note discussing **county** ordinance enacted pursuant to Express Powers Act as prevailing over ordinances enacted by **municipalities** within that **county** pursuant to municipal Express Powers Act, see *12 U. Balt. L. Rev. 191 (1982).*

LIMITATION ON APPLICATION OF CHARTER **COUNTY** ORDINANCES. --The General Assembly may limit the application of charter **county** ordinances to municipal corporations in those **counties** without adopting a constitutional amendment to accomplish this purpose. *67 Op. Att'y Gen. 254 (1982).*

CITY OF LAUREL ELECTRICAL CODE. --The Prince George's **County** Board of Registration for Master Electricians and Electrical Contractors is legally authorized to hear appeals relating to the electrical code of the City of Laurel. *81 Op. Att'y Gen. 133* (Sept. 3, 1996).

GENERAL REVISOR'S NOTE TO SUBTITLE.

Former Art. 23A, § 5, which specified that if a provision or a certain application of a provision of Article 23A was held invalid, the remainder of the article and other applications would not be affected, is deleted as unnecessary in light of Art. 1, § 23, which states that statutes enacted after July 1, 1973, are severable unless the statute specifically provides that its provisions are not severable.

USER NOTE: For more generally applicable notes, see notes under the first section of this part, subtitle, title, division or article.

Drummer, Bob

From: Jennifer Young [young@sp-law.com]
Sent: Tuesday, November 19, 2013 1:03 PM
To: Drummer, Bob
Cc: Susan Silber
Attachments: Ordinance No. 2539.pdf

Mr. Drummer,
I am an Associate working for Sue Silber, Takoma Park's City Attorney. Ms. Silber asked me to follow up with you regarding your claim in a November 17th Washington Post article that Montgomery County's proposed minimum wage legislation would not apply to Takoma Park. That statement is incorrect.
I have been informed further that you based this assumption on the Appendix F to the Montgomery County Code. In that table, it lists Chapter 17, Human Rights and Civil Liberties as not applying to Takoma Park, but information included as Footnote 9 states that "Takoma Park has their law and county is authorized to enforce."
Bill 27-13 applies to Takoma Park pursuant to section 4-111 of the Local Government article of the Maryland Code because the bill does not exempted Takoma Park explicitly (Local Gov't 4-111(b)(1)). Further, Takoma Park has not exempted itself from county legislation either in this specific case or generally (Local Gov't 411-(b)(3)(ii)(1) & (2)).
Below is Takoma Park's law on this subject from Takoma Park's City Code.

Chapter 9.12

CIVIL LIBERTIES AND HUMAN RELATIONS

Ordinance No. 2539, **which adopted Montgomery County's Human Relations and Civil Liberties Ordinance and provided for enforcement in the City by the County's Human Relations Commission**, was adopted by the Mayor and Council 11-10-80 and is on file in the City Office for use and examination by the public.
I've attached Ordinance No. 2539 for reference. It tends to muddy the waters (it looks like a form ordinance that was adopted in 1980), but the primary aspects of consideration are that it has adopted Chapter 27 of Montgomery County Code "as amended" (paragraph 2) and that the above-referenced aspects of the Maryland Code apply. The Ordinance does not specifically exempt Takoma Park from Chapter 27 of Montgomery County Code. Further, Bill 27-13 is not in conflict with Takoma Park's ordinance.

If Bill 27-13 is approved by the Council, it will be applicable to the City of Takoma Park.

Jennifer L. Young, Esquire
Associate
SILBER, PERLMAN, SIGMAN & TILEV, P.A.
7000 Carroll Avenue, Suite 200
Takoma Park, MD 20912
Telephone: 301-891-2200
Fax: 301-891-2206
young@sp-law.com

firm of Silber, Perlman, Sigman & Tilev, P.A., informs you that any tax advice contained in this communication (including attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code; or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

October 9, 2013

CONTACT:

Karen Sibert (D.C.) 202.724.8164

Karen Campbell (Prince George's) 301.952.5182

Neil Greenberger (Montgomery) 240.777.7939

Montgomery Councilmembers Marc Elrich and Valerie Ervin; Prince George's Chair Andrea Harrison and Councilmember Toles; and D.C. Council Chair Phil Mendelson Unite to Support $11.50 'Regional' Minimum Wage

In Unique Collaboration, Similar Bills To Be Considered by Councils in Montgomery, Prince George's County and the District of Columbia

October 9, 2013—Montgomery County Councilmembers Marc Elrich and Valerie Ervin, Prince George's County Council Chair Andrea Harrison and Councilmember Karen Toles and District of Columbia Council Chairman Phil Mendelson today united in a rare collaboration of their respective governments to support an effort to create a "regional minimum wage" that would gradually increase to $11.50 per hour. The event was held at the Washington Metropolitan Council of Governments in Northeast D.C.

The bills introduced in each jurisdiction differ slightly, but they share in the goal of establishing a minimum wage of $11.50. The bills' sponsors today spoke of how a regional minimum wage gives each jurisdiction the best chance of having legislation that is fair to employers and the many employees that would be impacted.

Councilmember Elrich's Bill 27-13, which is co-sponsored by Councilmember Ervin and Council President Nancy Navarro, would increase the minimum wage in Montgomery County over a three-year period. A public hearing on Bill 27-13 is scheduled for 7:30 p.m. on Thursday, Oct. 24.

"Maryland's minimum wage at $7.25 per hour is the equivalent of $15,000 a year for a full-time, year-round employee, and that leaves a wage earner and their family below the federal poverty line," said Councilmember Elrich. "We are not talking about people who are trying to take advantage of the system—we are talking about people who just want to take care of their families as a result of the hard work they do, and at the current minimum wage, that is not possible.

"If we have a minimum wage of $11.50 per hour, it will at least be a step a right direction for workers, and in the end, everyone benefits. If people have a better chance of taking care of their own needs, they will be less dependent on the supplemental assistance that they now must have to survive."

Bill 27-13 provides credit for an employer who provides health insurance to the employee. The County minimum wage would be phased in over several years. The rate would be $8.25 per hour on July 1, 2014, $9.75 per hour on July 1, 2015, and $11.50 per hour on July 1, 2016. Beginning on July 1, 2017, the rate would be raised by any increase in the Consumer Price Index on an annual basis. The County minimum wage would not apply to a worker who is not covered by the State or federal minimum wage law, a tipped employee or a worker subject to an opportunity wage under the State or federal law.

"Raising the minimum wage is not just an economic demand; it is a civil right demand," said Councilmember Ervin. "The 1963 March on Washington called for a $2 per hour minimum wage. Fifty years later, we are still marching and fighting for jobs and freedom. In my opinion, we must combat poverty regionally by raising the minimum wage and creating jobs. These are two of the best ways to help our working families reach their goals and create better lives for themselves and their children. I am delighted to stand shoulder to shoulder with our regional partners to help make this happen."

Prince George's Council Chair Harrison's Bill-94-2013, which has the unanimous support of her colleagues, would increase the minimum wage in Prince George's to $8.75 per hour beginning July 1, 2014; to $10.25 per hour beginning July 1, 2015; and to $11.50 per hour beginning July 1, 2016. Under the proposed measure, beginning July 1, 2017, the minimum wage would be adjusted for inflation in accordance with the Consumer Price Index, or the minimum wage pursuant to FLSA, whichever is greater.

"While the minimum wage has not increased in several years, the cost of nearly every essential resource for daily living—food, housing, utilities, transportation, and healthcare--continues to rise," said Prince George's Council Chair Harrison. "Increasing the minimum wage will help disadvantaged workers better provide for themselves and their families and improve their overall quality of life."

The Prince George's minimum wage legislative proposal will go before the Council's Public Safety and Fiscal Management Committee on Thursday, Oct. 17, at 1:30 p.m. in Room 2027 of the County Administration Building in Upper Marlboro.

The D.C. Council has a series of wage bills that are scheduled to be the subject of public hearings before its Business, Consumer and Regulatory Affairs Committee at 10 a.m. Monday, Oct. 28, in the John A. Wilson Building. The Council's objective is to approve a bill that will eventually establish the minimum wage at $11.50 per hour.

"In two decades, the minimum wage has fallen far below the rate of inflation," said D.C. Council Chair Mendelson. "Working together, we can restore some measure of equity for the lowest paid workers without fear of losing business across our borders."

The Washington Post

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Minimum wage of $11.50 proposed for the District

By Mike DeBonis and Aaron C. Davis, Published: November 18

The D.C. lawmaker tasked with writing a bill to raise the city's minimum wage said Monday that he will ask his colleagues to support an increase of more than $3 an hour, making the wage one of the nation's highest. But a coalition of liberal activists announced plans to push the wage a dollar higher than that through a ballot measure.

Vincent B. Orange (D-At Large) said the D.C. Council committee he chairs plans to meet next Monday to hash out final details of the bill and vote to increase the minimum wage from $8.25 an hour to $11.50.

The nearly 40 percent jump would be realized over three annual increases. On July 1, the District's minimum wage would increase $1.25, to $9.50. A year later, it would become $10.50, and on July 1, 2016, the city's minimum would reach $11.50. Thereafter, it would be indexed to inflation, likely increasing a few pennies each summer.

Orange repeated Monday that his preference would have been to get to $12.50 per hour, but that $11.50 had become the regional compromise, recently gaining the key backing of Montgomery County Executive Isiah Leggett (D).

Orange said he expects to secure a veto-proof, nine-vote majority on the council for the $11.50 wage. Council Chairman Phil Mendelson on Monday pledged his support for the $11.50 bill.

Mayor Vincent C. Gray said Monday he was not prepared to support that figure and instead would propose his own. "We'll have something out soon . . . about what we can support and what we can't," he said.

He criticized the council for not confronting the issue more deliberatively.

"I really wish we had not had a rush to judgment, that we could have gotten a study done on this issue and then we all could have been in the same place in terms of factors that need to be considered," Gray said. "One of the things, for example, that is not answered is to what extent will this impact jobs? We don't really know."

Orange pushed back on Gray's criticism. "We did not pick this number out of thin air," he said. "We have the answers to the mayor's questions" — which will come, he said, in the committee's report.

The $11.50 rate is a dollar less than the "living wage" that the council earlier this year voted to impose on large retailers — including Wal-Mart, which will soon open its first stores in the city. Gray vetoed that bill, citing its impact on development and jobs, turning the debate to a broader minimum wage hike.

The group D.C. Working Families, a newly launched coalition of labor, clergy and other liberal activists, is set on Tuesday morning to launch a campaign to put a proposal for a $12.50 minimum wage on the ballot for next year's November general election.

To do so, the activists must convince the D.C. Board of Elections that a minimum wage hike is a legal subject for a ballot initiative — then collect the signatures of more than 23,000 District voters.

As with the bill Orange supports, the group proposes to phase in the higher rate over several years and then index it to the cost of living.

Delvone Michael, the group's director, said in a statement ahead of Tuesday's kickoff that rising income inequality "requires bold measures to raise wages as a first step in creating an economy that works for all of us."

Earlier this month, voters in New Jersey approved a constitutional amendment that would raise that state's minimum wage from $7.25 to $8.25 and provide for yearly increases tied to the cost of living.

An $11.50 minimum wage would put the District ahead of all 50 states — including Washington, which has the highest current minimum of $9.19. Some cities have set higher minimums; the minimum wage in San Francisco is $10.55.

Voters in SeaTac, Wash., home to the Seattle region's international airport, voted this month on raising the minimum wage there to $15 an hour. The measure appears headed for a recount.

WAGE & HOUR FACT SHEET

Extracts from and summary of the Labor and Employment Article, Title 3, Subtitle 4 Annotated Code of Maryland

$7.25 per hour

Beginning July 24, 2009

The minimum wage that must be paid to covered employees is $7.25 per hour as of July 24, 2009 at 12:01 AM. With certain exceptions, time and a half the usual hourly rate must be paid for all hours worked in excess of 40 in a workweek.

Certain employees and establishments are exempt from both the minimum wage and overtime provisions. Exemptions include certain agricultural workers, executives, administrative and professional employees; employees of educational, charitable, religious and other non-profit organizations where the employee is working as a volunteer; employees of restaurants, cafes, drive-ins, taverns, and drug stores which sell food and drink for consumption on the premises where the annual gross is less than $250,000, employees of motion picture and drive-in theaters; employees under 16 years of age working less than 20 hours per week; outside salesmen and individuals compensated on a commission basis; individuals 62 years of age and working not more than 25 hours a week; employees of establishments engaged in the first canning, packing or freezing of fruits, vegetables, poultry and seafood; the immediate family of the employer; those employees enrolled in a special educational program and non-administrative employees of organized camps.

Certain employers are exempt from the overtime provisions, but must pay their employees minimum wage. The following employers are exempt from overtime but subject to minimum wage: employers covered by certain railroad requirements of the Department of Transportation, the Federal Motor carrier Act and the Interstate Commerce Commission; employers operating a hotel, motel, restaurant, gas service station, an amusement or recreational establishment including certain swimming pools; employers operating a bona fide private country club; employers operating a non-profit entity in any of the following: providing in home care services for the sick, aged or individuals with disabilities; operating a theater, music festival, musical pavilion, theatrical show or concert promotion; employers who employ certain mechanics, parts-persons, or salespersons who primarily sell or service automobiles, farm equipment, trailers or trucks; employers who operate a taxicab business.

Employees of bowling establishments and institutions primarily engaged in the care of the sick, the aged, or individuals with disabilities who reside on the premises (other than hospitals) shall be paid time and one half after 48 hours.

Theater craft or trade employees that work for a "for profit" employer must be paid time and a half after 40 hours.

Covered agricultural workers must be paid time and a half after working 60 hours in any one workweek.

Employers are allowed to pay tipped employees (defined as employees regularly earning more than $30 per month in tips) not less than $3.63 per hour, provided each employee earns enough tips to bring their average hourly wage to at least the State minimum wage $7.25 per hour. Deficiencies must be supplemented by the employer to bring the employee to the minimum wage level.

Employers covered by the Federal Fair Labor Standards Act may pay an opportunity wage of $4.25 per hour to employees under 20 years of age during their first 90 consecutive calendar days of employment with an employer. Employers are prohibited from displacing employees in order to hire youth at the opportunity wage rate. Also prohibited are partial displacements such as reducing employees' hours, wages, or employment benefits.

Employers must keep records for 3 years in or about the premises where the employee is employed consisting of the name, address, race, gender and occupation of each employee, the rate of pay, amount paid each pay period, and the daily and weekly hours worked by each employee.

Penalties are prescribed for violations of the law.

EMPLOYERS ARE REQUIRED TO POST THIS INFORMATION PURSUANT TO LABOR AND EMPLOYMENT ARTICLE, TITLE 3, SUBTITLE 4, ANNOTATED CODE OF MARYLAND

December 17, 2009

U.S. Department of Labor
Wage and Hour Division

U.S. Wage and Hour Division

(Revised July 2008)

Fact Sheet #18: Section 13(a)(3) Exemption for Seasonal Amusement or Recreational Establishments Under the Fair Labor Standards Act (FLSA)

The FLSA requires that most employees in the United States be paid at least the federal minimum wage and overtime pay at time and one-half the regular rate of pay after 40 hours in a workweek. In addition, the law includes youth employment and recordkeeping provisions. However, the Act provides some specific exemptions from these requirements for employees employed by certain establishments and in certain occupations. This fact sheet provides general information concerning the application of the Section 13(a)(3) exemption from minimum wage and overtime pay to seasonal and recreational establishments under the FLSA.

Some State wage laws may not recognize or permit the application of this exemption, and since an employer must comply with the most stringent of the State or Federal provisions, it is strongly recommended that State laws be reviewed prior to applying this exemption.

General Provisions of Section 13(a)(3)

Section 13(a)(3) provides an exemption from the minimum wage and overtime provisions of the FLSA for "any employee employed by an establishment which is an amusement or recreational establishment, if (A) it does not operate for more than seven months in any calendar year, or (B) during the preceding calendar year, its average receipts for any six months of such year were not more than 33-1/3 per centum of its average receipts for the other six months of such year."

Tests for the Exemption

(a) An "amusement or recreational establishment" will be exempt under Section 13(a)(3) of the Act if it meets either Test (A) or Test (B) as explained in the following paragraphs.

(b) "Does not operate for more than seven months in any calendar year." Whether an amusement or recreational establishment "operates" during a particular month is a question of fact, and depends on whether it operates as an amusement or recreational establishment. If an establishment engages only in such activities as maintenance operations or ordering supplies during the "off season" it is not considered to be operating for purposes of the exemption.

(c) 33-1/3 % Test. Because the language of the statute refers to receipts for any six months (not necessarily consecutive months), the monthly average based on total receipts for the six individual months in which the receipts were smallest should be tested against the monthly average for six individual months when the receipts were largest to determine whether this test is met. To illustrate:

An amusement or recreational establishment operated for nine months in the preceding calendar year. The establishment was closed during December, January and February. The total receipts for May, June, July, August, September and October (the six months in which the receipts were largest) totaled $260,000, a monthly average of $43,333; the total receipts for the other six months totaled $75,000, a monthly average of $12,500. Because the average receipts of the latter six months were not more than 33-1/3% of the average receipts for the other six months of the year, the Section 13(a)(3) exemption would apply.

"Employed by" an Exempt Establishment

For purposes of applying Section 13(a)(3), the general principles set forth in IB 779.307 - 779.311 apply. Thus an employee, to be exempt, must be "employed by" the exempt establishment. If the concessionaire and host establishment constitute a single establishment, as is usually the case, the tests apply on the basis of all the operations of the establishment, including those of the concessionaire. Central functions of an organization operating more than one such establishment, as in the case of employees of a central office, warehouse, garage, or commissary which serves a chain of exempt "amusement or recreational" establishments would not be within the exemption under Section 13(a)(3).

"Receipts" of a publicly operated amusement or recreational establishment. Section 13(a)(3) contains certain percentage tests for "receipts" of the establishment. As used here, receipts are fees from admissions. A publicly operated amusement or recreational establishment whose operating costs are met wholly or primarily from tax funds would fail to qualify under Section 13(a)(3)(B).

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: http://www.wagehour.dol.gov and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

1-866-4-USWAGE
TTY: 1-866-487-9243
Contact Us

U.S. Department of Labor
Wage and Hour Division

U.S. Wage and Hour Division
(Revised July 2008)

Fact Sheet #32: Youth Minimum Wage - Fair Labor Standards Act

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping and youth employment standards affecting full-time and part-time workers in the private sector and in Federal, State, and local governments. The FLSA requires payment of the Federal minimum wage to all covered and nonexempt employees. Overtime pay at a rate of not less than one and one-half times the regular rate of pay is required for all hours worked over 40 in a workweek.

The 1996 Amendments to the FLSA allow employers to pay a youth minimum wage of not less than $4.25 an hour to employees who are under 20 years of age during the first 90 consecutive calendar days after initial employment. The law contains certain protections for employees that prohibit employers from displacing any employee in order to hire someone at the youth minimum wage. This fact sheet provides general answers to questions that may arise about the youth wage provisions.

What is the youth minimum wage?
The youth minimum wage is authorized by Section 6(g) of the FLSA, as amended by the 1996 FLSA Amendments. The law allows employers to pay employees under 20 years of age a lower wage for a limited period -- 90 calendar days, **not** work days -- after they are first employed. Any wage rate above $4.25 an hour may be paid to eligible workers during this 90-day period.

Who may be paid the youth minimum wage?
Only employees under 20 years old may be paid the youth minimum wage and only during the first 90 consecutive calendar days after initial employment by their employer.

Which employers may use the youth minimum wage?
All employers covered by the FLSA may pay eligible employees the youth minimum wage, unless prohibited by State or local law. Where a State or local law requires payment of a minimum wage higher than $4.25 an hour and makes no exception for employees under age 20, the higher State or local minimum wage standard would apply.

When does the 90-day eligibility period start and end?
The eligibility period runs for 90 consecutive calendar days *beginning with the first day of work for an employer.* It does not matter when the job offer was made or accepted (or when the employee was considered "hired"). The 90-day period starts with (and includes) the first day of work for the employer. The 90-day period is counted as consecutive days on the calendar, not days of work. It does not matter how many days during this period the youth actually performs any work.

What happens if an employee reaches 20 years of age before he or she has worked the full 90-day eligibility period for the employer? Can the employee still be paid the youth wage for the full 90-day period?
No. Eligible employees may be paid the youth wage up to the day before their 20th birthday. On and after their 20th birthday, their pay must be raised to no less than the applicable minimum wage.

What impact does a break in service have on counting the first "90 consecutive calendar days" after initial employment by an employer?
A break in service does not affect the calculation of the 90-day period of eligibility. In other words, the 90-calendar-day period continues to run even if the employee comes off the payroll during the 90 days. For example, if a student initially works for an employer over a 60-calendar-day period in the summer and then quits to return to school, the 90-day eligibility period ends for this employee with this employer 30 days after he/she quits (i.e., 90 consecutive calendar days after initial employment). If this student were to return later to work again for this same employer, the period of eligibility for the youth wage will have already expired.

May an employee be paid the youth wage by more than one employer?
Yes. A youth under 20 may be paid the youth wage for up to 90 consecutive calendar days after initial employment with **any** employer, **not** just the **first** employer. While an employee is "initially employed" only **once** by any employer, an employee may be "initially employed" by more than one employer. The fact that an eligible youth may be employed simultaneously by more than one employer (unrelated to each other) does not impact either employer's right to pay the youth wage.

Does an employer have to provide any training to an employee paid at the youth wage?
No. Employers are **not** required to meet any training requirements in order to pay an eligible employee the youth wage.

The FLSA also authorizes other subminimum wage rates for certain categories of workers, such as full-time students, learners, and student-learners. Can these other special minimum wages combine with the youth minimum wage rate to allow a minimum wage lower than $4.25 an hour for young workers?
No. The special lower minimum wages authorized by Section 14 of the FLSA are based on the regular minimum wage.

Does the youth wage go up when the FLSA minimum wage goes up?
No. An eligible youth may still be paid not less than $4.25 an hour during the 90 calendar days after initial employment by his/her employer.

May an employer terminate an employee in order to hire someone at the youth wage?
No. The law contains specific protections for employees that make it illegal for employers to terminate employees to hire someone at the youth wage. Employers may not take any action to displace any employee (including partial displacements such as a reduction in hours, wages, or employment benefits) for the purpose of employing someone at the youth wage. Violation of this anti-displacement provision is considered to be a violation of the FLSA's Section 15(a)(3) anti-discrimination provision.

May an employer hire only employees under 20 years of age at the youth wage and employ them only for 90 days each?
No. Such a practice would be illegal. It would be a violation of the anti-displacement provisions if an employer employed individuals at the youth wage for the 90-day eligibility period and then terminated their employment in order to hire other employees at the youth wage.

What does "displacement" mean?
"Displacement" includes discharge, or any reduction in an employee's hours, wages, or employment benefits.

If an employer violates the anti-displacement provision, what are the employer's obligations to employees who are illegally displaced?
Employees who are illegally displaced are entitled to "make whole" relief, such as reinstatement to their previous or an equivalent position of employment, payment of lost wages or benefits, etc. For example, if an employee whose health insurance premium had been paid -- fully or partially -- by the employer is terminated in

order for the employer to hire another employee at the youth wage, and the displaced employee is required to pay the entire health insurance premium after being terminated to avoid a lapse in coverage, the employer could be required to reinstate the employee, compensate the employee for the lost wages, and reimburse the employee for the cost of health insurance premiums paid.

Does a violation of the anti-displacement provision make the employer ineligible to pay the youth wage to employees who are otherwise eligible?
No. A "displacement" violation does not cause an employer to lose eligibility to pay the youth wage to eligible employees.

Does the law provide a termination date for the FLSA's youth wage?
No.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: http://www.wagehour.dol.gov and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

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LOCAL NEWS

S.F.'s Minimum Wage, Highest in the Nation, Eludes Thousands as Enforcement Efforts Face Obstacles

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By Aaron Tilley (/members/aaron-tilley) and Michael Stoll (/members/michael-stoll)

San Francisco Public Press — May 1 2013 - 11:07am

10-year-old reform unfinished as businesses routinely flout $10.55 mandate, labor activists say

> **SEE ALSO: Listen to discussion of S.F.'s minimum wage enforcement on KALW Radio's "Your Call" Friday Media Roundtable** (http://www.kalw.org/post/friday-media-roundtable-hunger-strike-guantanamo-outrage-bangladesh).

While San Francisco's minimum wage is the highest in the nation, thousands of workers still earn below the current mandate of $10.55 an hour, say economists, anti-poverty activists and public officials.

It has been 10 years since voters passed the groundbreaking labor reform, and the city has built a first-of-its-kind inspection team that has recovered back wages for more than 3,000 workers.

But these efforts appear to have addressed only a fraction of the problem.

No local agency tracks minimum-wage jobs, so enforcement has relied on complaints from workers, who risk retaliation from employers by coming forward. But a recent study of other large cities suggest that San Francisco could have as many as 39,000 workers paid below the minimum. The 2008 Ford Foundation worker survey in New York, Chicago and Los Angeles found a 26 percent violation rate in a labor pool representing 15 percent of those cities' populations.

Local studies bolster those estimates. The Chinese Progressive Association estimated in 2006 that 9,000 Chinese restaurant and garment workers in San Francisco were cheated out of the city's base rate of pay.

As Congress begins to debate the national minimum wage this year, with President Obama's proposal to increase it to $9 an hour taking center stage, San Francisco's unfinished progressive labor reform could

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provide lessons for initiatives elsewhere to lift low-wage workers out of poverty.

The city's experience suggests that they are likely to succeed only if existing laws are enforced, sending a message to both employers and workers that the minimum wage is not optional.

San Francisco labor inspectors say budget constraints limit them to investigating businesses only when their workers file claims. After years of partnering with community groups with deep roots in ethnic communities where the abuse is most widespread, the city is relying on the groups to produce educational workshops and provide the city with tips on violations, offering in exchange logistical support and funding.

"The majority of all minimum-wage violation cases that we handle involve the underground economy — workers who are paid in cash, employers who are not accurately tracking hours worked," said Donna Levitt, director of the city's Office of Labor Standards Enforcement, which in addition to the minimum wage enforces an array of other local labor rules.

State and federal labor agencies face similar challenges, labor experts say. The profusion of small businesses paying low wages in the modern economy makes it impractical to initiate probes into industries where wage theft is widespread.

"Even though a lot of community groups would like to see us do more targeted outreach and not be complaint driven, it would take some work to figure out how to do that effectively and efficiently," Levitt said. "But I'd love to do that, to see how we'd do."

Businesses across the city continue to skirt the law. As in other major cities across the country, they tend to concentrate in ethnic enclaves. In Chinatown alone, according to a 2010 survey by the Chinese Progressive Association, about half of the 433 surveyed restaurant workers received less than San Francisco's legally mandated minimum wage, then $9.79 an hour.

A U.C. Berkeley political science graduate student, Els de Graauw, interviewed worker advocates in 2008. They told her some garment workers had such poor understanding of the law and "low expectations" of their earning potential that they sometimes settled for as little as $2 an hour.

Organizers in other communities report similar degrees of exploitation. The Filipino Community Center surveyed 50 caregivers for the elderly and disabled, finding that they made an average hourly rate of $5.33. The group recently started social gatherings twice a month to persuade underpaid workers to come forward. The work, organizers say, requires constant vigilance.

"When we first passed the minimum wage law," said Shaw San Liu, a labor advocate with the Chinese Progressive Association, "it became apparent it's meaningless if it can't be enforced."

Employers offer an array of excuses for why they pay below the minimum wage. Common ploys include deducting tips from a server's paycheck (a practice banned throughout California), failing to pay overtime and making illegal deductions from salary for expenses like living quarters. Many are paid in cash, making violation claims hard to verify.

Forty-eight percent of complaints come from workers in the food-service sector — cooks, dishwashers, baristas and waiters.

Construction workers, hotel employees, security guards, home health aides and other service employees are also frequently illegally paid below the city's base wage, which started in 2003 at $8.50 and is adjusted every year for inflation.

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Now, San Francisco's minimum is more than $2 higher than California's. The city also provides for fewer exceptions.

But some workers say they fear that if they come forward they will be cast into long-term unemployment. Others fear deportation if federal agents are alerted to their immigration status.

For Levitt, of the city's Office of Labor Standards Enforcement, building trust with workers is key. In each case, she said, a claimant "comes forward and tells us confidentially what the payment scheme is — from which we can build an investigation, and talk to other workers with some insider information about what's going on, and let them know that they're not the only ones."

COMMUNITY PARTNERS

Three community groups, the Chinese Progressive Association, the Filipino Community Center and La Raza Centro Legal, get funding from the city for primary education and outreach in ethnic minority communities, extending the labor standards office's ability to find aggrieved workers. The city doubled its investment in the groups since 2007, to $380,000 this year.

The vast majority of workers who show up to the Filipino Community Center's outreach meetings are caretakers in group homes for disabled and elderly people. They are no strangers to being ripped off. They may not know the details of the minimum wage laws, said organizer Mario De Mira, "but many can just tell when they're being broken. There's a certain level of exploitation that happens to a lot of workers when they realize this isn't right. It's almost a moral thing."

Earning the trust of workers is slow and painstaking work. Every other Wednesday evening, 15 to 20 laborers gather at the center's offices in the largely working-class Excelsior neighborhood. Walls are lined with colorful motivational posters demanding worker justice. Traditional Filipino food is served. De Mira tries to determine which laws are being broken, and whether local labor officials should be tipped off.

Lydia Panitig worked for almost 30 years as a teacher in the Philippines. But when she moved to San Francisco in 2006, no school district would accept her professional experience. So she took a job that paid her not just below the San Francisco minimum wage, $8.82 at the time, but also well below the federal rate of $5.15. She received $25 a day as a cleaner and worked from midnight to 8 a.m. She said she never thought of going to labor officials to complain.

Eventually she found a better job. Now, at age 66, she is working for legal wages doing home care for 70 to 80 hours a month.

Still, Panitig and her husband barely cover the rent on their $900-a-month San Francisco apartment, plus other expenses. Lacking U.S. teaching credentials, she said she is stuck at the bottom of the wage scale.

"It's the only choice I have," Panitig said.

Even with more education about the minimum wage law, many workers are just grateful to have a job in the current labor market. And although undocumented immigrants qualify for the $10.55 local wage, they fear deportation if they report abuses, making identifying violations a challenge.

"San Francisco has taken great strides to pass strong laws, but wage theft is still rampant," said Charlotte Noss, a project attorney at the Legal Aid Society-Employment Law Center, and co-chair of the city's Wage Theft Task Force. "You still walk down a street in Chinatown and half of the workers you pass have experienced wage theft in the past week."

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PERENNIAL REFORMS

Former Supervisor Matt Gonzalez said the minimum wage law was cooked up over burritos late one night at Taqueria Cancún at 19th and Mission streets in 2001, when he and a few overworked legislative aides were debating ways to extend their pro-labor agenda to thousands of San Francisco's low-wage workers.

"We started wondering what the guys behind the counter were being paid," Gonzalez said. "The following day we started researching the creation of a local minimum wage and whether it was preempted by state law."

The reformers answered that question resoundingly in 2003, when they teamed up with anti-poverty activists and the local Green Party to persuade 60 percent of voters to "vote yourself a raise."

The Minimum Wage Ordinance briefly elevated Gonzalez to the status of standard bearer for San Francisco's political left wing, culminating in a close but unsuccessful run for mayor against Gavin Newsom.

After leaving the Board of Supervisors, he briefly carved out a new role for himself in the ecosystem of worker protections through his private practice as a lawyer, taking on class-action lawsuits against big-time minimum wage violators. In 2007, he settled a lawsuit over wages with Marriott Hotel for $1.35 million and contributed back some of the proceeds to the Office of Labor Standards Enforcement for pursuing minimum wage claims. (Gonzalez now works for the Public Defender's Office.)

While few cities have their own minimum wage laws, even fewer have local agencies devoted to enforcing them. Washington, D.C., and Santa Fe, N.M., rely on agencies whose focus is not labor regulation.

"Over the years, part of this work has been about learning together how to enforce labor laws," said Liu of the Chinese Progressive Association. "There's no one else to look to about how to run a city labor enforcement agency, because there are no others out there."

San Francisco's labor standards office has come a long way since its founding in 2001, when it was given the task of enforcing the city's "prevailing wage," an elevated pay rate for local government contractors.

Levitt has been there since the beginning. Formerly a carpenter and a union representative, she joined the agency as a prevailing-wage investigator and became director two years later.

The backers of the original Minimum Wage Ordinance have long pressed for more aggressive enforcement, and many have been frustrated by the city's limited abilities to punish violators. Twice, in 2006 and 2011, they have enlisted politicians to strengthen the law and give the enforcement efforts more money and investigative authority.

The Wage Theft Prevention Ordinance, which the Board of Supervisors passed in 2011, amended the original law to:

- Increase the budget of the labor standards office to $3 million.
- Double punitive fines to $1,000 per worker for businesses that retaliate against employees filing claims.
- Authorize inspectors to access payroll records, interview workers and inspect work sites during business hours.
- Double the funding for collaboration with community organizations.

While it is too soon to tell whether these changes will appreciably increase collection of back wages from businesses, 2013 has been a good year so far. For the past three years, recovered wages have hovered between $707,000 and $831,000. But in just the first two months of this year, the city won back $813,000.

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BUSINESS OPPOSITION

Activists' calls for more intensive minimum wage enforcement have their skeptics. Business lobbying groups, such as the San Francisco Chamber of Commerce and the Golden Gate Restaurant Association, have consistently opposed the minimum wage and enforcement initiatives.

Both organizations came out against the 2003 minimum wage ballot initiative, describing it as a job killer. The restaurant association called it deceptive and labeled it a "lose-lose" plan.

Rob Black, the restaurant association's executive director, is a well-connected political activist; his organization gave $10,000 last year to a political action committee controlled by Mayor Ed Lee.

(For his own part, the mayor has come out publicly in support of aggressive minimum wage law enforcement and signed the 2011 reform.)

Black said in an interview that restaurants and other small-business owners were burdened by myriad city, state and federal labor laws, and that there was no need to ramp up enforcement.

"We're so far ahead of enforcement of everybody else — it seems strange that's where you'd want to focus your energy," Black said, referring to the San Francisco agency dedicated to labor law enforcement. "Why not be in Oakland or L.A., where city government isn't staffed or engaged in enforcement?"

When Herrera, the city attorney, ran for mayor against Lee in 2011, he proposed doubling the number of minimum-wage enforcement agents, citing "a significant backlog of wage violation complaints."

Herrera said in a recent interview that the city has "received real benefit for the money that it has invested" in minimum wage enforcement.

Levitt said a larger staff and more inspectors would be "wonderful," but given the number of laws her office has to enforce, pushing more agents out into the field would not be an efficient use of resources. The office also oversees several labor laws other cities lack, including overtime pay, paid sick leave, universal health care and the prevailing wage.

The equivalent of 6.5 full-time employees are focused on minimum wage enforcement, so Levitt said the best use of their time is to concentrate on processing complaints. With a total staff of 17, she said, "I count my blessings. Of course, it doesn't allow us to do proactive, targeted enforcement. But since we've never done that, I don't know how valuable it would be."

With improved education for employers, Levitt said, there is more awareness of the wage law, which reduces the number of offending businesses.

"We could certainly get more employers to track hours properly, to post minimum wage notices," she said. "But to build cases that would win back wages is much more challenging, and those investigations take time and involve building trusting relationships with workers."

WINNING BACK WAGES

In total, according to data from the Office of Labor Standards Enforcement, the city has recovered back wages in minimum wage cases for 3,079 workers, totaling $6.4 million, and has assessed $383,000 in additional fines on businesses.

Because the office is complaint-driven, a single case can affect just one worker, or as many as 170. The culprits included cozy neighborhood coffee shops, chic downtown hotels and restaurants, construction companies and security services.

Some high-profile companies have been assessed back wages. Michael Minna, the celebrity restaurateur's namesake San Francisco eatery, was found to owe almost $40,000 to 35 workers. Other cases have ended in tiny settlements, as when Starbucks paid $115 — enough to buy one grande cappuccino a day for a month — to one worker.

But this February, the labor standards office scored one if its biggest victories. After a protracted battle with a bakery in Chinatown, it announced jointly with the City Attorney's Office that it had won a record $525,000 in back wages and penalties from Dick Lee Pastry. The violations first surfaced in 2009, when organizers at the Chinese Progressive Association assembled a case against the business.

The Office of Labor Standards Enforcement was able to get seven workers to come forward. Workers were on the job for long hours, six days a week and being paid less than $4 an hour. Two workers, labor officials said, were even made to work in the employer's home as maids after toiling long days at the restaurant.

"For the majority of workers it was their first job in the U.S.," Levitt said. "They got it because they saw a 'help wanted' sign in the window."

Herrera filed a lawsuit to ensure that the owners could not shut down the establishment to avoid paying the back wages.

For the workers, the settlement with Dick Lee Pastry was a long time coming. In many other cases, workers must delay their gratification. While half of all the labor office's cases that were ultimately resolved in favor of workers were settled within three months, about 10 percent of cases have dragged on for more than two years.

With better funding, Levitt said, the office could improve investigation speed by updating its case-management database. "Now that the city's budget looks better, I'll be more comfortable asking for it," she said.

Another problem that activists routinely cite: No local agency routinely tracks the number of workers who make (or are legally entitled to) the minimum wage. Labor advocates say that in order to set good policy, the city needs more accurate and up-to-date data on the size of the target population.

The best estimates come from academic and government sources. The San Francisco Controller's Office relied on 2011 estimates from the federal Bureau of Labor Statistics in calculating that about 59,700 workers earned the San Francisco minimum wage of $9.92 or less in Marin, San Francisco and San Mateo counties. San Francisco makes up 45 percent of the population of those three counties. However, the federal data do not say how those minimum-wage workers are distributed among them.

Michael Reich, a researcher at the Institute for Labor and Employment at the University of California, Berkeley, estimates that as many as 55,000 people now "qualify" for the city's wage of $10.55 — meaning they earn either the minimum or below.

Activists and local officials are still working on new reforms. Recently they reconvened in City Hall to devise additional strategies to combat "wage theft," particularly affecting minimum-wage workers. That effort, under the banner of the Wage Theft Task Force, has just begun.

Liu said that initially advocates had scant resources to enforce the law. "So it's always been a process of people on the ground trying to get these issues recognized by city leadership, and working to get laws and resources in place," she said. "Protecting workers' rights and labor standards has always been an uphill political battle."

Josh Wilson, Alex Kekauoha, Jason Winshell and Kristine A. Wong contributed reporting for this article.

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CC HHS Committee Work session - 11-21-13

Maximum Eligible Incomes for Safety Net Programs

	Maximum Eligible Income *				
# of members in Household	1	2	3	4	
Program Name					
Medicaid	15,856	21,404	26,951	32,499	New guidelines effective January 1, 2014
Montgomery Cares	28,725	38,775	48,875	58,875	Eligibility based on 250% of the Federal Poverty Level (FPL) guidelines; set by the County Council.
Care for Kids	28,725	38,775	48,875	58,875	Eligibility based on 250% of the Federal Poverty Level (FPL) guidelines; set by the County Council.
Food Stamps	1,245	1,681	2,116	2,552	see tab titled Food Supplemental for additional guidelines
Temporary Assistance for Needy Families (TANF)	478	646	813	981	see tab title TANF for additional information
State Purchase of Care (Child Care)	n/a	24,277	29,900	35,702	see below
Working Parents Assistance Program	n/a	34,500	52,000	58,000	Families may be eligible for the WPA Program up to the maximum income limits depending on the number of children in child care, type of child care needed and the family composition.
County Pre-K	n/a	28,694	36,131	43,568	Eligibility is based on the FARMS (Free and Reduced Meals) rate, which is 200% of the Federal Poverty Level (FPL) guidelines.
Head Start	n/a	15,510	19,530	23,550	Eligibility is based on family income being 100% or less of the FPL. Other automatic eligibility factors include TANF receipt and homelessness.
Linkages to Learning	n/a	n/a	n/a	n/a	Linkages to Learning (LTL) does not have maximum eligible income criteria; however if a family has health insurance coverage for mental health services and is able to access this benefit outside of the school, they cannot receive LTL mental health services.
Rental Assistance Program	37,600	42,950	48,300	53,650	Capped at 50% of the Area Median Income (AMI) per HUD
Housing Initiative Program					HIP maximum income is capped at 30% of AMI as determine by HUD to be eligible for program. Once participants are accepted into the program they continue to be eligible until their income reached 50 % of AMI.
30% of AMI	22,550	25,800	29,000	32,200	
50% of AMI	37,600	42,950	48,300	53,650	

* The numbers for Food Stamps and TANF are monthly income; all others are annual income

Food Supplement	Maximum Gross Monthly Income X 130% of Poverty	Maximum Net Monthly Income X 100% of Poverty	Monthly Income Elderly/Disabled Separate Household X 165% of Poverty	Maximum Monthly Allotment
Household Size				
1	$1,245	$958	$1,580	$189
2	1681	1293	2133	347
3	2116	1628	2686	497
4	2552	1963	3239	632
5	2987	2298	3791	750
6	3423	2633	4344	900
7	3858	2968	4897	995
8	4294	3303	5450	1137
Each additional member	436	335	553	142

FIP SCHEDULE

Temporary Assistance to Needy Families Effective November 1, 2013			
Household Size	Allowable Monthly Payment	Maximum Monthly Income-50% of Poverty Level	Total Children with One Needy Caretaker
A	B	C	D
1	$282	478	(1 child only)
2	559	646	1
3	624	813	2
4	755	981	3
5	875	1148	4
6	962	1316	5
7	1081	1483	6
8	1191	1651	7
9	1285	1818	8
10	1389	1986	9
11	1516	2153	10
12	1586	2321	11
13	1683	2488	12
14	1782	2656	13
15	1884	2823	14
16	2006	2991	15
17	2125	3158	16

C:\Users\drummb01\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\PEF5GWM3\Income Maximums for Stafety Net Programs - CC .xlsx\TANF

STATE MINIMUM WAGES

The table below reflects state minimum wages in effect for 2013.

For 2013, 19 states and D.C. have minimum wages above the federal minimum wage.
23 states and VI have minimum wages the same as the federal minimum wage of $7.25.
4 states and PR have minimum wages below the federal minimum wage (the federal minimum thus applies).
5 states have not established a s state minimum wage.

2013 Minimum wage legislation

State	State Minimum Wage	Future Scheduled Increases	Increases Tied to Federal Minimum Wage *	Indexed Automatic Adjustments
Alabama	none			
Alaska	$7.75			
American Samoa	varies [1]			
Arizona	$7.80			Rate is increased annually based upon a cost of living formula.
Arkansas	$6.25			
California	$8.00	$9.00 eff 7-1-14 $10.00 eff 1-1-16		
Colorado	$7.78			Rate is increased annually based upon a cost of living formula.
Connecticut	$8.25	$8.70 eff 1-1-14 $9.00 eff 1-1-15	yes [2]	
Delaware	$7.25		yes	
D.C.	$8.25		yes [3]	
Florida	$7.79			Rate is increased annually based upon a cost of living formula.
Georgia	$5.15			
Guam	$7.25			
Hawaii	$7.25			
Idaho	$7.25			
Illinois	$8.25			
Indiana	$7.25		yes	
Iowa	$7.25		yes	
Kansas	$7.25			
Kentucky	$7.25		yes	
Louisiana	none			
Maine	$7.50		yes [4]	
Maryland	$7.25		yes	
Massachusetts	$8.00		yes [5]	
Michigan	$7.40			

Minnesota	$6.15/$5.25 [5]			
Mississippi	none			
Missouri	$7.35 [7]			Minimum wage is to be increased or decreased by a cost of living factor starting January 1, 2008 and every January 1 thereafter.
Montana	$7.80/$4.00 [8]			Minimum wage is subject to a cost of living adjustment tied to the Consumer Price Index, done by September 30 of each year and effective on January 1 of the following year.
Nebraska	$7.25			
Nevada	$8.25/$7.25 [9]			Future adjustments subject to increases in the federal minimum wage and consumer price index.
New Hampshire	repealed by HB 133 (2011)		yes	
New Jersey	$7.25	$8.25 eff. 1-1-14		Starting in 2014, the minimum wage will be automatically adjusted each September and increases implemented each January, based on inflation as determined by the Consumer Price Index.
New Mexico	$7.50			
New York	$7.25	$8.00 eff. 12-31-13 $8.75 eff. 12-31-14 $9.00 eff. 12-31-15	yes	
North Carolina	$7.25			
North Dakota	$7.25			
Ohio	$7.85/$7.25 [10]			The minimum wage will be automatically adjusted each September and increases implemented each January, based on inflation as determined by the Consumer Price Index.
Oklahoma	$7.25/$2.00 [11]			
Oregon	$8.95			Beginning January 1, 2004, and annually thereafter, the rate will be adjusted for inflation by a calculation using the U.S. City Average Consumer Price Index for All Urban Consumers for All Items. The wage amount established will be rounded to the nearest five cents.
Pennsylvania	$7.25			
Puerto Rico	$4.10/varies [12]			
Rhode Island	$7.75	$8.00 eff 1-1-14		
South Carolina	none			
South Dakota	$7.25			
Tennessee	none			
Texas	$7.25			
Utah	$7.25			
Vermont	$8.60		yes	Beginning January 1, 2007, and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the

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			percentage increase of the Consumer Price Index, or city average, not seasonally adjusted.
Virgin Islands	$7.25/$4.30 [13]		
Virginia	$7.25		
Washington	$9.19		Beginning January 1, 2001, and annually thereafter, the rate will be adjusted for inflation by a calculation using the consumer price index for urban wage earners and clerical workers for the prior year.
West Virginia	$7.25	yes	
Wisconsin	$7.25		
Wyoming	$5.15		

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

Notes:

* Federal By Reference - State does not establish a dollar amount for its own minimum wage but adopts federal minimum wage by reference. When the federal minimum wage is raised, therefore the state minimum wage is raised as well.

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

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

[3] District of Columbia: In the District of Columbia, the rate is automatically set at $1 above the Federal minimum wage rate if the District of Columbia rate is lower.

[4] The Maine minimum wage is automatically replaced with the Federal minimum wage rate if it is higher than the State minimum with the exception that any such increase is limited to no more than $1.00 per hour above the current legislated State rate.

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

[6] Minnesota: $6.15 applies to employers with an annual sales volume of more than $625,000. $5.25 applies to employers with annual sales of $625,000 or less.

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

[8] Montana State rate applies to all businesses with gross annual sales of $110,000 or less.

[9] Nevada: $8.25 without health benefits; $7.25 with health benefits.

[10] Ohio: $7:25 for employers grossing $283,000 or less

[11] Oklahoma: Employers of ten or more full time employees at any one location and employers with annual gross sales over $100,000 irrespective of number of full time employees are subject to federal minimum wage; all others are subject to state minimum wage of $2.00.

[12] Puerto Rico: Employers covered by the Federal Fair Labor Standards Act (FLSA) are subject only to the Federal minimum wage and all applicable regulations. Employers not covered by the FLSA will be subject to a minimum wage that is at least 70 percent of the Federal minimum wage or the applicable mandatory decree rate, whichever is higher. The Secretary of Labor and Human Resources may authorize a rate based on a lower percentage for any employer who can show that implementation of the 70 percent rate would substantially curtail employment in that business. Puerto Rico has minimum wage rates that vary by industry, ranging from a minimum of $4.25 to $7.25 per hour.

[13] Virgin Islands: $4.30 for businesses with gross annual receipts of less than $150,000.

Other Exceptions:

Missouri, Oklahoma, Texas, Puerto Rico, Utah, and Virginia exclude from coverage any employment that is subject to the Federal Fair Labor Standards Act.

Hawaii, Kansas, and Michigan exclude from coverage any employment that is subject to the Federal Fair Labor Standards Act, if the State wage is higher than the Federal wage.

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Georgia excludes from coverage any employment that is subject to the Federal Fair Labor Standards Act when the Federal rate is greater than the State rate.

NCSL Contact: Jeanne Mejeur

Congressional Research Service

Inflation and the Real Minimum Wage: A Fact Sheet

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CRS Report for Congress
Prepared for Members and Committees of Congress

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The Fair Labor Standards Act (FLSA) of 1938 established the hourly minimum wage rate at 25 cents for covered workers.[1] Since then, it has been raised 22 separate times, in part to keep up with rising prices. Most recently, in July 2009, it was increased to $7.25 an hour. Because there have been some extended periods between these adjustments while inflation generally has increased, the real value (purchasing power) of the minimum wage has decreased substantially over time.

The Real Minimum Wage

The minimum wage is not indexed to the price level. It has been legislatively increased from time to time to make up for the loss in its real value caused by inflation. In nominal (current dollar) terms, the minimum wage has risen steadily from 25 cents to $7.25 an hour, where it has remained since its effective date of July 2009. As the legislated adjustments to the minimum wage standard have occurred at irregular intervals—sometimes increasing annually, other times not for several years—while prices have generally risen each year, the purchasing power (real or constant dollar value) of the minimum wage has varied considerably since its enactment.

For each time the minimum wage was changed, **Table 1** presents its nominal and real value. The inflation adjustments to the minimum wage are made using the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). Real values of the minimum wage are expressed in terms of July 2013 dollars, the latest month for which the index is available at the time of the fact sheet's preparation. Data on average hourly earnings in nominal and constant (July 2013) dollars are displayed for comparison purposes. The last column of the table shows levels of the CPI-W since the inception of the federal minimum wage. The U.S. Bureau of Labor Statistics calculates the earnings series[2] and the CPI-W.[3]

The peak value of the minimum wage in real terms was reached in 1968. To equal the purchasing power of the minimum wage in 1968 ($10.77), the current minimum wage's real value ($7.90) would have to increase by $2.87 (or 36%). Although the nominal value of the minimum wage was increased by $5.65 (from $1.60 to $7.25) between 1968 and 2009, these legislated adjustments did not enable the minimum wage to keep pace with the increase in consumer prices, so the real minimum wage fell.

In addition to comparing the rate of increase in the minimum wage with prices, the level of the minimum wage also has been compared with the average hourly earnings of most workers in the private nonfarm economy—which also peaked in 1968 at 54% (see footnote a in the table). In no other year did the minimum wage exceed half of average hourly earnings. The legislated adjustments that occurred after 1968 resulted in the minimum wage ranging from 34% to 47% of average hourly earnings.

[1] For the minimum wage's legislative history and other information on the labor standard, see CRS Report R42713, *The Fair Labor Standards Act (FLSA): An Overview*, by Gerald Mayer, Benjamin Collins, and David H. Bradley.

[2] The earnings series are available at http://stats.bls.gov/ces/home.htm#tables.

[3] The CPI is available at http://stats.bls.gov/cpi/data.htm.

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Table 1. The Statutory Minimum Wage, Hourly Earnings, and Inflation

(real values expressed in July 2013 dollars)

Effective Date	Statutory Minimum Wage (Nominal $)	Statutory Minimum Wage (Real $)	Average Hourly Earnings in the Private Sector[a] (Nominal $)	Average Hourly Earnings in the Private Sector[a] (Real $)	Minimum Wage as a Percentage of Average Hourly Earnings	CPI-W (1982-1984=100)
Oct. 1938	$0.25	$4.08	n.a.	n.a.		14.1
Oct. 1939	0.30	4.90	n.a.	n.a.		14.1
Oct. 1945	0.40	5.04	n.a.	n.a.		18.2
Jan. 1950	0.75	7.28	n.a.	n.a.		23.7
Mar. 1956	1.00	8.52	n.a.	n.a.		27.0
Sept. 1961	1.15	8.76	n.a.	n.a.		30.2
Sept. 1963	1.25	9.31	n.a.	n.a.		30.9
Feb. 1967	1.40	9.73	2.81	19.53	50%	33.1
Feb. 1968	1.60	10.77	2.95	19.85	54	34.3
May 1974	2.00	9.42	4.39	20.68	46	48.8
Jan. 1975	2.10	9.22	4.61	20.23	46	52.4
Jan. 1976	2.30	9.45	4.91	20.18	47	56.0
Jan. 1978	2.65	9.70	5.68	20.78	47	62.8
Jan. 1979	2.90	9.72	6.16	20.64	47	68.7
Jan. 1980	3.10	9.10	6.61	19.43	47	78.3
Jan. 1981	3.35	8.81	7.22	18.99	46	87.5
Apr. 1990	3.80	6.88	10.15	18.37	37	127.3
Apr. 1991	4.25	7.35	10.47	18.11	41	133.3
Oct. 1996	4.75	7.03	12.18	18.00	39	155.5
Sept. 1997	5.15	7.47	12.64	18.32	41	158.3
July 2007	5.85	6.61	17.45	19.71	34	203.700
July 2008	6.55	6.94	18.02	19.10	36	216.304
July 2009	7.25	7.90	18.52	20.19	39	210.526
July 2013[b]	7.25	7.25	20.16	20.16	36	229.399

Source: Minimum wage levels in nominal dollars from the U.S. Department of Labor. Nominal earnings and the CPI from the U.S. Bureau of Labor Statistics. Real minimum wage and earnings levels calculated by CRS.

Notes: n.a. = not available.

a. The not seasonally adjusted earnings data cover production and nonsupervisory employees in the private sector of the nonfarm economy who in recent years have made up about 82% of all private nonfarm employees. Earnings data for all private sector employees in the nonfarm economy were not calculated until 2006.

b. Latest earnings and price data available at the time of the fact sheet's preparation.

Statement by

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before the

U.S. Senate Committee on Health, Education, Labor & Pensions

Hearing on

"Keeping up with a Changing Economy: Indexing the Minimum Wage,"

March 14, 2013

Executive Summary

1) The minimum wage has failed to keep pace with productivity, while top pay and corporate profitability have grown rapidly.
   - A falling minimum wage has contributed to rising inequality, explaining around half of the rise in inequality in the bottom half of the pay distribution, and more so for women.
   - Raising and indexing the minimum wage would reduce the gap between those at the bottom and the rest of the workforce.
2) Minimum wages have not kept pace with cost of living.
   - Adjusted for inflation, the real minimum wage has fallen from a high of $10.60 in 1968 to $7.25 in today's dollars.
   - Harkin-Miller would bring minimum wages up to $9.38 in today's dollars.
   - Indexation makes the adjustment process much more predictable. Even some economists who are skeptical about minimum wage policies support indexation.
3) Minimum wages have also lost ground in comparison to median wages.
   - The minimum fell from a high of 55% of the median wage in 1968 to 37%.
   - Harkin-Miller would likely raise the minimum to 50% of the median wage—close to the average for other OECD countries, and the U.S. historical norm during the 1960s and 1970s.
4) For the range of minimum wage increases we have seen in the U.S. over the past two decades, recent evidence based on credible methodologies do not find job losses of any sizable magnitude.
   - The academic disagreements are over no job losses or small job losses for highly impacted groups.
   - While some studies continue to find negative effects, these are often artifacts of regional trends and other factors unrelated to minimum wage increases.
   - Studies comparing similar neighboring areas right across the border account for these problems and find no impact on jobs either for sectors like restaurant and retail, or groups like teens.
   - Employment effects do not seem to vary by the phase of the business cycle or whether the state indexes its minimum wage to inflation.
   - Most surveys and meta-analyses have also concluded that employment effects are small.
   - This is why more economists today tend to support increasing and indexing than oppose it—even though there is scholarly disagreement on the precise impact.
5) While employment may not fall from moderate increases in minimum wages, both separation and hires fall, lowering the turnover rate.
   - In the increasingly popular economic models with search frictions, lower quits and layoffs, along with increased search activity by the unemployed, can explain why employment response is small.
   - Lower turnover can also increase productivity.
   - Outside of the simple Econ 101 type environment, increasing workers' pay can improve the functioning of the low wage labor market.
6) Based on existing evidence, we can expect some increases in restaurant prices from a minimum wage increase. However, the overall price level is unlikely to change noticeably, and there is little risk of wage-price spirals from indexation.
7) The best evidence suggests that minimum wage increases lead to moderate reductions in the poverty rate, especially together with the Earned Income Tax Credit.
   - There are strong theoretical rationales—and empirical confirmation—that minimum wages and EITC are complementary policies when it comes to helping low-income families.
   - A high minimum wage prevents wage reductions that can result from an EITC.
   - Since the EITC is indexed to the CPI, minimum wage indexation will prevent erosion of EITC benefits for minimum wage workers.

Thank you Chairman Harkin, and the members of the Committee for the opportunity to speak here today.

My name of Arindrajit Dube, and I am an Assistant Professor of Economics at the University of Massachusetts Amherst. My area of expertise is on labor market policies, with an emphasis on low-wage workers. I have done extensive research on minimum wage laws over the past 8 years, as well as research on other types of employer mandates. I welcome this opportunity to share with you findings from both my own research as well as the sizeable body of evidence that economists have marshaled on the question of increasing minimum wages.

Today I want to highlight some of the key economic factors to consider when deciding on an appropriate adjustment to the minimum wage. I will discuss how the minimum wage adjustment process has worked in the context of the overall economy, keeping in mind movements in inequality and cost of living. I will specifically consider the role of indexation of the minimum wage to the consumer price index. And I will also share with you what we know about how the economy adjusts to such changes in minimum wages.

I. The Economic Context

A. Rising Inequality

Summary: The minimum wage has failed to keep pace with productivity, while top pay and corporate profitability have grown rapidly.

- *A falling minimum wage has contributed to rising inequality, explaining around half the rise in inequality in the bottom half of the pay distribution, and more so for women.*
- *Raising and indexing the minimum wage would reduce the gap between those at the bottom and the rest of the workforce.*

For much of the past three decades, we have seen a sharp rise in income inequality—fueled by both a rising dispersion in wages, as well as a reduction in labor's share of income. The bottom of the labor market has failed to keep up with overall economic gains.

Wage inequality has grown substantially over the past 30 years, beginning around 1980. As shown in Figure 1, most of this increase has been in the top half of the wage distribution, especially since the 1990s. The only time we saw an increase in the wages of the lower half of the distribution was during the period of low unemployment in the late 1990s. As a result, the 90th percentile real wage grew by over 30 percent between 1973 and 2011, while the median and 10th percentile real wage grew by less than 5 percent over the same period (see Figure 1).

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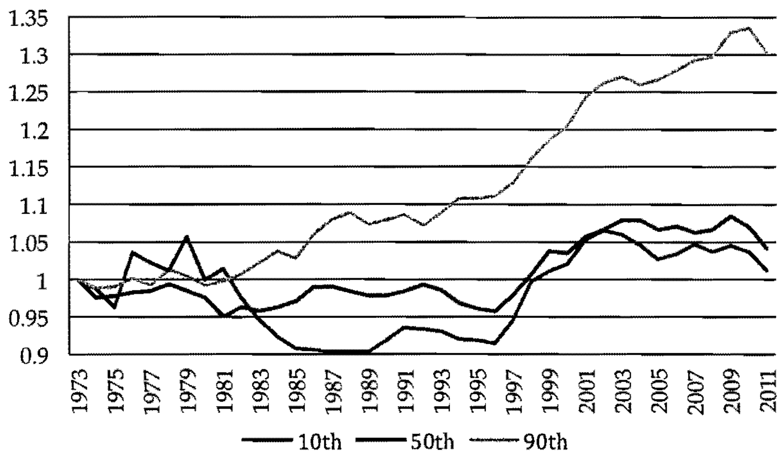
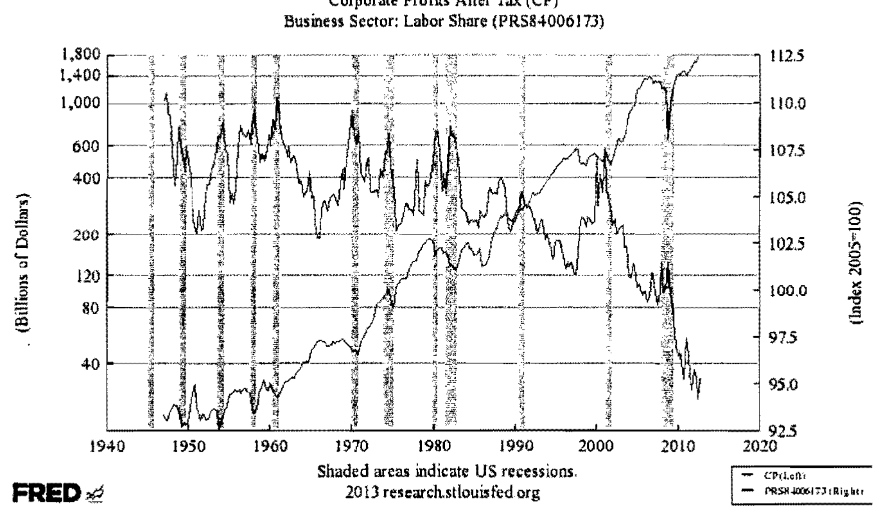
Figure 1: Wages in the U.S. by Percentiles (Index=1 for 1973)



Source: CPS Merged Outgoing Rotation Groups data as reported in State of Working American 2011.

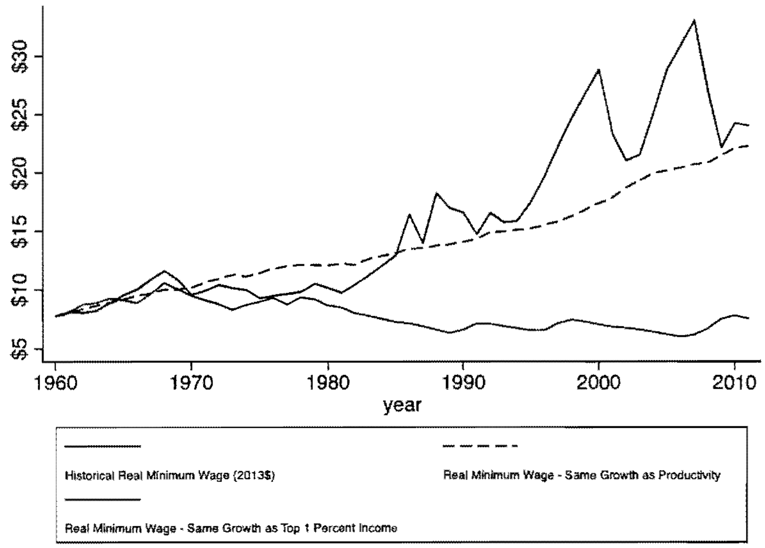
During the past three decades, we have also seen a general downward trend in labor's share of income—interrupted only by the late '90s boom. The shift towards capital income has shrunk the size of the pie going to workers as a whole. Today, the share of income going to labor as opposed to capital stands at a post-war near-low. Meanwhile, corporate profitability has been growing at a steady clip and has been restored during the current recovery. These two factors—increased wage inequality and a fall in labor's share—have kept those at the bottom end of the labor market from sharing in our economic progress.

Figure 2: U.S. Corporate Profits and Labor Share of Income



As a way to see how the gap between a minimum wage worker and others in our economy has grown, in Figure 3, I plot how the minimum wage would have changed over the past 30 years had it grown at the same rate as productivity. And how it would have evolved if it had kept pace with the income going to the top 1 percent of the income distribution. For comparison, I also show the actual inflation-adjusted minimum wage (using the CPI-W).

Figure 3: Real Minimum Wages Actual versus Counterfactual Using Productivity or Top 1 Percent Income Growth



It is quite remarkable that had the minimum wage kept up with overall productivity, it would have been $22 per hour in 2011. Had it kept up with the growth in income going to the top 1 percent, it would have been even higher, at $24 per hour; and the wage would have exceeded $33/hour at its peak in 2007.

This evidence does not suggest that the minimum wage should be increased to $22 or $24 per hour. Rather, the exercise demonstrates how different the growth rates have been for incomes going to those at the bottom of the labor market as compared to the economy as a whole, and to those at the top end of the distribution. Of course, there are many reasons behind this dramatic rise in inequality, including technological change, falling rates of unionization, de-industrialization, increased trade, deregulation and more. And we certainly cannot expect minimum wages alone to solve the challenge of growing inequality. However, there is also substantial evidence showing that a falling real minimum wage has contributed to this growth in inequality.

Lee (1999) was one of the first papers to take a comprehensive look at the effect of minimum wages on wage inequality. He found a sizeable spillover effect—whereby the fall in the minimum lowered wages of those higher up in the ladder. He argued that nearly all of the growth in inequality in the bottom half of the wage distribution during the 1980s could be explained by the erosion of minimum wage through inflation. Considering the 50/10 gap—the ratio of the median wage to the wage at the 10th percentile—Lee found that 70% the increase for men, and between 70 and 100% of the increase for women, could be explained by the decline in the value of the minimum wage.

A more recent paper by Autor Manning and Smith (2010) uses a more refined methodology, and finds somewhat smaller spillover effects. However, they too find that minimum wages played an important role in determining the 50/10 gap—which is a measure of wage

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inequality in the bottom half of the distribution. Table 1 below reproduces their key findings, and shows that maintaining the minimum wage at the 1979 level in real terms would have staved off somewhere between half and three-quarters of the overall increase in the bottom-half wage inequality depending on the period in question. Moreover, the minimum wage has a larger effect on inequality for female workers, who tend to be lower paid.

Table 1: Effect of the Minimum Wage on Wage Inequality: the 50/10 Wage Ratio

	Actual	*Counterfactual with 1979 Minimum Wage (2SLS)*	*Difference*	*Proportion due to MW*
A. 1979 - 1991				
Female	22.40	9.65	12.75	56.9%
Male	11.20	9.5	1.70	15.2%
Pooled	*7.10*	*1.65*	*5.45*	*76.8%*
A. 1979 - 2009				
Female	25.20	10.98	14.23	56.4%
Male	5.30	5.43	-0.13	-2.4%
Pooled	*11.40*	*6.28*	*5.13*	*45.0%*

Notes: Calculated using Autor Manning and Smith (2010) Table 5. The Counterfactuals with 1979 use an average of the two 2SLS estimates reported by the authors.

Both Lee and Autor et al. use state-level variation in minimum wages over time, and a modeled counterfactual wage distribution, to reach their conclusion. A different approach using decomposition methods such as Dinardo Fortin and Lemieux (1996) and Chernozhukov Fernandez-Val and Melly (2013) tend to find even larger impacts of minimum wage on inequality. The latter set of authors, using cutting edge distributional decompositions find that the minimum wage can explain nearly all of the increase in the pooled 50/10 ratio between 1979 and around 1/3 of the increased standard deviation in log wages (a measure of overall inequality).

To sum up, while there is some scholarly disagreement about the exact magnitudes of the impact of minimum wages on inequality, we know that the decline in the real minimum has played an important role in increasing inequality in the bottom half of the wage distribution, especially for women.

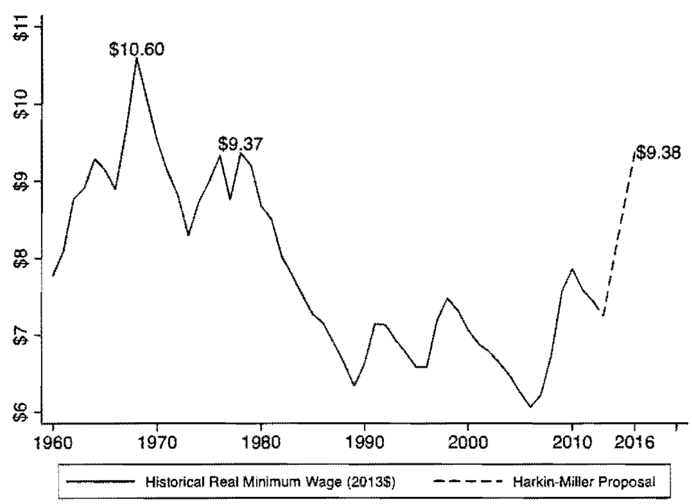
B. Minimum Wages Have Not Kept Up with Cost of Living

Summary: Minimum wages have not kept pace with cost of living.

- *Adjusted for inflation, the real minimum wage has fallen from a high of $10.60 in 1968 to $7.25 in today's dollars.*
- *Harkin-Miller would bring minimum wages up to $9.38 in today's dollars.*
- *Indexation makes the adjustment process much more predictable. Even some economists who are skeptical about minimum wage policies support indexation.*

Over the last three decades, the minimum wage has failed to keep up with cost of living. Figure 4 shows the value of the federal minimum wage in 2013 dollars spanning from 1960 to 2016—with projected values using the Harkin-Miller proposal. These projections are based on a passage of the bill in 2014, with the full phase in by 2016. I am using the CPI-W to adjust for inflation, and also assuming a 2.5% annual inflation rate over the next 3 years (roughly the average over the past 3 years). While the details of the discussion that follows will differ from using a different CPI, or different timing of passage, or different inflation assumptions, the main message would not change substantially.

Figure 4: Evolution of the Real Minimum Wage in the U.S. (2013 dollars)

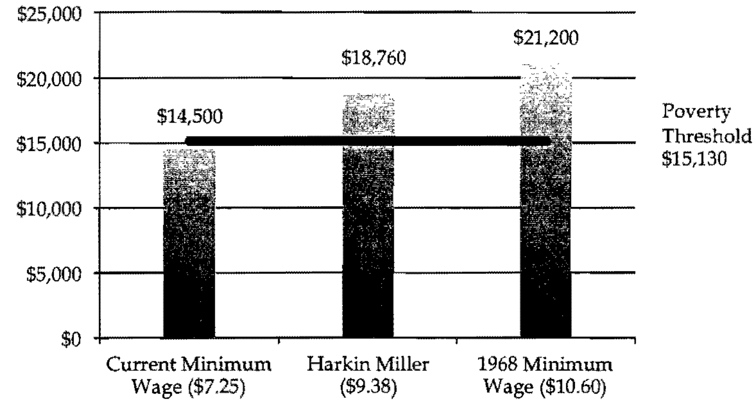


The high water mark for the minimum wage was in 1968, when it reached $10.60/hour in 2013 dollars. The next highest peak was in 1978, when the real minimum wage reached $9.37. During the 1980s the real minimum wage declined to below $7/hour, and over the past 20 years, the minimum wage has largely treaded water, reaching a historical low of $6.06/hour in 2006 prior to the last increase, which brought it to $7.25/hour in today's dollars.

Under Harkin-Miller, with the full adjustment by 2016, the minimum wage will likely reach $9.38/hour in today's dollars. This is a substantial increase, bringing it up to the level in 1978. However, it will still be somewhat lower than the high water mark in 1968.

The fall in the value of the minimum wage has not only increased relative deprivation (inequality), but also increased absolute deprivation. Today, a single parent with one child, working full time at the minimum wage, would earn $14,500 in pre-tax income—below the official poverty line in 2012 ($15,130). With Harkin-Miller phased in, in 2016 her earnings would rise to $18,760. At the 1968 level minimum wage, her pre-tax earnings would have been $21,200. (All these figures are in 2013 dollars.)

Figure 5: Pre-tax Income of Single Parent with One Child Under Alternative Minimum Wages



Finally, the sharp swings in the real minimum wage shows some of the inefficiencies of current practices, where the nominal minimum wage stagnates for years, only to be followed by sharp increases. Regardless of what level we set the real minimum wage, pegging it to the cost of living makes it a much more rational and predictable process, which has value to both workers and employers. This is why even some economists who are skeptical about minimum wage policies nonetheless support indexation.[1]

C. Minimum Wages Have fallen Behind Median Wages

Summary: Minimum wages have also lost ground in comparison to median wages.

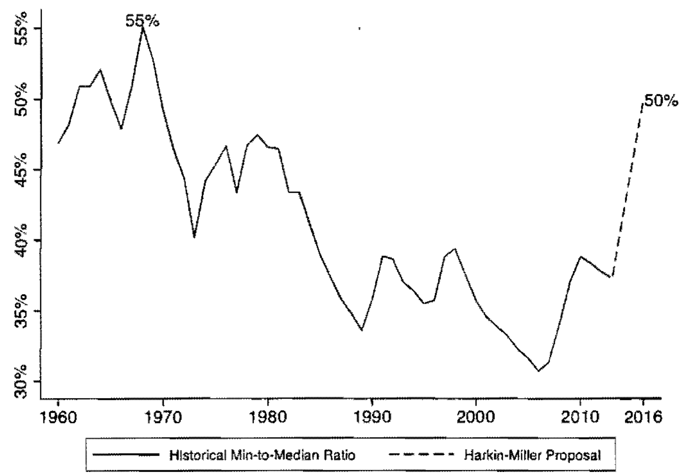
- *The minimum fell from a high of 55% of the median wage in 1968 to 37%.*
- *Harkin-Miller would likely raise the minimum to 50% of the median wage – close to the average for other OECD countries, and the U.S. historical norm during the 1960s and 1970s.*

When analyzing the strength of minimum wage policies, economists typically use the ratio of the minimum to the median wage, also known as the Kaitz index. There are three reasons to pay attention to this measure. First, a comparison of the minimum wage to the median offers us a guide to how binding a particular minimum wage increase is likely to be, and what type of wage the labor market can bear. Second, a comparison also provides us with a natural benchmark for judging how high or low a minimum wage is across time periods or across countries that vary in terms of their labor markets and wage distributions. Third, the median wage also provides a natural reference group for judging how reasonable a minimum wage level is: most people would not think fairness concerns dictate that the minimum wage should be set equal to the median wage, but they may find it objectionable if it is much lower (say a fourth or a fifth as large). Green and Harrison (2010) argue that voter preferences over minimum wages are likely to track the median wage as an indicator of a reference market wage.

[1] Well-known labor economist Daniel Hammermesh, for example, has supported indexation even though he is critical of minimum wages. http://www.utexas.edu/know/2012/02/09/daniel_hamermesh_minimum_wage_election/

A natural target is to set the minimum wage to half of the median wage. This target has important precedence historically here in the US. In the 1960s, this ratio was 51%, reaching a high of 55% in 1968. Averaged over the 1960-1979 period, the ratio stood at 48%.

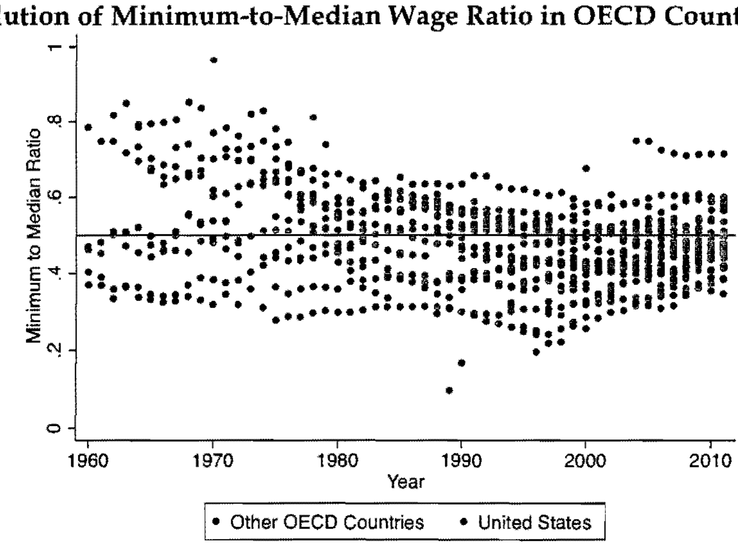
Figure 6: Evolution of the Minimum-to-Median Wage Ratio in the U.S.



Around half the median wage is also the norm among all OECD countries with a statutory minimum. For this group of countries, on average, the minimum wage in 2011 (latest data available) was equal to 49% of the median wage, while averaged over the entire sample between 1960 and 1991, the minimum stood at 48% of the median (see Figure 7). It is important to note that many countries such as France and New Zealand today have minimum wages at or close to 60% of the median.

In contrast, today the US the minimum wage clocks at 37% of the median wage, and has the lowest minimum wage in relation to the median of all OECD countries save the Czech Republic (see Figure 8).

Figure 7: Evolution of Minimum-to-Median Wage Ratio in OECD Countries (1960-2011)



Source: OECD Statistics on Minimum and Median Wages

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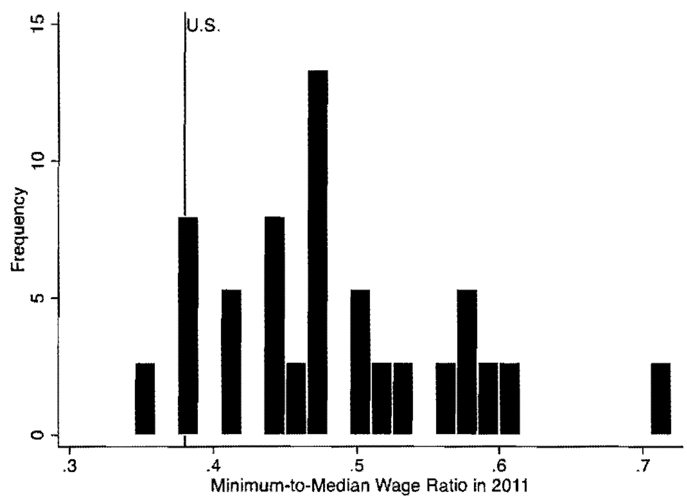
Figure 8: Distribution of Minimum-to-Median Wage Ratio in OECD Countries (2011)



Source: OECD Statistics on Minimum and Median Wages

What would be the impact of the proposed legislation on the minimum-to-median ratio? I estimate that under Harkin-Miller, after the 3 steps have been implemented by 2016, the minimum wage would stand at around 50% of the median wage, assuming nominal increases in the median wage at the same rate as the past 3 years. Such a change would bring the U.S. just above the OECD average and the historical norm prior the 1980.

A comparison to the median wage also clarifies why something around $10/hour is reasonable while $20/hour is not. The median wage today is around $20/hour. There are no known cases where the minimum wage was set equal to the median in a capitalist economy. However, there are many cases, including here in the United States, where it was set at or slightly above half the median wage.

II. How are Increases in the Minimum Wage Absorbed?

A. Employment Effects

Summary: For the range of minimum wage increases we have seen in the U.S. over the past two decades, recent evidence based on credible methodologies do not find job losses of any sizable magnitude.

- *The academic disagreements are over no job losses or small job losses for highly impacted groups.*
- *While some studies continue to find negative effects, these are often artifacts of regional trends and other factors unrelated to minimum wage increases.*
- *Studies comparing similar neighboring areas right across the border account for these problems and find no impact on jobs either for sectors like restaurant and retail or groups like teens.*
- *Employment effects do not seem to vary by the phase of the business cycle or whether the state indexes its minimum wage to inflation.*
- *Most surveys and meta-analyses have also concluded that employment effects are small.*
- *This is why more economists today support an increase than oppose it – even though there is scholarly disagreement on the precise impact.*

When it comes to the literature on minimum wages' impact on jobs, it is useful to think of several distinct phases. Until the early 1990's, economists largely relied on time series evidence – correlating changes in the national level unemployment rate for teens to changes in the federal minimum wage. This older generation literature was shown to have numerous problems, and economists today largely discount these findings today because there are many factors affecting the national unemployment rates for teens that have nothing to do with minimum wages.

Beginning in the early 1990's, a second generation of work (sometimes called the "new minimum wage" research) started exploiting the state-level variation in minimum wages that emerged in the 1980s and grew in the 1990s due to the stagnating federal minimum wage. The two leading approaches were the state panel approach pioneered by Neumark and Wascher (1992) and case study approach pioneered by Card and Krueger (1994). The state-panel approach used more data, but implicitly assumed "parallel trends" ... that the low-wage employment trajectories in high minimum wage states like Massachusetts and Oregon were the same as low minimum wage states like Texas and Georgia. As it turns out, this is not a good assumption.

In contrast, the case study approach of Card and Krueger (1994, 2000), as well as Card (1992), focused on looking at individual cases with a focus on getting reliable control groups. In their highly celebrated work published in 1994, they found that an increase in the minimum wage in New Jersey did not reduce employment in fast food restaurants in that state as compared to a neighboring state, Pennsylvania. Although these results were questioned by Neumark and Wascher (2000) – who collected their own data – the core findings (lack of job loss) held up when Card and Krueger used official employment data

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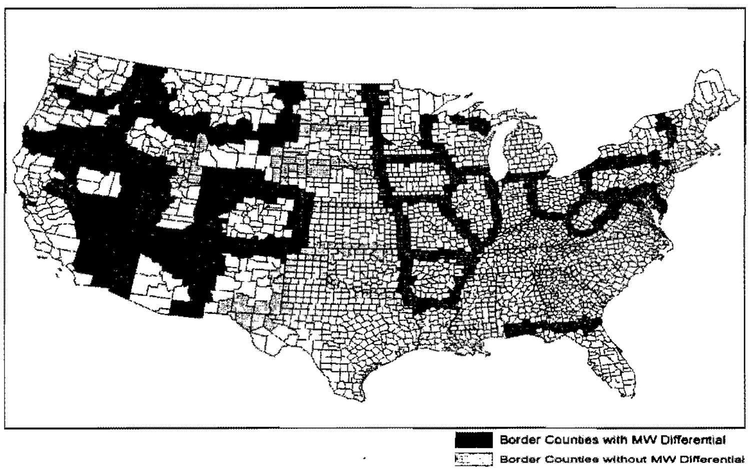
covering nearly the entire workforce using Unemployment Insurance rolls. However, the challenges with the case study approach are that: (1) it is difficult to draw firm inference from single cases, (2) they typically use only a short time horizon, and (3) results may be difficult to generalize.

Over the past 5 years, we have made a lot of progress in synthesizing the results using these two approaches. The local case study approach has the virtue of using similar controls groups: adjacent control counties are much more alike in terms of observed characteristics than non-adjacent ones (Allegretto, Dube, Reich, Zipperer, forthcoming). This is of particular concern given how regionally clustered high minimum wage states have been over the past 20 years.

In a series of papers with Michael Reich and T. William Lester, we combined the virtues of these two approaches by embedding the local comparisons within a long panels using detailed county level data. In a 2010 paper published in the *Review of Economics and Statistics*, Lester, Reich and I considered *all* adjacent counties straddling state borders for which data was available continuously for the full period between 1990 and 2006 - a total of 504 counties. The following figure shows the border counties in the U.S.

Figure 9: Map of Border Counties Used to Study Minimum Wage Policies



Of these, 337 counties in 288 pairs had some difference in minimum wags. Comparing across these neighboring counties, we showed that there was no evidence of job losses for high impact sectors such as restaurants and retail. This was true even considering four or more years after the minimum wage hike. In follow up work, we used the same cross-border methodology to study the effect on teens—a high impact demographic group (Dube Lester Reich 2012). Again, we found no discernible impact on employment. In yet another paper, we used a different dataset and less fine-grained regional controls and again replicated our findings that minimum wages did not reduce teen employment during the 1990s and 2000s. (Allegretto Dube Reich 2011).

Our studies also helped explain why researchers have sometimes found a negative effect on jobs from the policy. Over the past two decades, the variation in minimum wages has been highly regionally selective: the states that have seen greater increases in the minimum wage— typically in the northeast and the west—have tended to be those with lower

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underlying growth in demand for low-wage workers. Failure to account for these factors will lead us to mistakenly attribute the low growth in employment to higher minimum wages, instead of the real cause (deindustrialization, technological change, bad weather, etc.) For example, we showed that the apparent job losses in the state panel models tend to occur *before* the minimum wage increase occurs, a telltale sign of a spurious effect.

In all, we have by now replicated these findings in 4 papers using 5 datasets and 6 different ways of accounting for comparability of areas. These are summarized in Table 2. For high impact groups such as restaurant workers and teens, we find that a 10% increase in minimum wage raises average wages or earnings by 1.5% to 2%. Employment changes are usually close to zero, never more negative than -0.5%, and sometimes positive in sign. In all cases, there is clear evidence that minimum wage increases raise total pay going to low-wage workers after factoring in both wage and employment changes.[2]

Table 2: Response to a 10% Increase in the Minimum Wage

Teens:	(1)	(2)	(3)	(4)
Earnings	1.5%*	1.5%*	1.6%*	
Employment	0.5%	1.3%	-0.4%	
Turnover Rate			-1.9%*	
Restaurant Workers:				
Earnings			2.1%*	2.0%*
Employment			-0.6%	0.6%
Turnover Rate			-2.6%*	
Data Sets:	CPS	ACS/Census	QWI	QCEW
Paper:	Allegretto Dube Reich (2011)	Allegretto Dube Reich (2009)	Dube Lester Reich (2012)	Dube Lester Reich (2010)

Notes: Column (1) controls for spatial heterogeneity using census divison-specific time effects and state-linear trends; column (2) uses commuting-zone specific time effects; columns (3) and (4) both use county-pair specific time effects. CPS stands for Current Population Survey; ACS stands for American Community Survey; QWI stands for Quarterly Workforce Indicators; QCEW stands for Quarterly Census of Employment and Wages.

Other researchers have also obtained similar results. In independently produced work, Addison Blackburn and Cotti (2009, 2012) found that once they accounted for trends in

[2] In a very recent paper, Neumark Salas and Wascher (2013), hereafter NSW, criticize our work and question the value of using local controls. By now there is a large body of research that shows why local controls and cross-border research design produce more reliable control groups—including many papers outside of the minimum wage literature. NSW seems to ignore this literature, and instead claim that an alternative technique called "synthetic control" picks controls that are not always nearby. However, as we show in a forthcoming paper, they misinterpret their own findings: control states that are within the same census division receive 4 times as large weights than states outside, confirming that nearby areas are indeed more similar (Allegretto Dube Reich and Zipperer, forthcoming). Moreover, using the synthetic control method, we show that a control state that is 100 miles away on average gets a weight that is 7 times as large as a state that is 2000 miles away - again validating our strategies. Finally, we show that when we use the synthetic control method to estimate the effect of minimum wages on teens using all usable state-level minimum wage changes between 1997 and 2007, we do not detect any evidence of job losses for teens, with an average employment elasticity close to zero. These findings show that NSW's claims are not borne out in the data, including when we apply their own preferred technique. We also show that the results from one synthetic control case study that found negative employment effect Burkhauser Sabia Hansen 2012, which studies the impact of New York's minimum wage) was an outlier.

sectoral employment, there is no evidence of job loss in the retail or restaurant sectors. And that failure to account for such trends generates misleading estimates suggesting job losses. Neither our work (Allegretto Dube Reich 2011), nor others (Addison Blackburn Cotti 2011) found evidence that minimum wages cause more job losses during economic downturns or periods of higher overall unemployment. This is relevant for the current discussion of raising the minimum wage during a time with an elevated unemployment rate.

Since there are 10 states that index their minimum wage to the CPI we can also test whether the employment effects are different in these states. In Allegretto Dube and Reich (2011) we did not find systematic differences in employment response by the states' indexation status.

Leaving the most recent evidence aside, a broader look at the literature also tends to go against the view of large job losses. A review by Charles Brown in 1999 for the *Handbook of Labor Economics* had concluded based on the first round of "New Minimum Wage Research" that employment effects of minimum wages were likely to be small, though the results varied depending on the methods. Similarly, a meta analysis by Doucouliagos and Stanley (2009) concluded that the even prior to the most recent work, the literature as a whole (between 1972 and 2007) did not show evidence of job loss. An up-to-date survey of the more recent evidence by Wolfson and Belman (forthcoming) corroborate this finding, and conclude that it was unlikely that the minimum wage increases under study led to statistically or economically meaningful job losses. And when we take into account the demonstrated failings of papers using the state-level approach, this conclusion is strengthened. [3]

While 20 or 30 years ago most economists believed that minimum wage increases invariably cause some job loss, as the data has come in, the profession has updated its beliefs. Recently, the IGM Forum panel of 41 leading economists organized by the Booth School of Business at the University of Chicago was asked their opinion about the desirability of raising the minimum wage to $9/hour as proposed by the President, and indexing it to inflation.[4] The IGM Forum panel is widely seen as representing the pulse of the profession.

Only 34% of the economists on the panel agreed with that proposition that the minimum wage hike "would make it noticeably harder for low-skilled workers to find employment." The rest disagreed or where uncertain. It is instructive to compare this with older evidence. Surveys of AEA members in 2000 found 46% agreeing with a similar proposition, while surveys concluded in 1992 and 1978 revealed 79% and 90% of economists agreeing with similar statements (Klein and Dompe 2007). While we should be cautious when comparing across different surveys, the belief that minimum wages necessarily cause job loss no longer appears to be a majority position within the profession.

Even more importantly, overall support for raising the wage and indexing it was strong among the panelists. 47% supported the policy, while only 14% opposed it, while the rest were uncertain. The IGM panel also reports the responses weighted by the confidence the

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[3] One review to conclude there is evidence of job loss is Neumark and Wascher (2008). However, as I discuss in Dube (2010), this is a subjective reading of the evidence based on a selective set of papers, and excludes the evidence from the past 5 years. John Schmitt (2013) also provides a useful summary of the key articles, surveys and meta analyses, including many of the ones discussed here.

[4] http://www.igmchicago.org/igm-economic-experts-panel/poll-results?SurveyID=SV_br0IEq5a9E77NMV

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panelists reported in their answers. Weighted by confidence, the proportion expressing support and opposition were 62% and 16%, respectively. The third of the panel that expected job losses were split on their support for the policy, while the third that were sure that there would not be job losses were unanimous in their support. (Those who were uncertain broke in favor of an increase.) Today, more economists appear to support a moderate increase in the minimum wage and indexation to cost of living than oppose it.

B. Turnover and job flows

Summary: While employment may not fall from moderate increases in minimum wages, both separation and hires fall, lowering the turnover rate.

- *In the increasingly popular economic models with search frictions, lower quits and layoffs, along with increased search activity by the unemployed, can explain why employment response is small.*
- *Lower turnover can also increase productivity.*
- *Outside of the simple Econ 101 type environment, increasing workers' pay can improve the functioning of the low wage labor market.*

In contrast to employment levels, there is growing evidence that increased minimum wages reduce employment flows—i.e, turnover. In Dube Lester Reich (2012), we used the same border county methodology to estimate the impact on separations, hires, and turnover rate (turnover rate is the average of the separation and hires rates). We found that for the low-wage groups we considered (teens, restaurant workers), there was a sharp reduction in both separations and hires, even though the number of jobs remained stable. As a result, the turnover rate fell substantially. As Table 2 reports, for a 10% increase in the minimum wage, the turnover rate falls by 1.9% for teens, and 2.1% for restaurant employees, which are substantial magnitudes. In an independent study using Canadian data, Brochu and Green (2012) also find substantial reductions in turnover following a minimum wage increase.

The reduction in separations and hires, concurrent with a steady employment level, offers some clues as to how minimum wages may be absorbed in the low-wage labor market. One explanation is that by reducing frictional wage inequality, an increased minimum wage reduces job-to-job transitions. Put simply, if McDonald's pays a better wage, fewer of its workers will leave to take better paying jobs—say at the higher wage chain In-and-Out Burgers. A higher statutory minimum reduces vacancies at McDonald's, and makes it more likely that the vacancy at the In-and-Out Burgers is filled from the ranks of the unemployed. These two factors tend to help with maintaining the employment level. Second, as Brochu and Green show, a higher minimum wage may also reduce employers' desire to lay off workers in some situations, pushing less people into unemployment.

Overall, even if a minimum wage increase somewhat reduces the number of desired jobs from the employer's perspective, reduced quits and layoffs can compensate and help keep the overall employment relatively stable. Models with search frictions in the labor market—which have become increasingly popular—can help explain this pattern of small effect on employment coupled with larger effect on turnover. Of course this cannot be true at all levels of the minimum wage—with a sufficiently large increase, employment levels will most likely fall as well.

Finally, there are other channels through which minimum wages may positively impact employment. A higher minimum wage can spur those who are unemployed to search more intensely for jobs, as the value of a job rises. It can also bring in workers who previously were not searching because the wage was too low. In models with search friction, job creation is not simply determined by how many vacancies are posted; rather it is a function of both the number of vacancies as well as how many workers are searching for jobs, and how hard they are searching. Generally speaking, workers' bargaining power may be insufficiently low for the purposes of efficiency. By increasing workers' pay, a minimum wage policy can improve the functioning of the low wage labor market.

There are other implications from reduced turnover as well. Dube, Freeman and Reich (2010) finds that replacement costs are around 8% of annual salaries, and are sizable even for blue collar and service workers. Reduced turnover can, therefore, increase productivity through reducing recruitment and training expenses.

These additional channels of adjustment can help explain why moderate increases in minimum wage seem to have small employment effects.

C. Prices, Inflation and Indexation

Summary. Based on existing evidence, we can expect some increases in restaurant prices from a minimum wage increase. However, the overall price level is unlikely to change noticeably, and there is little risk of wage price spirals from indexation.

An additional channel for absorbing a minimum wage adjustment is through increases in the price of the product. The extent to which this occurs depends on how sensitive the demand for the product is to price. Lemos (2008) reviews this evidence, and argues that there is evidence of moderate increase in prices of high impact sectors like restaurants following a minimum wage increase. To date, the clearest evidence on price increase in the U.S. case comes from Aaronson French MacDonald (2008), who find that a 10% increase in minimum wage would raise restaurant prices by around 0.7%. These estimates would suggest that the proposed Harkin-Miller adjustment would increase restaurant prices by around 2.7%. (This is likely an over-estimate because the real minimum wage increase in Harkin-Miller is less than the nominal increase of 39% over 2 years.)

While restaurant prices will see likely some increases, the overall price level (e.g., the Consumer Price Index) is unlikely to be noticeably affected by minimum wage hikes. For example, Neumark and Wascher (2008, p. 248) points out: "Both because of the relatively small share of production costs accounted for by minimum wage labor and because of the limited spillovers from a minimum wage increase to wages of other workers, the effect of a minimum wage increase on the overall price level is likely to be small." (Neumark and Wascher 2008, p. 248.)

In a recent op-ed, Aaronson and French (2013) suggest that the overall price level increase from the President's proposal would be around 0.3%; analogous calculations would suggest that the Harkin-Miller proposal would increase the overall price by less than 0.5%.

The small impact on the overall price level has relevance for indexation. One concern sometimes raised by indexation is that it feeds a wage-price spiral. These concerns stem from the experience in the 1970s, when there was widespread use of escalator clauses in union contracts. However, in the case of minimum wages, the relatively small number of affected workers and the small share of production costs from minimum wage workers limits the scope for feedback into prices. Therefore, worries about "wage price spirals" from an increased minimum wage are misplaced and not typically shared by researchers on the topic, regardless of their opinion about the desirability of the minimum wage.

III. The Minimum Wage, Poverty, and the EITC

Summary: The best evidence suggests that minimum wage increases lead to moderate reductions in the poverty rate, especially together with the Earned Income Tax Credit

- *There are strong theoretical rationales – and empirical confirmation – that minimum wages and EITC are complementary policies when it comes to helping low-income families.*
- *A high minimum wage prevents wage reductions that can result from an EITC.*
- *Since the EITC is indexed to the CPI, minimum wage indexation will prevent erosion of EITC benefits for minimum wage workers.*

Minimum wages tend to increase income going to working class and poor families. However, the anti-poverty aspect of minimum wage is limited by the fact that many families under the poverty line do not have substantial attachment to the labor force.

To date, there have been a handful of comprehensive studies of minimum wage on family income, and the evidence is mixed on the strength of the anti-poverty impact. There are some studies that find clear anti-poverty effects (Addison and Blackburn 1999) while others find more small and/or imprecise estimates (Burkhauser and Sabia 2007, Sabia and Burkhauser 2010). However, all of these studies are plagued by numerous methodological problems such as use of aggregate data, lack of sufficient controls, and short time horizons. Many of the estimates are imprecise.

The study with fewest problems is probably Neumark and Wascher (2011), who look specifically at the interaction of minimum wage and EITC on family incomes. Although they do not report an overall estimate for the impact of minimum wages on poverty, their findings show that a 10% increase in minimum wages would reduce poverty by around 3% for the widest group they studied (18-44 year old adults and family heads). They find even stronger reductions in the proportion of families with income less than half the poverty threshold.[5] While the impact may differ by particular subgroups, the indication is that minimum wages tends to decrease poverty moderately.

In new work, I find very similar results using a 22 year period and all individuals under 65 years of age. I, too, find that a 10% increase in minimum wages would reduce poverty by around 3% (Dube, forthcoming). To put this in perspective, this suggests that the Harkin-Miller bill would reduce the official poverty rate from by around 1.8 percentage points, from 15.1 percent to 13.3 percent--a moderate-sized reduction that would mostly reverse the increases in poverty we have seen since the onset of the 2007 recession.

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[5] There is only one study that I am aware of that finds a poverty-increasing role of the minimum wage (Neumark Schweitzer and Wascher 2005). They use an unconventional methodology that has not been used before or since this paper, including by the authors. In contrast, Neumark and Wascher 2011 uses standard methodology to estimate impact on family incomes, and tends to find more beneficial results.

Critics of minimum wages often point to the Earned Income Tax Credit (EITC) as an alternative policy that is better able to aid the poor. However, this is a false dichotomy. The EITC is an important program that likely held the poverty rate down by as much as 1.6 percentage points in 2010.[6] However, a problem with the EITC is that while it encourages work (a good thing), tends to push down wages by increasing supply, passing on some of the taxpayer-funded benefits to employers. EITC tends to lower wages by pushing out labor supply, lowering wages.

Rothstein (2010) shows that after accounting for this leakage, beneficiaries get about 73 cents on the dollar. When we factor in the impact on non-beneficiaries, it suggests that the majority of the EITC expenditures are captured by employers. A minimum wage mitigates this leakage by limiting the wage reductions from an increase in labor supply. Lee and Saez (2012) show how in a wide range of situations, the optimal policy package includes a form of minimum wage and something like EITC. They conclude in that "our results imply that the minimum wage and subsidies for low-skilled workers are complementary policies."

Results from Neumark and Wascher (2011) also indicate that for families with kids (i.e., the primary beneficiaries of EITC) - minimum wage and EITC complement each other in reducing poverty.

Finally, an erosion of the real value of minimum wages reduces EITC benefits for minimum wage workers, since the EITC (unlike the minimum wage) is tied to inflation. The indexation of minimum wages will tend to better harmonize these complementary programs.[7]

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[6] http://www.census.gov/prod/2007pubs/p60-232.pdf
[7] http://www.taxpolicycenter.org/UploadedPDF/311401_Minimum_Wage.pdf

References:

Aaronson, Daniel, Eric French and James MacDonald. 2008. "The minimum wage, restaurant prices, and labor market structure." The Journal of Human Resources, vol. 43, no. 3, pp. 688-719.

Aaronson, Daniel and Eric French. 2013. Spending, income, and debt responses to minimum-wage hikes." Vox. http://www.voxeu.org/article/spending-income-and-debt-responses-minimum-wage-hikes.

Addison, John T. and McKinley L. Blackburn. 1999. "Minimum wages and poverty." Industrial and labor relations review, vol. 52, no. 3, pp. 393-409.

Addison, John T., McKinley L. Blackburn, and Chad D. Cotti. 2009. "Do minimum wages raise employment? Evidence from the U.S. retail-trade sector." Labor Economics, vol. 16, no. 4, pp. 397-408.

– – –. 2011 "Minimum Wage Increases Under Straightened Circumstances." IZA Discussion Paper No. 6036. http://ssrn.com/abstract=1948032

– – –. 2012. "The Effects of Minimum Wages on Labor Market Outcomes: County-Level Estimates from the U.S. Restaurant and Bar Sector." British Journal of Industrial Relations, vol. 50, no. 3, pp. 412-435.

Allegretto, Sylvia A., Arindrajit Dube, and Michael Reich. 2009. "Spatial Heterogeneity and Minimum Wages: Employment Estimates for Teens Using Cross-State Commuting Zones." Berkeley, CA: Institute for Research on Labor and Employment. http://www.escholarship.org/uc/item/1x99m65f

– – –. 2011. "Do Minimum Wages Really Reduce Teen Employment? Accounting for Heterogeneity and Selectivity in State Panel Data." Industrial Relations, vol. 50, no. 2, pp. 205-240.

Allegretto, Sylvia, Arindrajit Dube, Michael Reich and Ben Zipperer. 2013. "Credible Research Designs for Minimum Wage Studies." Mimeo, forthcoming.

Autor, David H., Alan Manning, and Christopher L. Smith. 2010. "The Contribution of the Minimum Wage to U.S. Wage Inequality over Three Decades: A Reassessment." MIT Working Paper. Cambridge, MA: Massachusetts Institute of Technology. http://economics.mit.edu/files/3279.

Burkhauser, R.V., and Sabia, J.J. 2007. "The Effective- ness of Minimum Wage Increases in Reducing Poverty: Past, Present, and Future." Contemporary Economic Policy, vol. 25, no. 2, pp. 262-281.

Brown, Charles. 1999. "Minimum wages, employment, and the distribution of income." Handbook of Labor Economics, vol. 3, pt. B, pp 2101-2163

Card, David. 1992a. "Do Minimum Wages Reduce Employment? A Case Study of California, 1987-89." Industrial and Labor Relations Review, vol. 46, no. 1, pp. 38-54.

Card, David and Alan Krueger. 1994. "Minimum Wages and Employment: A Case Study of the Fast-Food Industry in New Jersey and Pennsylvania." American Economic Review, vol. 48, no. 4, pp. 772-793.

– – –. 2000. "Minimum Wages and Employment: A Case Study of the Fast-Food Industry in New Jersey and Pennsylvania: Reply." American Economic Review, vol. 90, no. 5, pp. 1397-1420.

DiNardo, John, Nicole M. Fortin, and Thomas Lemieux. 1996. "Labor Market Institutions and the Distribution of Wages, 1973-1992: A Semiparametric Approach." Econometrica, vol. 64, no. 5, pp. 1001-1044.

Doucouliagos, Hristos and T. D. Stanley. 2009. "Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis." British Journal of Industrial Relations, vol. 47, no. 2, pp. 406-428.
Dube, Arindrajit. 2013. "Minimum Wages and the Distribution of Family Incomes." Mimeo, forthcoming.
Dube, Arindrajit. 2011. "Review of Minimum Wages by David Neumark and William Wascher." Journal of Economic Literature, vol. 49, no. 3, pp. 762-766.
Dube, Arindrajit, Eric Freeman, Michael Reich. 2010. "Employee Replacement Costs." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/7kc29981
Dube, Arindrajit, T. William Lester, and Michael Reich. 2010. "Minimum Wage Effects Across State Borders: Estimates Using Contiguous Counties." Review of Economics and Statistics, vol. 92, no. 4, pp. 945-964.
———. 2012. "Minimum Wage Shocks, Employment Flows and Labor Market Frictions." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/76p927ks
Green, David A, and Kathryn Harrision. 2010. "Minimum wage setting and standards of fairness." Institute for Fiscal Studies London. http://hdl.handle.net/10419/47492.
Hamermesh, Daniel. 2012. "The consequences of Romney's proposed minimum wage hike". Know. The University of Texas at Austin. http://www.utexas.edu/know/2012/02/09/
Klein, Daniel and Stewart Dompe. 2007. "Reasons for Supporting the Minimum Wage: Asking Signatories of the Raise the Minimum Wage Statement," Econ Journal Watch, vol. 4, no. 1, pp. 125-167.
Lee, David. S. 1999. "Wage Inequality in the United States During the 1980s: Rising Dispersion or Falling Minimum Wage?".The Quarterly Journal of Economics, vol. 114, no. 3, pp. 977-1023.
Lee, David, Emmanuel Saez. 2012. "Optimal minimum wage policy in competitive labor markets." Journal of Public Economics, vol. 96, issues 9-10, pp. 739-749.
Lemos, Sara. 2008. "A Survey of the Effects of the Minimum Wage on Prices." Journal of Economic Surveys, vol. 22, no. 1, pp. 187-212.
Neumark, David and William Wascher. 1992. "Employment Effects of Minimum and Subminimum Wages: Panel Data on State Minimum Wage Laws." Industrial & Labor Relations Review, vol. 46, no. 1, pp. 55-81.
———. 2000. "Minimum Wages and Employment: A Case Study of the Fast-Food Industry in New Jersey and Pennsylvania: Comment." American Economic Review, vol. 90, no. 5, pp. 1362-1396.
———. 2008. Minimum Wages. Cambridge, MA: The MIT Press
———. 2011. "Does a higher minimum wage enhance the effectiveness of the earned income tax credit?" Industrial and Labor Relations Review, vo. 64, no. 4, pp. 712-746.
Neumark, David, J. M. Ian Salas, and William Wascher. 2013. "Revisiting the Minimum Wage- Employment Debate: Throwing Out the Baby with the Bathwater?" National Bureau of Economic Research Working Paper No. 18681. Cambridge, MA: National Bureau of Economic Research. http://www.nber.org/papers/w18681
Neumark, David, Mark Schweitzer, William Wascher. 2005. "The Effects of Minimum Wages on the Distribution of Family Incomes: A Nonparametric Analysis." The Journal of Human Resources, vol. 40, no. 4, pp. 867-894
Rothstein, Jesse. 2010. "Is the EITC as Good as an NIT? Conditional Cash Transfers and Tax Incidence." American Economic Journal: Economic Policy, vol. 2 no. 1, pp. 177-208.

Sabia, J.J., and R.V. Burkauser. 2010. "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" Southern Economic Journal, vol. 76, no. 3, pp. 592-623.

Sabia, Joseph J., Richard V. Burkhauser, and Benjamin Hansen. 2012. "Are the Effects of Minimum Wage Increases Always Small? New Evidence from a Case Study of New York State." Industrial and Labor Relations Review, vol. 65, no. 2, pp. 350-376.

Schmitt, John. 2013. "Why Does the Minimum Wage Have No Discernible Effect on Employment?" Washington, D.C. Center for Economic and Policy Research. http://www.cepr.net/documents/publications/min-wage-2013-02.pdf

Wolfson, Paul and Dale Belman. Forthcoming. What Does the Minimum Wage Do? Kalamazoo, MI: Upjohn Institute for Employment Research.

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AMENDMENT

To Bill 27-13, Human Rights and Civil Liberties – County Minimum Wage – Dollar Amount

BY COUNCILMEMBER ELRICH

Amend lines 99-101 as follows:

(3) the County minimum wage of [[$12]] $11.50 per hour, as adjusted under Subsection (b), less any health insurance credit under Subsection (c).

Amend lines 133-135 as follows:

(c) effective July 1, 2016, $9.75 per hour for an employee during the employee's first 90 days of employment and [[$12.00]] $11.50 per hour beginning on the employee's 91st day of employment.

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AMENDMENT

To Bill 27-13, Human Rights and Civil Liberties – County Minimum Wage – Dollar Amount

BY COUNCILMEMBER RIEMER

On ©4-8, amend lines 67-137 to read:

(b) *Definitions*. As used in this Article:

[[*Consumer Price Index* means the Consumer Price Index for All Urban Consumers: All items in Washington-Baltimore, DC-MD-VA-WV (CMSA), as published by the United States Department of Labor, Bureau of Labor Statistics, or a successor index.]]

Director means the Executive Director of the Office of Human Rights and includes the Executive Director's designee.

Employ means to engage a person to work for compensation.

Employee means any person permitted or instructed to work or be present by an employer in the County and who is an employee subject to the minimum wage requirements of the Federal Act or the State Act.

Employer means any person, individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that employs 2 or more persons in the County. Employer includes the County government but does not include the United States, any State, or any other local government.

Federal Act means the federal Fair Labor Standards Act of 1938, as amended.

[[*Health insurance* means insurance coverage that is part of an employer benefit package that pays for medical expenses incurred by an employee and an employee's family either by reimbursing the employee or by paying the care provider directly.]]

State Act means the Maryland Wage and Hour Law, as amended.

Wage means all compensation that is due to an employee for employment.

27-68. Minimum Wage Required.

(a) *County minimum wage.* Except as provided in [[Subsection (d)]] Subsections (b), (c), and (d), an employer must pay wages to each employee working in the County at least the greater of:

(1) the minimum wage required for that employee under the Federal Act, plus an additional $1 per hour; or

(2) the minimum wage required for that employee under the State Act, plus an additional $1 per hour; or

(3) the County minimum wage of $[[12]] 10.75 per hour, as adjusted under Subsection (b)[[, less any health insurance credit under Subsection (c)]].

(b) [[*Annual adjustment.* The Chief Administrative Officer must adjust the minimum wage rate required under Subsection (a)(3), effective July 1, 2017, and July 1 of each subsequent year, by the annual average increase, if any, in the Consumer Price Index for the previous calendar year. The Chief Administrative Officer must calculate the adjustment to the nearest multiple of 5 cents, and must publish the amount of this adjustment not later than March 1 of each year.]] *Tipped employees.* An employee who is a tipped employee under the State Act must be paid the minimum wage as computed under the State Act, plus an additional $1 per hour.

(c) [[*Health insurance credit.* An employer who provides health insurance to any employee who works in the County may reduce the County minimum wage payable under paragraph (a)(3) to any employee who is eligible to receive health insurance by all or part of the per-employee hourly cost of the employer's share of the premium for that insurance.]] *Opportunity wage.* An employee who is subject to an opportunity wage under the State or Federal Act must be paid the opportunity wage plus an additional $1 per hour.

(d) *Exclusions.* The County minimum wage does not apply to an employee who[[:

(1)]] is exempt from the minimum wage requirements of the State or Federal Act[[;

(2) is a tipped employee under the State Act; or

(3) is subject to an opportunity wage under the State or Federal Act]].

27-69. Enforcement.

A covered employee who was paid a wage rate less than the County minimum wage in violation of this Article may file a complaint with the Director under Section 27-7. The County Executive may enter into an agreement with the State to enforce this Article.

Sec. 2. Transition.

(a) Notwithstanding Section 27-68[[(a)(3)]], as added in Section 1, the County minimum wage for eligible employees other than tipped employees and employees subject to an opportunity wage must be:

[(a)](1) effective July 1, 2014, [[$7.25 per hour for an employee during the employee's first 90 days of employment and $8.25

per hour beginning on the employee's 91st day of employment]] the greater of:

(A) the minimum wage required for that employee under the Federal Act, plus an additional 30 cents per hour;

(B) the minimum wage required for that employee under the State Act, plus an additional 30 cents per hour; or

(C) $7.25 per hour for an employee during the employee's first 90 days of employment and $8.40 per hour beginning on the employee's 91st day of employment;

[(b)](2) effective July 1, 2015, [[$8.25 per hour for an employee during the employee's first 90 days of employment and $9.75 per hour beginning on the employee's 91st day of employment]] the greater of:

(A) the minimum wage required for that employee under the Federal Act, plus an additional 60 cents per hour;

(B) the minimum wage required for that employee under the State Act, plus an additional 60 cents per hour; or

(C) $8.40 per hour for an employee during the employee's first 90 days of employment and $9.55 per hour beginning on the employee's 91st day of employment; and

[(c)](3) effective July 1, 2016, [[$9.75 per hour for an employee during the employee's first 90 days of employment and $12.00 per hour beginning on the employee's 91st day of employment]] the greater of:

(A) the minimum wage required for that employee under the Federal Act, plus an additional $1 per hour;

(B) the minimum wage required for that employee under the State Act, plus an additional $1 per hour; or

(C) $9.55 per hour for an employee during the employee's first 90 days of employment and $10.75 per hour beginning on the employee's 91st day of employment.

(b) Notwithstanding Section 27-68, as added in Section 1, the County minimum wage for tipped employees and employees subject to an opportunity wage must be:

(1) effective July 1, 2014, the greater of:

(A) the minimum wage required for that employee under the Federal Act, plus an additional 30 cents per hour; or

(B) the minimum wage required for that employee under the State Act, plus an additional 30 cents per hour;

(2) effective July 1, 2015, the greater of:

(A) the minimum wage required for that employee under the Federal Act, plus an additional 60 cents per hour; or

(B) the minimum wage required for that employee under the State Act, plus an additional 60 cents per hour; and

(3) effective July 1, 2016, the greater of:

(A) the minimum wage required for that employee under the Federal Act, plus an additional $1 per hour; or

(B) the minimum wage required for that employee under the State Act, plus an additional $1 per hour;

Sec. 3. Effective Date.

This Act takes effect on July 1, 2014.

Memorandum

To: Councilmembers
From: Councilmember Hans Riemer
Date: November 19, 2013
Re: County Bill 27-13, Minimum Wage Level

As I have stated previously, I favor increasing the minimum wage and have advanced several amendments to Bill 27-13 that would accomplish that goal and improve the bill. I am writing to ask for your consideration of the following ideas on what the county's minimum wage should be and how we should get there.

As currently drafted, Bill 27-13 would create a county minimum wage that would be $8.25 for most employees in FY14, $9.75 in FY15 and $12.00 in FY16. Thereafter, the minimum wage would rise at the same rate as inflation, rounded to the nearest nickel. The bill's lead sponsor has indicated his intent to amend the bill to provide for a level of $11.50 in FY16 with inflation adjustments thereafter.

Of the 45 states that have minimum wage laws, eleven (Arizona, Colorado, Florida, Missouri, Montana, Nevada, New Jersey, Ohio, Oregon, Vermont and Washington) have inflation escalators. No state or locality in the Washington D.C. area currently has one. As of this moment, there is no assurance that the State of Maryland will adopt one.

If the County Council passes Bill 27-13 and the state takes no action to increase its minimum wage, here is how the county's minimum wage will compare to the state if inflation averages 3% over the next ten years.

FY	State Minimum	County Minimum (27-13)	Differential
13	7.25	7.25	
14	7.25	8.25	14%
15	7.25	9.75	34%
16	7.25	11.50	59%
17	7.25	11.85	63%
18	7.25	12.20	68%
19	7.25	12.55	73%
20	7.25	12.90	78%
21	7.25	13.30	83%
22	7.25	13.70	89%

If the above scenario occurs, the county minimum will be nearly double the state minimum by FY22.

Suppose the state increases its minimum wage to $9.00 over three years but does not index to inflation. Here is what will happen if inflation averages 3%.

FY	State Minimum	County Minimum (27-13)	Differential
13	7.25	7.25	
14	7.80	8.25	6%
15	8.40	9.75	16%
16	9.00	11.50	28%
17	9.00	11.85	32%
18	9.00	12.20	36%
19	9.00	12.55	39%
20	9.00	12.90	43%
21	9.00	13.30	48%
22	9.00	13.70	52%

Under this scenario, the county's minimum wage would be 52% higher than the state minimum in ten years and that gap would continue to rise indefinitely.

The above math is crystal clear. If the county adopts an inflation escalator and the state does not, the gap between our wage level and our neighbors and the rest of the state will grow too large over time. And the potential problem is worse given the fact that council staff attorney Bob Drummer has found that the county minimum wage may not be able to cover our municipalities. The above disparities could conceivably apply between unincorporated North Bethesda and incorporated Rockville, or between unincorporated Germantown and incorporated Gaithersburg. Employers right across the street from each other could be required to pay vastly different minimum wages. It is hard to know exactly what the consequences of that would be for our business environment but they would not be good.

I propose a better way to balance our objectives of providing an adequate minimum wage, maintaining our business climate and not handicapping certain areas of our county versus others.

The county minimum wage should be $1.00 above the state minimum to reflect our higher cost of living. At the same time, it should be high enough to provide a significant boost to the incomes of workers who need a pay raise the most, even if the state does not act. That is the premise of Bill 27-13.

Accordingly, I propose a hybrid approach that would adopt a three-year phase-in to $10.75 or a $1.00 margin above the state minimum, *whichever is higher.*

In practical terms, the hybrid schedule would apply as follows.

FY14: $8.40 or 30 cents higher than the state minimum, whichever is higher
FY15: $9.55 or 60 cents higher than the state minimum, whichever is higher
FY16: $10.75 or $1.00 higher than the state minimum, whichever is higher

At $10.75, Montgomery County would have a higher minimum wage than any state in the U.S. Its minimum wage would be similar to or higher than the highest-paying local jurisdictions in the nation, including San Francisco (currently $10.55), Santa Fe ($10.51), San Jose ($10.00) and Albuquerque ($8.50).

At the same time, if the state adopts an inflation escalator, the county's $1.00 margin requirement would ensure that we would always be higher because of our cost of living.

I believe this is the best way for us to take action now without knowing what the state will do, but at the same time mitigate against the risks that we incur by not knowing what the state is going to do, nor what the municipalities in our county will do.

Please consider adopting this proposal.

From: Jim Sweet [mailto:jsweet@smokeyglenfarm.com]
Sent: Tuesday, November 19, 2013 1:00 PM
Subject: Smokey Glen Farm - Minimum Wage Legislation

Dear Council Member

First, I would like to offer my apologies for not giving testimony or voicing my thoughts earlier on the Montgomery County Minimum Wage legislation currently being debated by the Montgomery County Council. In all candor, it did not occur to me that the issue would garner the support that it has.

If this legislation passes as proposed, it will be absolutely devastating to my family's business. It will change everything to the core and place our 60 year old family business at risk.

If you are not familiar with Smokey Glen Farm, we are a special events facility located on Riffle Ford Road in Darnestown / Gaithersburg specializing in larger scale casual events – primarily corporate and group picnics.

Last I checked, we are the largest single-unit youth employer in the County employing (part-time & seasonal) 102 14-17 year olds (all local high school students) and 88 18+ year olds (almost all local college students). This has been our tradition since we began in 1953. These young people ARE the heart and soul of our operation and our primary workforce. They are NOT tipped employees as we do not require or request gratuities from our clients. On average, we pay our young staff very well. Most stay with us through college and graduate school. In most cases, they work their way through college by means of their summer job at Smokey Glen Farm. Some even continue to work part-time for several years in to their first full-time career jobs. It is a truly wonderful first job. We have a long tradition of providing well-paying, fulfilling first jobs in a safe, high energy, and "high expectations" environment for thousands of young people over these last 60 years.

We continue to stay in touch with many hundreds of alumni staff from all different generations. It is quite common for us to hear from them what a wonderful, impactful and often personally transforming first work experience they had at Smokey Glen Farm. The important life lessons and benefits that are most often cited include leadership skills, a rock-solid work ethic, social skills at all levels, problem solving, time management skills... the list goes on and on. We had over 700 alumni staff members and family members attend our 50th Anniversary Celebration in 2003 and over 400 attended our 60th Anniversary Celebration just a few weeks ago. We have quite a few 2nd generation staff members and even a few 3rd generation staff members currently on our payroll.

In general, our entry level 14-16 year olds are making just a little bit more than the current federal minimum wage. Once they have a season or two of experience under their belt, their opportunities for more hours, more responsibilities and more pay increase significantly. By the time they are 20 or 21, their average wages begin to reflect and sometimes exceed the minimum wage that is proposed in this legislation.

Bottom line... We will have to increase our pricing by 5% to 8% just to break even against this new minimum wage if it is passed as it is currently proposed. We are not the only facility of our kind in the Washington Metropolitan Area. We regularly compete with venues in Northern Virginia, Washington DC and Prince Georges County. Less than 1/2 of our clients are based here in Montgomery County. Clearly, we cannot be competitive if our base pricing is 5% to 8% higher than our regional competitors because of this legislation.

We are just now beginning to climb out from under the "great recession". For the first time in our 60 year history, we have lost money for more than one season. In fact, we have lost money for the last 5 years. For 2013, we are close to breaking even – might eek out a tiny profit - finally! (And now this?)

Our broader opposition to and concerns with the legislation...

- Jobs that pay minimum wage or anywhere close to minimum wage are entry level jobs – <u>entry level</u>. These jobs are not intended to support families.

- In all of the background research that was cited in support of this legislation, I don't see any current or non-current statistics or even estimates as to the number of workers in Montgomery County (or regionally) making at or close to minimum wage who are supporting a family or a child. I'm not saying that they don't exist, because they certainly do. I would contend that they are few and far between as a percentage of our workforce. Are those statistics available?

- All of the research cited in the studies that support this legislation were completed prior to 2009 (even though some were published in 2009). In other words, all of the research and statistics are <u>pre-recession</u>. It's a <u>very</u> different world now. Without a doubt, the statistics contained in these studies and the conclusions the authors draw would look quite different in today's post-recession economy.

- There are many who contend that Montgomery County is not business friendly – whether it is maintaining and growing an existing business, relocating an existing business (small or large) or opening a new business. The very fact that this legislation is being debated in the County Council and supported by the County Executive adds substantive legitimacy to that argument. There has been a great deal of push lately to attract young singles, couples and families to Montgomery County. These young adults are instinctively entrepreneurial to a much greater degree than any past generation. This legislation will be one more reason not to locate in Montgomery County.

- A substantial wage increase on entry level positions will push <u>all</u> hourly wages higher across the board.

- This legislation as it is being proposed will undoubtedly kill any chances for local youth to find a job. It will have devastating consequences for Smokey Glen Farm and all other Montgomery County businesses who hire young people in entry level positions – lifeguards, summer camp counselors, childcare, tutoring, restaurants and foodservice, lawn care & landscaping, retail – the list goes on and on. Judging by the extraordinary turnouts that we have had for our initial Spring job application and interview days over the past 5-6 years, it's already tough for young people to find part-time and seasonal jobs.

- This is a regional, not just a local economy. Unless ALL of the regions adopt similar measures, many Montgomery County businesses will be adversely affected and placed at a significant competitive disadvantage.

With all of that said, I respectfully ask that you oppose the Minimum Wage Legislation now being debated.

If you support this Minimum Wage legislation, I respectfully ask that the legislation be amended to exclude part-time employees under the age of 21.

Thank you for your consideration.

Respectfully submitted,

Jim Sweet
President

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Professor Judith K. Hellerstein

Judith K. Hellerstein, Professor, received her PhD from Harvard University in 1994 and joined the Maryland faculty in 1996. She is also a faculty associate of the Maryland Population Research Center and a research associate of the National Bureau of Economic Research. The focus of much of her research is labor market outcomes across gender, race, and ethnicity. Publications include: "Do Labor Markets Have an Important Spatial Dimension?" *Journal of Urban Economics* (forthcoming); "Business Cycles and Divorce: Evidence from Microdata", *Economics Letters*, 2013; "Neighbors and Co-Workers: The Importance of Residential Labor Market Networks," *Journal of Labor Economics*, 2011; "Dads and Daughters: The Changing Impact of Fathers on Women's Occupational Choices," *Journal of Human Resources*, 2011; Workplace Segregation in the United States: Race, Ethnicity, and Skill" *Review of Economics and Statistics*, 2008; "Spatial Mismatch or Racial Mismatch?" *Journal of Urban Economics*, 2008.

Areas of Interest:
labor market outcomes across race, gender, and ethnicity

Professor Harry J. Holzer

Harry Holzer joined the Georgetown Public Policy Institute as Professor of Public Policy in the Fall of 2000. He served as Associate Dean from 2004 through 2006 and was Acting Dean in the Fall of 2006. He is also currently an Institute Fellow at the American Institutes for Research, a Senior Affiliate at the Urban Institute, a Senior Affiliate of the National Poverty Center at the University of Michigan, a National Fellow of the Program on Inequality and Social Policy at Harvard University, a Nonresident Senior Fellow at the Brookings Institution, and a Research Affiliate of the Institute for Research on Poverty at the University of Wisconsin at Madison. He has also been a faculty director of the Georgetown Center on Poverty, Inequality and Public Policy. He received his BA (1978) and Ph.D. (1983) from Harvard University.

Prior to coming to Georgetown, Professor Holzer served as Chief Economist for the U.S. Department of Labor and professor of economics at Michigan State University. He has also been a Visiting Scholar at the Russell Sage Foundation in 1995, and a Faculty Research Fellow of the National Bureau of Economic Research.

Over most of his career, Professor Holzer's research has focused primarily on the low-wage labor market, and particularly the problems of minority workers in urban areas. In recent years he has worked on the quality of jobs as well as workers in the labor market, and how job quality affects the employment prospects of the disadvantaged as well as worker inequality and insecurity more broadly. He has also written extensively about the employment problems of disadvantaged men, advancement prospects for the working poor, and workforce policy more broadly.

His research on urban poverty and social policy has been funded by grants from the Gates

Foundation, Smith Richardson Foundation, Joyce Foundation, the U.S. Department of Health and Human Services, the Rockefeller and Ford Foundations, the Russell Sage Foundation, the Institute for Research on Poverty, the Upjohn Institute, the U.S. Department of Labor, the National Science Foundation, Ford Foundation, Mott Foundation, the MacArthur foundation and the Public Policy Institute of California.

Professor Holzer teaches courses in statistical methods for program and policy evaluation at the Georgetown Public Policy Institute, as well as on anti-poverty policy and on labor market policy. In his past life at Michigan State, he has taught courses in labor market policy and institutions, poverty, and introductory macroeconomics. His other interests and activities include listening to jazz and reading politics/history. His wife Deborah is a clinical social worker and they have 3 daughters, aged 20, 13 and 13.

For working papers and published articles by Harry J. Holzer, use the following link:

http://ideas.repec.org/e/pho162.html

For working papers, public testimonies and recent opinion pieces by Harry J. Holzer, use the following link:

http://www.urban.org/expert.cfm?ID=HarryHolzer

Tom Hucker
Legislative District 20
Montgomery County

Economic Matters Committee

House Chair
Joint Committee on Federal Relations

The Maryland House of Delegates
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The Maryland House of Delegates
Annapolis, Maryland 21401

November 21, 2013

Councilmember Marc Elrich
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20852

Dear Councilmember Elrich,

As you know, I represent Montgomery County on the House Economic Matters Committee, along with Dels. Barkley and Kramer. The proposed statewide living wage legislation is assigned to our committee each year.

You had asked me what effect the proposed passage of a higher minimum wage in Montgomery County would have on the prospects for a minimum wage increase in Annapolis. It is abundantly clear that passage of a higher minimum wage in Montgomery County (and Prince George's County) will only *increase* the likelihood that the General Assembly will pass a statewide increase in the minimum wage, possibly significantly so. In no way will the passage of a higher minimum wage in Montgomery and/or Prince George's Counties hinder our efforts to pass statewide legislation.

The suggestion that Montgomery County should wait until the passage of state legislation ignores all the history on this issue. The General Assembly has a long and undistinguished history of killing proposed legislation to increase the minimum wage, despite demonstrated support from overwhelming supermajorities of the public year after year. Powerful special interests have bottled up statewide minimum wage legislation nearly every year it has been introduced. Only once in Maryland's long history, in 2005-2006, has the General Assembly found the courage to raise the minimum wage, and that was due to unique political circumstances. In 2004, Progressive Maryland and I had led an extensive, three-year campaign which resulted in the General Assembly's passage of the nation's first statewide living wage law. The legislation was vetoed by then-Gov. Robert Ehrlich. Rather than override Gov. Ehrlich's veto of the living wage law, the leadership of the General Assembly decided during the interim to break with precedent and pass an increase in the minimum wage. (Despite the fact that the increase was a modest $1.00, that bill was also vetoed by Gov. Ehrlich, and the General Assembly had to override that veto in 2006.)

That was seven years ago, and the General Assembly has killed numerous bills to require a statewide increase in the minimum wage since then, including multiple bills by the current General Assembly. Rest assured, the same special interests that are now telling you that the minimum wage is a state issue that is best left to the General Assembly, will soon be testifying before my committee that the minimum wage is really a federal issue best established by Congress.

No one is more hopeful than I am that we can change that history this year, but in no way should the Montgomery County Council be waiting for leadership on this issue from the General Assembly. Rather, the Montgomery County Council can provide some fairness for our constituents now, and help us pass statewide legislation in 2014, by passing your legislation without delay. Montgomery County should be a leader on this issue, as it has been on so many other important issues. The General Assembly would not have passed the statewide living wage law in 2004 and again in 2007 except for the fact that living wage laws were already working in Montgomery and Prince George's Counties, as well as Baltimore City. Montgomery County's strong and effective stormwater fee helped Sen. Raskin and I pass the landmark 2012 stormwater law. And I could offer many other examples.

On behalf of our shared constituents in District 20, thanks to you and cosponsors Councilmembers Valerie Ervin and Nancy Navarro for bringing this important legislation before the Council. And thanks to County Executive Ike Leggett for announcing his support, as well as to HHS Committee Chair Councilmember George Leventhal for offering to move this legislation without delay. Such leadership from all of you makes me proud to live in Montgomery County.

Sincerely,

Tom Hucker

Exclusions from the State Act

The State Act does not apply to an individual who:

- is employed in a capacity that the Commissioner defines, by regulation, to be administrative, executive, or professional;
- is employed in a nonadministrative capacity at an organized camp, including a resident or day camp;
- is under the age of 16 years and is employed no more than 20 hours in a week;
- is employed as an outside salesman; is compensated on a commission basis;
- is at least 62 years old and is employed no more than 25 hours in a week;
- is a child, parent, spouse, or other member of the immediate family of the employer;
- is employed in a motion picture or drive-in theater; is employed as part of the training in a special education program for emotionally, mentally, or physically handicapped students under a public school system;
- is employed by an employer who is engaged in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, or horticultural commodities, poultry, or seafood;
- engages in the activities of a charitable, educational, not for profit, or religious organization if:
  - (i) the service is provided gratuitously; and
  - (ii) there is, in fact, no employer-employee relationship; or
- is employed in a cafe, drive-in, drugstore, restaurant, tavern, or other similar establishment that:
  - (i) sells food and drink for consumption on the premises; and
  - (ii) has an annual gross income of $ 250,000 or less.

- is employed in agriculture if, during each quarter of the preceding calendar year, the employer used no more than 500 agricultural-worker days;
- is engaged principally in the range production of livestock; or

- is employed as a hand-harvest laborer and is paid on a piece-rate basis in an operation that, in the region of employment, has been and customarily and generally is recognized as having been paid on that basis, if:

    (i) the individual:

        1. commutes daily from the permanent residence of the individual to the farm where the individual is employed; and

        2. during the preceding calendar year, was employed in agriculture less than 13 weeks; or

    (ii) the individual:

        1. is under the age of 17;

        2. is employed on the same farm as a parent of the individual or a person standing in the place of the parent; and

        3. is paid at the same rate that an employee who is at least 17 years old is paid on the same farm.

Exclusions from the Federal Act

The Federal Act does not apply to:

- Executive, administrative, and professional employees (including teachers and academic administrative personnel in elementary and secondary schools), outside sales employees, and certain skilled computer professionals (as defined in the Department of Labor's regulations)
- Employees of certain seasonal amusement or recreational establishments
- Workers with disabilities
- Employees of certain small newspapers
- Switchboard operators of small telephone companies
- Seamen employed on foreign vessels
- Employees engaged in fishing operations
- Employees engaged in newspaper delivery
- Farm workers employed on small farms (i.e., those that used less than 500 "man-days" of farm labor in any calendar quarter of the preceding calendar year)
- Casual babysitters
- Persons employed as companions to the elderly or infirm

NATIONAL RESTAURANT ASSOCIATION BACKGROUNDER: UNDERSTANDING TIPPED EMPLOYEES' WAGES

THE TIP CREDIT: WHY IT EXISTS

Congress has for decades defined "wages" under Section 203(m) of the Fair Labor Standards Act (FLSA) to include not just cash, but certain other credits and benefits that employees receive as a result of their employment, including tip income.

Tip income is an important part of the wages and benefits employees receive due to employment. In fact, tip-earning employees can be among the industry's higher-earning employees, earning a median of $12 to $17 an hour in tips, according to recent National Restaurant Association research. Employees and employers pay taxes on those tipped wages.

That's why section 203(m) of the FLSA lets employers apply a limited portion of the tip earnings employees receive because of their employment toward the employer's obligation to pay tipped employees the minimum wage. This is called taking a "tip credit." Employers may take a tip credit only under strict conditions.

TIPS AS WAGES

The FLSA's treatment of tips as wages is consistent with other federal laws.

Federal tax law classifies tips as wages, and taxes employees and employers accordingly.

- Employees owe **income and FICA** (Social Security and Medicare) taxes on their tip income.
- The federal government considers all tips as wages for **Social Security** purposes. Employers pay Social Security taxes on the tips employees report, and tip income is included in the government's wage calculations for Social Security benefits.
- The federal government considers all tips as wages for **Medicare** purposes, and requires employers to pay Medicare taxes on all reported tip income.
- The federal government considers tips as wages for **unemployment** purposes, and requires employers to pay federal unemployment taxes on reported tip income.

HOW THE TIP CREDIT WORKS

If an employee meets the definition of a "tipped employee," tip-credit law allows an employer to credit toward the required minimum wage rate some portion of the tips received by the employee and reported to the employer.

While state laws may vary, **federal wage law** currently permits employers to pay a tipped employee a minimum cash wage of at least \$2.13 an hour and take a tip credit of up to \$5.12 an hour (i.e., the difference between the \$7.25 federal minimum wage and the \$2.13 cash wage).[1]

If an employee's tips fall below the maximum permissible tip credit -- \$5.12 an hour under federal law -- the employer is responsible for making up the difference by paying any additional cash wages needed to bring the employee up to the required minimum wage. Thus, a tipped employee will never be paid below the minimum wage.

BOTTOM LINE: The law allows employers to pay tipped employees the required minimum wage through a wage that is in part an employer-paid cash wage and in part a tip credit. All tipped employees are guaranteed at least the minimum wage. Employers are required to ensure that the full minimum wage obligation is met.

PROTECTING EMPLOYEES

The FLSA provides strong protections to ensure that tipped employees never earn less than the applicable minimum wage. Employers must meet the following conditions in order to claim any tip credit:

1. A tip credit can be taken only against the wages of employees who customarily and regularly receive at least \$30 per month in tips.
2. In cases where an employee's tip earnings fall below the maximum permissible tip credit, the employer is responsible for providing the cash wage necessary to bring the employee up to the minimum wage.
3. The employer must notify the employee of the tip credit taken.
4. Employees must be allowed to retain all of their tips, except where tip pools are allowed.
5. Employers must have records documenting that employees earned tips in an amount at least equal to the tip credit claimed.

[1] Some states go beyond federal law to require a higher minimum wage for all employees and/or a higher minimum cash wage for tipped employees, which must be followed by employers in those states.

TIPPED EMPLOYEES' WAGES: MYTHS & FACTS

MYTH #1: TIPPED EMPLOYEES ARE PAID A "SUBMINIMUM WAGE" OF $2.13 AN HOUR.

FACT: **There is no subminimum wage.** The minimum wage for tipped employees is the exact same as the minimum wage for every other employee in America: $7.25 under federal law, or higher if state law requires. The employer must ensure that the tipped employee earns at least $7.25 an hour (or the applicable state wage), between the employee's tip earnings and the employer-paid cash wage. It is not legal for any employee in this country to earn only $2.13 per hour. Congress defines "wages" to include not just cash paid to employees, but also certain credits and benefits, including a certain amount of tips a tipped employee receives and voluntarily reports to his or her employer.

MYTH #2: CUSTOMERS ARE SUBSIDIZING RESTAURANT EMPLOYEES' WAGES.

FACT: Restaurant employers invest in their businesses to provide the conditions that enable employees to earn tips. Congress created the tip-credit system and its safeguards for employees decades ago because lawmakers recognized that tipped employees receive tips due to the jobs their employers provide them.

Tipped employees receive additional wages in the form of tips given to them by their employer's guests. This money is not given to other employees. That's why federal law treats tipped and non-tipped employees differently for wage purposes. The tip credit lets employers take tipped employees' special status into account for purposes of meeting the employer's obligation to pay these employees the minimum wage.

MYTH #3: TIPPED EMPLOYEES EARN POVERTY-LEVEL WAGES

FACT: Most tipped employees are far from minimum-wage earners. Server positions in restaurants provide opportunity, flexibility and, often, very competitive pay. Recent National Restaurant Association research shows that on a national level, restaurant servers earn a median hourly wage of between $16 and $22, counting both tips and employer-paid cash wages. Looking at tip income alone, entry-level servers earn a median of $12 an hour in tips, with more experienced servers earning a median of $17 an hour in tips, according to the research. NOTE: These figures represent overall averages; the hourly earnings of servers vary significantly based on the type of establishment and the average per-person check size.

MYTH #4: EMPLOYERS ABUSE WAGE-AND-HOUR RULES WHEN THEY PAY TIPPED EMPLOYEES.

FACT: There will always be a few who violate any law imposed on citizens or companies. However, employers risk costly wage-and-hour lawsuits, significant back-pay requirements and stiff penalties if they take a tip credit without meeting all the legal requirements for doing so. Restaurant employers are not willing to break the law or jeopardize their businesses by failing to take the required steps for claiming a tip credit. The vast majority of restaurant operators follow the rules, designed as safeguards for tipped employees. These requirements include ensuring that tipped employees earn and report tips in an amount at least equal to the amount of the tip credit claimed, and that the employer has records to prove it. In cases where an employee's earnings fall below the maximum permissible tip credit, the employer is responsible for the cash wage necessary to meet the minimum wage.