

RAISE THE WAGE ACT

JULY 11, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SCOTT of Virginia, from the Committee on Education and Labor, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 582]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and Labor, to whom was referred the bill (H.R. 582) to provide for increases in the Federal minimum wage, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Raise the Wage Act”.

SEC. 2. MINIMUM WAGE INCREASES.

(a) **IN GENERAL.**—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

“(1) except as otherwise provided in this section, not less than—

“(A) \$8.55 an hour, beginning on the effective date under section 7 of the Raise the Wage Act;

“(B) \$9.85 an hour, beginning 1 year after such effective date;

“(C) \$11.15 an hour, beginning 2 years after such effective date;

“(D) \$12.45 an hour, beginning 3 years after such effective date;

“(E) \$13.75 an hour, beginning 4 years after such effective date;

“(F) \$15.00 an hour, beginning 5 years after such effective date; and

“(G) beginning on the date that is 6 years after such effective date, and annually thereafter, the amount determined by the Secretary under subsection (h);”.

(b) **DETERMINATION BASED ON INCREASE IN THE MEDIAN HOURLY WAGE OF ALL EMPLOYEES.**—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end the following:

“(h)(1) Not later than each date that is 90 days before a new minimum wage determined under subsection (a)(1)(G) is to take effect, the Secretary shall determine the minimum wage to be in effect under this subsection for each period described in subsection (a)(1)(G). The wage determined under this subsection for a year shall be—

“(A) not less than the amount in effect under subsection (a)(1) on the date of such determination;

“(B) increased from such amount by the annual percentage increase, if any, in the median hourly wage of all employees as determined by the Bureau of Labor Statistics; and

“(C) rounded up to the nearest multiple of \$0.05.

“(2) In calculating the annual percentage increase in the median hourly wage of all employees for purposes of paragraph (1)(B), the Secretary, through the Bureau of Labor Statistics, shall compile data on the hourly wages of all employees to determine such a median hourly wage and compare such median hourly wage for the most recent year for which data are available with the median hourly wage determined for the preceding year.”.

SEC. 3. TIPPED EMPLOYEES.

(a) **BASE MINIMUM WAGE FOR TIPPED EMPLOYEES AND TIPS RETAINED BY EMPLOYEES.**—Section 3(m)(2)(A)(i) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)(2)(A)(i)) is amended to read as follows:

“(i) the cash wage paid such employee, which for purposes of such determination shall be not less than—

“(I) for the 1-year period beginning on the effective date under section 7 of the Raise the Wage Act, \$3.60 an hour;

“(II) for each succeeding 1-year period until the hourly wage under this clause equals the wage in effect under section 6(a)(1) for such period, an hourly wage equal to the amount determined under this clause for the preceding year, increased by the lesser of—

“(aa) \$1.50; or

“(bb) the amount necessary for the wage in effect under this clause to equal the wage in effect under section 6(a)(1) for such period, rounded up to the nearest multiple of \$0.05; and

“(III) for each succeeding 1-year period after the increase made pursuant to subclause (II), the minimum wage in effect under section 6(a)(1); and”.

(b) **TIPS RETAINED BY EMPLOYEES.**—Section 3(m)(2)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)(2)(A)) is amended—

(1) in the second sentence of the matter following clause (ii), by striking “of this subsection, and all tips received by such employee have been retained by the employee” and inserting “of this subsection. Any employee shall have the right to retain any tips received by such employee”; and

(2) by adding at the end the following: “An employer shall inform each employee of the right and exception provided under the preceding sentence.”.

(c) **SCHEDULED REPEAL OF SEPARATE MINIMUM WAGE FOR TIPPED EMPLOYEES.**—

(1) **TIPPED EMPLOYEES.**—Section 3(m)(2)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)(2)(A)), as amended by subsections (a) and (b), is further amended by striking the sentence beginning with “In determining the wage

an employer is required to pay a tipped employee,” and all that follows through “of this subsection.” and inserting “The wage required to be paid to a tipped employee shall be the wage set forth in section 6(a)(1).”.

(2) PUBLICATION OF NOTICE.—Subsection (i) of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206), as amended by section 5, is further amended by striking “or in accordance with subclause (II) or (III) of section 3(m)(2)(A)(i)”.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect on the date that is one day after the date on which the hourly wage under subclause (III) of section 3(m)(2)(A)(i) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)(2)(A)(i)), as amended by subsection (a), takes effect.

SEC. 4. NEWLY HIRED EMPLOYEES WHO ARE LESS THAN 20 YEARS OLD.

(a) BASE MINIMUM WAGE FOR NEWLY HIRED EMPLOYEES WHO ARE LESS THAN 20 YEARS OLD.—Section 6(g)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(g)(1)) is amended by striking “a wage which is not less than \$4.25 an hour.” and inserting the following: “a wage at a rate that is not less than—

“(A) for the 1-year period beginning on the effective date under section 7 of the Raise the Wage Act, \$5.50 an hour;

“(B) for each succeeding 1-year period until the hourly wage under this paragraph equals the wage in effect under section 6(a)(1) for such period, an hourly wage equal to the amount determined under this paragraph for the preceding year, increased by the lesser of—

“(i) \$1.25; or

“(ii) the amount necessary for the wage in effect under this paragraph to equal the wage in effect under section 6(a)(1) for such period, rounded up to the nearest multiple of \$0.05; and

“(C) for each succeeding 1-year period after the increase made pursuant to subparagraph (B)(ii), the minimum wage in effect under section 6(a)(1).”.

(b) SCHEDULED REPEAL OF SEPARATE MINIMUM WAGE FOR NEWLY HIRED EMPLOYEES WHO ARE LESS THAN 20 YEARS OLD.—

(1) IN GENERAL.—Section 6(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(g)), as amended by subsection (a), shall be repealed.

(2) PUBLICATION OF NOTICE.—Subsection (i) of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206), as amended by section 3(c)(2), is further amended by striking “or subparagraph (B) or (C) of subsection (g)(1).”.

(3) EFFECTIVE DATE.—The repeal and amendment made by paragraphs (1) and (2), respectively, shall take effect on the date that is one day after the date on which the hourly wage under subparagraph (C) of section 6(g)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(g)(1)), as amended by subsection (a), takes effect.

SEC. 5. PUBLICATION OF NOTICE.

Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206), as amended by the preceding sections, is further amended by adding at the end the following:

“(i) Not later than 60 days prior to the effective date of any increase in the required wage determined under subsection (a)(1) or subparagraph (B) or (C) of subsection (g)(1), or in accordance with subclause (II) or (III) of section 3(m)(2)(A)(i) or section 14(c)(1)(A), the Secretary shall publish in the Federal Register and on the website of the Department of Labor a notice announcing each increase in such required wage.”.

SEC. 6. PROMOTING ECONOMIC SELF-SUFFICIENCY FOR INDIVIDUALS WITH DISABILITIES.

(a) WAGES.—

(1) TRANSITION TO FAIR WAGES FOR INDIVIDUALS WITH DISABILITIES.—Subparagraph (A) of section 14(c)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c)(1)) is amended to read as follows:

“(A) at a rate that equals, or exceeds, for each year, the greater of—

“(i)(I) \$4.25 an hour, beginning 1 year after the date the wage rate specified in section 6(a)(1)(A) takes effect;

“(II) \$6.40 an hour, beginning 2 years after such date;

“(III) \$8.55 an hour, beginning 3 years after such date;

“(IV) \$10.70 an hour, beginning 4 years after such date;

“(V) \$12.85 an hour, beginning 5 years after such date; and

“(VI) the wage rate in effect under section 6(a)(1), on the date that is 6 years after the date the wage specified in section 6(a)(1)(A) takes effect; or

“(ii) if applicable, the wage rate in effect on the day before the date of enactment of the Raise the Wage Act for the employment, under a special certificate issued under this paragraph, of the individual for whom the wage rate is being determined under this subparagraph.”.

(2) PROHIBITION ON NEW SPECIAL CERTIFICATES; SUNSET.—Section 14(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c)) (as amended by paragraph (1)) is further amended by adding at the end the following:

“(6) PROHIBITION ON NEW SPECIAL CERTIFICATES.—Notwithstanding paragraph (1), the Secretary shall not issue a special certificate under this subsection to an employer that was not issued a special certificate under this subsection before the date of enactment of the Raise the Wage Act.

“(7) SUNSET.—Beginning on the day after the date on which the wage rate described in paragraph (1)(A)(i)(VI) takes effect, the authority to issue special certificates under paragraph (1) shall expire, and no special certificates issued under paragraph (1) shall have any legal effect.

“(8) TRANSITION ASSISTANCE.—Upon request, the Secretary shall provide—

“(A) technical assistance and information to employers issued a special certificate under this subsection for the purposes of—

“(i) transitioning the practices of such employers to comply with this subsection, as amended by the Raise the Wage Act; and

“(ii) ensuring continuing employment opportunities for individuals with disabilities receiving a special minimum wage rate under this subsection; and

“(B) information to individuals employed at a special minimum wage rate under this subsection, which may include referrals to Federal or State entities with expertise in competitive integrated employment.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act.

(b) PUBLICATION OF NOTICE.—

(1) AMENDMENT.—Subsection (i) of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206), as amended by section 4(b)(2), is further amended by striking “or section 14(c)(1)(A).”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the day after the date on which the wage rate described in paragraph (1)(A)(i)(VI) of section 14(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c)), as amended by subsection (a)(1), takes effect.

SEC. 7. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this Act or the amendments made by this Act, this Act and the amendments made by this Act shall take effect—

(1) subject to paragraph (2), on the first day of the third month that begins after the date of enactment of this Act; and

(2) with respect to the Commonwealth of the Northern Mariana Islands, on the date that is 18 months after the effective date described in paragraph (1).

SEC. 8. GAO REPORT.

Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Education and Labor Committee of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that, with respect to the Commonwealth of the Northern Mariana Islands—

(1) assesses the status and structure of the economy (including employment, earnings and wages, and key industries); and

(2) for each year in which a wage increase will take effect under subsection (a)(1) or (g)(1) of section 6, section 3(m)(2)(A)(i), or section 14(c)(1)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), as amended by this Act, estimates the proportion of employees who will be directly affected by each such wage increase taking effect for such year, disaggregated by industry and occupation.

PURPOSE AND SUMMARY

In 1938, President Franklin D. Roosevelt signed into law the *Fair Labor Standards Act of 1938* (FLSA), landmark legislation that established a minimum hourly wage, set maximum hours standards, and banned oppressive child labor.¹ The minimum wage was established as a living wage—an essential protection for workers in the wake of the Great Depression when employers were

¹Jonathan Grossman, *U.S. Dep’t of Labor, Fair Labor Standards Act of 1938: Maximum Struggle for a Minimum Wage*, U.S. Dep’t of Labor, <https://www.dol.gov/general/aboutdol/history/flsa1938>.

slashing wages and increasing hours. Congress intended to prevent employers from competing on the backs of workers by lowering wage costs, based on the understanding that the uneven bargaining power between workers and employers could lead workers to accept wages too low to maintain a decent standard of living.²

Congress has legislated increases nine times during the 80 years since the FLSA's inception, effectuating 22 increases in the federal minimum wage. However, over the last 40 years Congress has failed to sufficiently raise the federal minimum wage enough to maintain a standard of living. This, combined with a 10 year lapse in the last increase in the federal minimum wage, has severely eroded the value of the minimum wage. Today's minimum wage workers earn almost \$3 per hour less, adjusted for inflation, than their counterparts over 50 years ago, despite being significantly more productive.³ An individual earning the current federal minimum wage of \$7.25 an hour and working full time earns only \$15,080 annually.⁴ This income level puts a family of two below the federal poverty level and a family of three or four well below the federal poverty level (\$16,910 a year for a two-person family in 2018; \$21,330 a year for a three-person family; \$25,750 for a four-person family).⁵ H.R. 582, the *Raise the Wage Act* (the Act), would restore the value of the federal minimum wage and ensure that minimum wage workers no longer earn poverty level wages.

H.R. 582 increases the federal minimum wage to \$15 by 2024 in six steps. After reaching \$15 an hour, the legislation indexes future increases in the federal minimum wage to median wage growth to ensure the value of the minimum wage does not once again erode over time.⁶ The Act guarantees tipped workers and teenaged workers are paid at least the full federal minimum wage by gradually repealing the subminimum wage for tipped workers and the rarely used subminimum wage for teenage workers. The Act also ends rarely used subminimum wage certificates for individuals with disabilities.

Gradually raising the federal minimum wage from \$7.25 to \$15 by 2024 over six steps will raise wages for nearly 40 million workers. In this way, this legislation will lift millions of workers out of poverty, stimulate local economies, and benefit businesses.

²*Brooklyn Sav. Bank v. O'Neil*, 324 U.S. 697, 706–07 (1945) (“The legislative history of the Fair Labor Standards Act shows an intent on the part of Congress to protect certain groups of the population from substandard wages and excessive hours which endangered the national health and well-being and the free flow of goods in interstate commerce. The statute was a recognition of the fact that due to the unequal bargaining power as between employer and employee, certain segments of the population required federal compulsory legislation to prevent private contracts on their part which endangered national health and efficiency and as a result the free movement of goods in interstate commerce.”).

³David Cooper, Raising the Minimum Wage to \$15 by 2024 Would Lift Pay for Nearly 40 Million American Workers 2 (2019), <https://www.epi.org/files/pdf/160909.pdf>.

⁴Calculation estimated based on working 40 hours a week and 52 weeks a year.

⁵U.S. Dep't of Health and Human Servs., *2019 Poverty Guidelines*, <https://aspe.hhs.gov/2019-poverty-guidelines>.

⁶David Cooper, Raising the Minimum Wage to \$15 by 2024 Would Lift Pay for Nearly 40 Million American Workers 14 (2019), <https://www.epi.org/files/pdf/160909.pdf> (indexing the minimum wage to median wages would ensure that low-wage workers share in broad improvements in U.S. living standards and would help prevent future growth in inequality between low- and middle-wage workers).

COMMITTEE ACTION

110TH CONGRESS

On January 4, 2007, Senator Harry Reid (D–NV) introduced S. 2, the *Fair Minimum Wage Act of 2007*, which would have raised the federal minimum wage from \$5.15 to \$5.85 60 days after enactment, to \$6.55 one year after the effective date, and to \$7.25 two years after the effective date. It had 41 Democratic cosponsors, one Independent cosponsor, and one Independent Democrat cosponsor.

On January 5, 2007, Congressman George Miller (D–CA–7) introduced the House companion bill, H.R. 2, the *Fair Minimum Wage Act of 2007*. It had 214 Democratic cosponsors and 8 Republican cosponsors. It was referred to the House Committee on Education and Labor. The House passed H.R. 2 by a vote of 315–116 on January 10, 2007.

On January 16, 2007, the Senate Committee on Health Education Labor and Pensions (Senate HELP Committee) held a hearing on raising the minimum wage titled, “*Economic Opportunity and Security for Working Families*.” The Senate HELP Committee heard testimony from Dr. Eileen Applebaum, Professor and Director, Center for Women and Work at Rutgers University; Reverend Dr. James Alexander Forbes Jr., Senior Minister, The Riverside Church; Dr. Jacob Hacker, Associate Professor, Yale University; and Mrs. Anna Cablik, President, ANATEK, Inc.

On January 22, 2007, H.R. 2 was brought before the Senate by unanimous consent. On February 1, 2007 the Senate passed H.R. 2, as amended, by a vote of 94–3.

On March 27, 2007, Senator Edward M. Kennedy (D–MA) offered an amendment to H.R. 1591, the *U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007*, to include the text of the *Fair Minimum Wage Act* and separate tax provisions. The amendment passed and H.R. 1591 was passed by the Senate on March 29, 2007, by a vote of 51–47. On April 24, 2007, House and Senate conferees agreed to a conference report, H. Report 110–17, which included the text of the Kennedy Amendment. The House agreed to the conference report on April 25, 2007 by a vote of 218–208, and the Senate agreed to the report the next day by a vote of 51–46. On May 1, 2007, President Bush vetoed H.R. 1591. On May 2, 2007, the House failed to override the President’s veto by a vote of 222–203.

On May 8, 2007, Congressman David R. Obey (D–WI–7) introduced H.R. 2206, the *U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007*. The bill was passed by the House on May 10, 2007 by a vote of 221–205. The bill was then passed by the Senate on a voice vote on May 17, 2007. The President signed H.R. 2206 on May 25, 2007. It became Pub. L. No. 110–28.

On December 13, 2007, Congressman Al Green (D–TX–9) introduced H.R. 4637, the *Living American Wage (LAW) Act of 2007*. The bill would have required the federal minimum wage to be adjusted every four years to a level equal to five percent above the wage level necessary for a full-time worker to earn above the poverty threshold for a family of three. The bill had no cosponsors and was referred to the House Committee on Education and Labor. No further action was taken on this bill.

111TH CONGRESS

On May 21, 2009, Congresswoman Donna Edwards (D-MD-4) introduced H.R. 2570, the *Working for Adequate Gains for Employment in Services (WAGES) Act*. The bill would have raised the federal tipped minimum wage to 70 percent of the full federal minimum wage. It had 38 Democratic cosponsors and was referred to the House Committee on Education and Labor. No further action was taken on this bill.

On June 25, 2009, Congressman Green (TX-9) introduced H.R. 3041, the *Living American Wage (LAW) Act of 2009*. The bill would have required the federal minimum wage to be adjusted every four years to a level equal to 15 percent above the wage level required for a full-time worker to earn above the poverty threshold for a family of two. It had four Democratic cosponsors and was referred to the House Committee on Education and Labor. No further action was taken on this bill.

112TH CONGRESS

On February 25, 2011, Congressman Green (TX-9) introduced H.R. 283, the *Living American Wage (LAW) Act of 2011*. It had 12 Democratic cosponsors. It was referred to the House Committee on Education and the Workforce, where it was referred to the Subcommittee on Workforce Protections. On June 29, 2012 Congressman Green (TX-9) introduced a new version of the bill as H.R. 6076, the *Original Living American Wage (LAW) Act*. Both bills would have required the federal minimum wage to be adjusted every four years to a level equal to 15 percent above the wage level required for a full-time worker to earn above the poverty threshold for a family of two. It had no cosponsors and was referred to the House Committee on Education and the Workforce, where it was referred to the Subcommittee on Workforce Protections. No further action was taken on either bill.

On March 4, 2011, Congresswoman Edwards (MD-4) introduced H.R. 631, the *Working for Adequate Gains for Employment in Services (WAGES) Act*. It would have raised the federal tipped minimum wage to 70 percent of the full federal minimum wage. It had 34 Democratic cosponsors. It was referred to the House Committee on Education and the Workforce, where it was referred to the Subcommittee on Workforce Protections. No further action was taken on this bill.

On July 26, 2012, Senator Tom Harkin (D-IA) and Congressman Miller (CA-7) introduced S. 3453 and H.R. 6211, the *Fair Minimum Wage Act of 2012*, respectively. The bills would have raised the federal minimum wage to \$8.10 three months after enactment, \$8.95 one year after the effective date, and \$9.80 two years after the effective date. The bills would also have indexed future increases in the minimum wage to the Consumer Price Index for all Urban Wage Earners and Clerical Workers (CPI-W) and raised the tipped minimum wage to 70 percent of the full minimum wage. S. 3453 had 15 Democratic cosponsors and one Independent cosponsor and was referred to the Senate HELP Committee. H.R. 6211 had 117 Democratic cosponsors and was referred to the House Committee on Education and the Workforce, where it was referred to

the Subcommittee on Workforce Protections. No further action was taken on either bill.

113TH CONGRESS

On March 5, 2013, Senator Harkin introduced S. 460, the *Fair Minimum Wage Act of 2013*. It would have raised the federal minimum wage to \$8.20 three months after enactment, \$9.15 one year after the effective date, and \$10.10 two years after the effective date. The bill would also have indexed future increases in the minimum wage to the CPI-W and raised the tipped minimum wage to 70 percent of the full minimum wage. It had 32 Democratic cosponsors and one Independent cosponsor. It was referred to the Senate HELP Committee.

The Senate HELP Committee held a hearing on the *Fair Minimum Wage Act* on March 14, 2013. The hearing was titled “*Keeping up with a Changing Economy: Indexing the Minimum Wage.*” The Senate HELP Committee heard testimony from Mr. Brad Avakian, Commissioner with the Oregon Bureau of Labor and Industries; Dr. Arindrajit Dube, Professor of Economics at University of Massachusetts Amherst; Mr. Lew Price, Managing Partner of Vintage Vinyl; Ms. Carolle Fleurio, a restaurant worker; Mr. Melvin Sickler, Auntie Anne’s Pretzels and Cinnabon Franchisee; and Mr. David Rutigliano, owner of Southport Brewing Company.

On November 19, 2013, Senator Harkin introduced S. 1737, the *Minimum Wage Fairness Act*. The bill had 38 Democratic cosponsors and one Independent cosponsor. It would have raised the federal minimum wage to \$8.20 one year after passage, \$9.15 one year after the effective date, and \$10.10 two years after the effective date. The bill would also have indexed future increases in the minimum wage to the CPI-W and raised the tipped minimum wage to 70 percent of the full minimum wage. The bill was reintroduced by Senator Harkin on April 8, 2014, as S. 2223. On April 30, 2014, Senator Reid’s cloture motion to proceed on the bill failed by a vote of 54–42. Senator Reid moved to reconsider the bill but later withdrew the motion. No further action was taken on the bill.

On January 14, 2013, Congressman Green (TX–9) introduced H.R. 229, the *Original Living American Wage (LAW) Act*. The bill would have required the federal minimum wage to be adjusted every four years to a level equal to 15 percent above the wage level required for a full-time worker to earn above the poverty threshold for a family of two. The bill had eight Democratic cosponsors. It was referred to the House Committee on Education and the Workforce, where it was referred to the Subcommittee on Workforce Protections. Congressman Green (TX–9) reintroduced the bill on June 11, 2014, as H.R. 4839. It had 35 Democratic cosponsors. No further action was taken on either bill.

On March 6, 2013, Congressman Miller (CA–7) introduced H.R. 1010, the *Fair Minimum Wage Act of 2013*. It would have raised the federal minimum wage to \$8.20 one year after passage, \$9.15 one year after the effective date, and \$10.10 two years after the effective date. The bill would also have indexed future increases in the minimum wage to the CPI-W and raised the tipped minimum wage to 70 percent of the full minimum wage. The bill had 197 Democratic cosponsors. The bill was referred to the House Com-

mittee on Education and the Workforce, where it was referred to Subcommittee on Workforce Protections.

On March 26, 2013, Congressman Gregg Harper (R-MS-3) introduced H.R. 831, the *Fair Wages for Workers with Disabilities Act of 2013*. The bill would have repealed Section 14(c) of the FLSA and phased out the subminimum wage for workers with disabilities over three years. The bill had 73 Democratic and 24 Republican cosponsors. The bill was referred to the House Committee on Education and the Workforce, where it was referred to the Subcommittee on Workforce Protections. No further action was taken on this bill.

On April 13, 2013, Congresswoman Edwards (MD-4) introduced H.R. 650, the *Working for Adequate Gains for Employment in Services (WAGES) Act*. It would have raised the federal tipped minimum wage to 70 percent of the full federal minimum wage. The bill had 29 Democratic cosponsors. The bill was referred to the House Committee on Education and the Workforce, where it was referred to the Subcommittee on Workforce Protections. No further action was taken on this bill.

On April 23, 2013, Congressman Alan Grayson (D-FL-9) introduced H.R. 1346, the *Catching Up To 1968 Act*. It would have immediately raised the federal minimum wage to \$10.50, indexed future increases in the minimum wage to the Consumer Price Index for All Urban Consumers (CPI-U), raised the tipped minimum wage to 70 percent of the full minimum wage, and eliminated exemptions for some agricultural and domestic workers. The bill had 19 Democratic cosponsors and was referred to the House Committee on Education and the Workforce, where it was referred to the Subcommittee on Workforce Protections. No further action was taken on this bill.

On December 12, 2013, Congressman John Larson (D-CT-1) reintroduced the *Fair Minimum Wage Act of 2013* as H.R. 3746. It would have raised the federal minimum wage to \$8.50 three months after enactment, \$10.00 a year after the effective date, and \$11.00 two years after the effective date. The bill would also have indexed future increases in the minimum wage to the CPI-W and raised the tipped minimum wage to 70 percent of the full minimum wage. The bill had no cosponsors and was referred to the House Committee on Education and the Workforce. No further action was taken on the bill.

On January 28, 2014, Congressman Richard Neal (D-MA-1) introduced H.R. 3939, the *Invest in United States Act of 2014*. It had one Democratic cosponsor and was referred to the House Committees on Ways and Means, Transportation and Infrastructure, and Education and the Workforce. It would have raised the federal minimum wage to \$8.20 one year after passage, \$9.15 one year after the effective date, and \$10.10 two years after the effective date. The bill would also have indexed future increases in the minimum wage to the CPI-W and raised the tipped minimum wage to 50 percent of the full minimum wage. In the House Committee on Education and the Workforce, it was referred to the Subcommittee on Workforce Protections. No further action was taken on this bill.

On February 26, 2014, Congressman Timothy Bishop (D-NY-1) filed a motion to discharge H.R. 1010 from the House Committee

on Education and the Workforce. The discharge petition gained 196 signatures, short of the 218 signatures needed for further action.

114TH CONGRESS

On January 6, 2015, Congressman Green (TX-9) introduced H.R. 122, the *Original Living Wage Act of 2015*. The bill would have required the federal minimum wage to be adjusted every four years to a level equal to 15 percent above the wage level required for a full-time worker to earn above the poverty threshold for a family of two. It had 18 Democratic cosponsors and was referred to the House Committee on Education and the Workforce, where it was referred to the Subcommittee on Workforce Protections. The bill was later incorporated into H.R. 2721, the *Pathways Out of Poverty Act of 2015*, introduced by Congresswoman Barbara Lee (D-CA-13) on June 10, 2015. H.R. 2721 was referred to the House Committee on Education and the Workforce, where it was referred to the Subcommittee on Higher Education and Workforce Training. No further action was taken on either bill.

On January 7, 2015, Congressman Harper (MS-3) introduced H.R. 188, the *Transitioning to Integrated and Meaningful Employment (TIME) Act*. The bill would have repealed Section 14(c) of the FLSA and phased out the subminimum wage for workers with disabilities over three years. The bill had 59 Democratic and 24 Republican cosponsors and was referred to the House Committee on Education and the Workforce, where it was referred to the Subcommittee on Workforce Protections. On August 5, 2015, Senator Kelly Ayotte (R-NH) introduced the Senate companion, S. 2001, the *Transitioning to Integrated and Meaningful Employment (TIME) Act*. The bill was referred to the Senate HELP Committee. No further action was taken on either bill.

On April 30, 2015, Senator Patty Murray (D-WA) introduced S. 1150, the *Raise the Wage Act*. S. 1150 had 33 Democratic cosponsors and was referred to the Senate HELP Committee. On the same day Congressman Robert C. “Bobby” Scott (D-VA-3) introduced the House companion bill, H.R. 2150. H.R. 2150 had 175 Democratic cosponsors and was referred to the House Committee on Education and the Workforce, where it was referred to the Subcommittee on Workforce Protections. The bills would have raised the federal minimum wage to \$8.00 30 days after enactment, \$9.00 one year later, \$10.00 two years later, \$11.00 three years later, and \$12.00 four years later. The bill would also have indexed future increases in the minimum wage to changes in median wages and eliminated the tipped minimum wage. No further action was taken on either bill.

On July 22, 2015, Senator Bernard Sanders (I-VT) introduced S. 1832, the *Pay Workers a Living Wage Act*. S. 1832 had five Democratic cosponsors and was referred to the Senate HELP Committee. On the same day Congressman Keith Ellison (D-MN-5) introduced the House companion bill, H.R. 3164. H.R. 3164 had 56 Democratic cosponsors and was referred to the House Committee on Education and the Workforce, where it was referred to the Subcommittee on Workforce Protections. The bills would have raised the federal minimum wage to \$9.00 in the first year after passage, \$10.50 a year after the effective date, \$12.00 two years after the effective date, \$13.50 three years after the effective date, and \$15.00 four years

after the effective date. The bill would also have indexed future increases in the minimum wage to changes in median wages, eliminated the tipped minimum wage, and increased the youth subminimum wage rate. No further action was taken on either bill.

On February 9, 2016, Congressman Donald Norcross (D-NJ-1) introduced H.R. 4508, the *Fair Wage Act*. The bill would have raised the federal minimum wage to \$8.00 30 days after enactment, \$9.00 one year later, \$10.00 two years later, \$11.00 three years later, \$12.00 four years later, \$13.00 five years later, \$14.00 six years later, and \$15.00 seven years later, and would index future increases in the minimum wage to increases in the CPI-W. It had three Democratic cosponsors. It was referred to the House Committees on Education and the Workforce and Ways and Means. In the House Committee on Education and the Workforce, it was referred to the Subcommittee on Workforce Protections. No further action was taken on this bill.

115TH CONGRESS

On January 3, 2017, Congressman Green (TX-9) introduced H.R. 122, the *Original Living Wage Act of 2017*. The bill would have required the federal minimum wage to be adjusted every four years to a level equal to 15 percent above the wage level required for a full-time worker to earn above the poverty threshold for a family of four. It had 10 Democratic cosponsors and was referred to the House Committee on Education and the Workforce. No further action was taken on this bill.

On March 7, 2017, Congressman Harper (MS-3) introduced H.R.1377, the *Transitioning to Integrated and Meaningful Employment Act of 2017*. The bill would have repealed Section 14(c) of the FLSA and phased out the subminimum wage for workers with disabilities over six years. The bill had 37 Democratic and 15 Republican cosponsors. It was referred to the House Committee on Education and the Workforce. No further action was taken on this bill.

On May 11, 2018, Congressman Cedric Richmond (D-LA-2) introduced H.R. 5785, the *Jobs with Justice Act of 2018*. The bill would have raised federal minimum wage to \$9.25 on the effective date, \$10.10 beginning one year later, \$11.00 two years later, \$12.00 three years later, \$13.00 four years later, \$13.50 five years later, \$14.25 six years later, and \$15.00 seven years later. The bill also would have indexed future increases in the minimum wage to increases in median wages and eliminated subminimum wages for young workers, workers receiving tips, and workers with disabilities. The bill had 44 Democratic cosponsors. The bill was referred to the House Committees on Judiciary; Oversight and Government Reform; Financial Services; Transportation and Infrastructure; Ways and Means; Energy and Commerce; Budget; Education and the Workforce; Science, Space, and Technology; Veterans' Affairs; Homeland Security; Armed Services; Small Business; House Administration; and Agriculture. No further action was taken on this bill.

On May 25, 2017, Senator Sanders (I-VT) introduced S. 1242, the *Raise the Wage Act*. S. 1242 had 31 Democratic cosponsors and was referred to the Senate HELP Committee. On the same day Congressman Scott (VA-3) introduced the House companion bill, H.R. 15. H.R. 15 had 171 Democratic cosponsors and was referred

to the House Committee on Education and the Workforce. The bills would have raised federal minimum wage to \$9.25 on the effective date, \$10.10 beginning one year later, \$11.00 two years later, \$12.00 three years later, \$13.00 four years later, \$13.50 five years later, \$14.25 six years later, and \$15.00 seven years later. The bills would also have indexed future increases in the minimum wage to increases median wages and eliminated the subminimum wages for young workers, tipped workers, and workers with disabilities. No further action was taken on either bill.

116TH CONGRESS

On January 3, 2019, Congressman Green (TX-9) introduced H.R. 122, the *Original Living Wage Act* with no cosponsors. The bill would have required the federal minimum wage to be adjusted every four years to a level equal to 25.5 percent above the wage level required for a full-time worker to earn above the poverty threshold for a family of four. It was referred to the House Committee on Education and Labor. No further action has been taken on this bill.

On January 16, 2019, Senator Sanders (I-VT) introduced S.150, the *Raise the Wage Act*. S. 150 was introduced with 30 cosponsors and was referred to the Senate HELP Committee. No further action has been taken on this bill. On the same day Congressman Scott (VA-3) introduced the House companion bill, H.R. 582.

H.R. 582 has 205 cosponsors, including 188 original cosponsors. The bill was referred to the House Committee on Education and Labor (hereinafter, the Committee). On February 7, 2019, the Committee held a legislative hearing entitled, “*Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Businesses, and Good for the Economy*” (hereinafter, the February 7th hearing). Witnesses included Dr. William Spriggs, Professor at Howard University and Chief Economist for the AFL-CIO; Mr. Terrence Wise, a shift manager at McDonald’s; Dr. Douglas Holtz-Eakin, President of the American Action Forum; Dr. Ben Zipperer, Economist at the Economic Policy Institute; Ms. Vanita Gupta, President and CEO of the Leadership Conference on Civil and Human Rights; Ms. Simone Barron, restaurant worker at a full service restaurant; Ms. Kathy Eckhouse, owner of La Quercia; Dr. Michael Strain, Resident Scholar and Director of Economic Policy Studies at the American Enterprise Institute; Dr. Michael Reich, Professor of Economics at University of California Berkeley; and Mr. Paul Brodeur, Massachusetts State Representative.

On Wednesday, March 6, 2019, the Committee met for a full committee markup of H.R. 582, the *Raise the Wage Act*. The Committee adopted an amendment in the nature of a substitute (ANS) offered by Congressman Scott (VA-3), Chairman of the Committee, and reported the bill favorably to the House of Representatives by a vote of 28-20.

The ANS incorporates the provisions of H.R. 582 with the following modifications:

- It amends Section 4 to clarify H.R. 582’s language to fully repeal Section 6(g) of the FLSA by striking FLSA subsections 6(g)(2)–(5). These provisions were added to the FLSA by Pub. L. No. 114-187, the *Puerto Rico Oversight, Management, and Economic Stability Act* (PROMESA). PROMESA increased the

age under which a worker in Puerto Rico may be paid the youth minimum wage from 20 to the age of 25. The law also allowed the Governor of Puerto Rico to increase the allowable length of time that an employer can pay the youth subminimum wage for up to five years. The ANS removes these provisions from the underlying statute.

- It amends Section 7 to set the effective date in the Commonwealth of the Northern Mariana Islands (CNMI) as 18 months after the bill's general effective date.

- It adds Section 8, requiring the Comptroller General (Government Accountability Office or GAO) to review the economic conditions in the CNMI, estimate the proportion of employees directly affected by such wage increase (disaggregated by industry and occupation), and submit a report to Congress within one year after enactment.

The following amendments to the ANS were offered, but not adopted:

- Congressman Ben Cline (R-VA-6) offered an amendment to prohibit minimum wage increases under the Act from taking effect if, during the year prior to the effective date: (1) monthly employment growth is negative for 3 consecutive months; (2) total non-farm unemployment increases by more than 0.25 percent in a month; or (3) the national unemployment rate is above 6 percent in a month. The amendment failed by a vote of 19–28.

- Congressman Dan Meuser (R-PA-9) offered an amendment to exclude enterprises with fewer than ten employees or less than \$1 million in annual gross volume of sales from minimum wage increases under the Act. The amendment failed by a vote of 21–24.

- Congressman Rick Allen (R-GA-12) offered an amendment to prohibit minimum wage increases under the Act unless the unemployment rate for individuals aged 16 to 24 is below 8 percent for each of the 12 months prior to the effective dates for such increases. The amendment failed by a vote of 20–28.

- Congressman Lloyd Smucker (R-PA-11) offered an amendment to prohibit state and local governments from adopting a minimum wage requirement if an employer is exempt from such a requirement for employees covered by a bona fide collective bargaining agreement. The amendment failed by a vote of 20–28.

- Congresswoman Virginia Foxx (R-NC-5), Ranking Member of the Committee, offered an amendment to strike provisions setting the effective date in the CNMI. The amendment failed by a vote of 20–28.

- Congressman Ron Wright (R-TX-6) offered an amendment to prohibit the Act from taking effect unless (1) the Comptroller General (Government Accountability Office or GAO) submits a report to Congress, no later than 1 year after the date of enactment, on the Act's impact on employment and automation, and (2) such report finds that the Act will not result in the loss of more than 500,000 jobs due to automation. The amendment failed by a vote of 21–27.

- Congressman Phil Roe (R-TN-1) offered an amendment to prohibit the Act from taking effect unless (1) the Comptroller General (Government Accountability Office or GAO) submits a report to Congress, no later than 1 year after the date of enactment, on the Act's impact on areas with a median hourly wage less than \$18, and (2) such report finds that the Act will not result in the loss of more than 200,000 jobs in such areas. The amendment failed by a vote of 20–27.

COMMITTEE VIEWS

The Committee is committed to restoring the value of the federal minimum wage and ensuring that all workers, regardless of where they work, are able to earn a fair day's pay for a fair day's work. Gradually raising the minimum wage is good for workers, who experience a better standard of living; good for businesses, which benefit from an expanded customer base and less worker turnover; and good for the economy, which is strongest when policy reduces poverty and promotes a thriving middle class.

THE HISTORY OF THE MINIMUM WAGE UNDER THE FAIR LABOR STANDARDS ACT

The Federal minimum wage was established as a living wage with workers of color excluded

On June 25, 1938, President Roosevelt signed the FLSA, landmark legislation that established a minimum hourly wage, set maximum hours standards, and banned oppressive child labor.⁷ Passed as part of the New Deal, this legislation was enacted to ensure that all workers had a minimum living standard. In 1937, President Roosevelt declared that “[a] self-supporting and self-respecting democracy can plead no justification for the existence of child labor, no economic reason for chiseling workers’ wages or stretching workers’ hours.”⁸

The minimum wage was established as a living wage as an essential protection for workers in the wake of the Great Depression when employers were slashing wages and increasing hours. Recognizing rampant abuses of workers, President Roosevelt quipped in 1933, “[n]o business which depends for existence on paying less than living wages to its workers has any right to continue in this country.”⁹ He went on to clarify, “by ‘business’ I mean the whole of commerce as well as the whole of industry; by workers I mean all workers, the white-collar class as well as the men in overalls; and by living wages, I mean more than a bare subsistence level—I mean the wages of decent living.”¹⁰ Five years before he signed the FLSA into law, President Roosevelt made it apparent that the minimum wage was never intended to be merely an entry-level wage, but rather a floor at which Americans could be paid and still live comfortably.

⁷Jonathan Grossman, *Fair Labor Standards Act of 1938: Maximum Struggle for a Minimum Wage*, 101 *Monthly Labor Review* 22-30 (1978), available at <https://www.jstor.org/stable/41840777>.

⁸*Id.*

⁹President Franklin D. Roosevelt, *Statement the National Industrial Recovery Act (June 16, 1933)*, Franklin D. Roosevelt Presidential Library, <http://docs.fdrlibrary.marist.edu/odnirast.html>.

¹⁰*Id.*

The 1938 House Committee on Labor further elucidated this need for the minimum wage to be a living wage:

Unless the wages paid by private employers are sufficient to maintain the bare cost of living, [sic] demands [on the state and federal government for work and work relief] will necessarily continue. The payment of oppressive wages is not only detrimental to interstate commerce and to the health and well-being of employees of employers engaged in interstate commerce, but also casts a direct burden for the support of such employees upon Government. Government cannot indefinitely provide what is in effect a subsidy for such employers—a subsidy made necessary by the inability of the great majority of such employers to maintain fair labor standards in the face of wage cuts by chiseling competitors.¹¹

Although the federal minimum wage was established to ensure workers had livable wages, unfortunately, as first passed, the FLSA contained broad exclusions aimed at depriving workers of color of minimum wage protections. During debate on the FLSA, some Southern Members of Congress expressed their opposition to a federal minimum wage on the ground that it threatened to equalize wages between African American and White laborers.¹² For example, Congressman Mark Wilcox (D-FL-4) stated during floor debate:

We may rest assured, therefore, that when we turn over to a federal bureau or board the power to fix wages, it will prescribe the same wage for the Negro that it prescribes for the [W]hite man. Now, such a plan might work in some sections of the United States but those of us who know the true situation know that it just will not work in the South.¹³

As a compromise to secure votes from Southern lawmakers, the FLSA, as passed in 1938, excluded industries in which people of color were the majority of the workforce, including agriculture and domestic work. In 1930, approximately 58 percent of Black workers in the South were agricultural or domestic workers.¹⁴ Southern lawmakers understood that, by carving out agricultural and domestic workers from the FLSA, they undermined the leveling effects of a federal minimum and could thereby “maintain the relation of inequality between the races in massive sectors of southern labor markets in which blacks were densely concentrated.”¹⁵ While many of the FLSA exclusions for domestic and agriculture workers have since been removed, the effects of these exclusions remain.

¹¹ H. Rept. No. 75-2182, at 6 (1938).

¹² Sean Farhang & Ira Katznelson, *The Southern Imposition: Congress and Labor in the New Deal and Fair Deal* 14 (2005), https://gspp.berkeley.edu/assets/uploads/research/pdf/article_4.pdf.

¹³ *Id.*

¹⁴ Sean Farhang & Ira Katznelson, *The Southern Imposition: Congress and Labor in the New Deal and Fair Deal* 15 (2005), https://gspp.berkeley.edu/assets/uploads/research/pdf/article_4.pdf.

¹⁵ *Id.*

Past increases to the minimum wage were more frequent

Since 1938, Congress has passed legislation that increases the federal minimum wage nine times—four of those in the last 40 years.¹⁶ Congressional action has effectuated a federal minimum wage increase 22 times. Up until 2009, the most recent year the minimum wage increased, an average of three years passed between minimum wage adjustments. As shown in Table 1, for only seven of the 22 increases in the last 80 years has more than five years passed between minimum wage increases. Because Congress has not raised the federal minimum wage, on June 16, 2019, the nation entered the longest period of time that the federal minimum wage has gone unchanged in the law’s 80-year history.

Congress last legislated an increase in the federal minimum wage in 2007 during the George W. Bush Administration with Democratic control of the House and Senate. H.R. 2, *The Fair Minimum Wage Act of 2007*, was introduced by then-Chairman of the House Education and Labor Committee, Congressman George Miller (D-CA-11), with 214 original cosponsors.¹⁷ H.R. 2 passed the House as a stand-alone bill on January 10, 2007 by a vote of 315–116. Notably, 82 Republicans voted in favor of the bill.¹⁸ Ultimately, the provisions in the bill were included in Pub. L. No. 110–28, the *U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007*, enacted May 25, 2007. Pursuant to the legislation, the federal minimum wage increased over three years from \$5.15 to \$5.85 in 2007, to \$6.55 in 2008, and to \$7.25 in 2009 (an increase of \$0.70 per hour each year). The minimum wage has remained at \$7.25 per hour since July 24, 2009.¹⁹

¹⁶David Cooper, Raising the Minimum Wage to \$15 by 2024 Would Lift Pay for Nearly 40 Million American Workers 2 (2019), <https://www.epi.org/files/pdf/160909.pdf>.

¹⁷Fair Minimum Wage Act of 2007, H.R. 2, 110th Cong. (2007).

¹⁸153 Cong. Rec. H260 (2007) (daily ed. Jan. 10, 2007) (Roll Call 18).

¹⁹29 U.S.C. § 206(a)(1)(C).

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Table 1: Historical Increases in the Federal Minimum Wage (FMW) under the FLSA						
Public Law and Date Enacted	Nominal Wage Rate	Real Wage Rate (in 2018 Dollars)	Effective Date of Wage Rate	Years Since Previous FMW Increase	Years Since Previous Enactment of FMW Legislation	Percent Increase
P.L. 75-718, enacted June 25, 1938 S. 2427 Fair Labor Standards Act	\$0.25	\$3.81	October 1938	N/A	N/A	
	0.30	4.64	October 1939	1 years		17%
	0.40	4.77	October 1945	6 years		25%
P.L. 81-393, enacted October 26, 1949 H.R. 5856 Fair Labor Standards Amendments of 1949	0.75	6.68	January 1950	4.3 years	11.3 years	47%
P.L. 84-381, enacted August 12, 1955 S. 2168 Fair Labor Standards Amendments of 1955	1.00	7.90	March 1956	6.2 years	5.8 years	25%
P.L. 87-30, enacted May 5, 1961 H.R. 3935 Fair Labor Standards Amendments of 1961	1.15	8.26	September 1961	5.5 years	5.7 years	13%
	1.25	8.77	September 1963	2 years		7%

Table 1: Historical Increases in the Federal Minimum Wage (FMW) under the FLSA						
Public Law and Date Enacted	Nominal Wage Rate	Real Wage Rate (in 2018 Dollars)	Effective Date of Wage Rate	Years Since Previous FMW Increase	Years Since Previous Enactment of FMW Legislation	Percent Increase
P.L. 89-601, enacted September 23, 1966 H.R. 13712 Fair Labor Standards Amendments of 1966	1.40	9.00	February 1967	3.4 years	5.4 years	11%
	1.60	10.15	February 1968	1 year		13%
P.L. 93-259, enacted April 8, 1974 S. 2747 Fair Labor Standards Amendments of 1974	2.00	9.21	May 1974	6.2 years	7.5 years	20%
	2.10	8.94	January 1975	< 1 year		5%
	2.30	9.26	January 1976	1 year		9%
P.L. 95-151, enacted November 1, 1977 H.R. 3744 Fair Labor Standards Amendments of 1977	2.65	9.39	January 1978	2 years	3.6 years	13%
	2.90	9.38	January 1979	1 year		9%
	3.10	9.02	January 1980	1 year		6%
	3.35	8.91	January 1981	1 year		7%
P.L. 101-157, enacted November 17, 1989 H.R. 2710 Fair Labor Standards Amendments of 1989	3.80	7.10	April 1990	9.3 years	12.1 years	12%
	4.25	7.66	April 1991	1 year		11%

Table 1: Historical Increases in the Federal Minimum Wage (FMW) under the FLSA						
Public Law and Date Enacted	Nominal Wage Rate	Real Wage Rate (in 2018 Dollars)	Effective Date of Wage Rate	Years Since Previous FMW Increase	Years Since Previous Enactment of FMW Legislation	Percent Increase
P.L. 104-188, enacted August 20, 1996 H.R. 3448 Small Business Job Protection Act of 1996	4.75	7.60	October 1996	5.5 years	6.8 years	11%
	5.15	8.06	September 1997	< 1 year		8%
P.L. 110-28, enacted May 25, 2007 H.R. 2206 U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007	5.85	7.10	July 2007	9.8 years	10.8 years	12%
	6.55	7.66	July 2008	1 year		11%
	7.25	8.51	July 2009	1 year		10%
<i>Raise the Wage Act of 2019 (H.R. 582)</i> <i>(Projected)</i>	\$8.55	8.35	September 2019	10.2 years ²⁰	12.2 years	18%
	\$9.85	9.39	September 2020	1 year		15%
	\$11.15	10.37	September 2021	1 year		13%
	\$12.45	11.30	September 2022	1 year		12%
	\$13.75	12.18	September 2023	1 year		10%
	\$15.00	12.98	September 2024	1 year		9%

²⁰ Based on a September 1, 2019, effective date.

Despite congressional inaction, 29 states and the District of Columbia have minimum wages higher than the federal minimum wage (as of April 2019). Additionally, 41 localities have minimum wages higher than their state's minimum wage. Since 2014, 25 states and the District of Columbia have changed their minimum wage laws. Seven of these states—California, Connecticut, Illinois, Massachusetts, New Jersey, New York, and Maryland—have enacted laws phasing in a \$15 per hour minimum wage. On January 1, 2019, nineteen states raised their minimum wages through previously approved legislation, newly approved ballot initiatives, or automatic inflationary adjustments. These increases will provide an estimated 5.2 million workers with an additional \$5.3 billion in wages over the course of 2019.²¹

THE DECLINING VALUE OF THE FEDERAL MINIMUM WAGE HAS CONTRIBUTED TO WAGE STAGNATION

Low-wage workers comprise a significant portion of the U.S. workforce; this group of workers includes those who earn the minimum wage or less, as well as those who earn poverty-level and near-poverty-level wages. According to the BLS, 1.8 million workers, or 2.3 percent of all workers, earn wages at or below the federal minimum wage (some earn less than the minimum due to FLSA coverage exemptions).²² The majority (51 percent) of these workers are over the age of 25, overwhelmingly women (60 percent), and disproportionately workers of color (nearly 40 percent).²³ Beyond those earning the federal minimum wage are the one in nine U.S. workers who are paid wages that leave them in poverty, even when working full time and year-round.²⁴ There is no precise definition of a low wage worker, but as Dr. Zipperer testified at the February 7th hearing, “[m]ore broadly low-wage workers today constitute a large portion of the workforce. About [sic] 25 percent of all workers earned \$13 or less per hour in 2018 and the vast majority of them would benefit from a minimum wage increase to \$15 by 2024.”²⁵

The federal minimum wage impacts low-wage workers by setting a wage floor. For low-wage workers, the institution of a federal minimum wage may be one of the few mechanisms providing upward pressure on their wages. This is especially true where a decline of union membership has meant a smaller percentage of the U.S. workforce has its wages set through collective bargaining. Union density has decreased from 33.2 percent in 1956 to 10.7 percent of the workforce in 2017,²⁶ limiting workers’ bargaining power.

²¹ David Cooper, *Over 5 Million Workers Will have Higher Pay on January 1 Thanks to State Minimum Wage Increases*, Working Econs. Blog (Dec. 26, 2018, 5:00 AM), <https://www.epi.org/blog/over-5-million-workers-will-have-higher-pay-on-january-1-thanks-to-state-minimum-wage-increases/>.

²² Bureau of Labor Statistics Rep. No. 1072, *Characteristics of Minimum Wage Workers 2017* (2018), <https://www.bls.gov/opub/reports/minimum-wage/2017/pdf/home.pdf>.

²³ *Id.*

²⁴ David Cooper, *One in nine U.S. workers are paid wages that can leave them in poverty, even when working full time*, Econ. Snapshot (June 15, 2018), <https://www.epi.org/publication/one-in-nine-u-s-workers-are-paid-wages-that-can-leave-them-in-poverty-even-when-working-full-time/>.

²⁵ *Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Businesses, and Good for the Economy Before H. Comm. on Educ. and Labor*, 116th Cong. (2019) (written testimony of Ben Zipperer, Economist at the Econ. Policy Inst., at 3) [Hereinafter “Zipperer Testimony”].

²⁶ Josh Bivens et al., *How Today’s Unions Help Working People*, Econ. Policy Inst. 9 (2017), <https://www.epi.org/publication/how-todays-unions-help-working-people-giving-workers-the->

In the 1980s, the real value of the minimum wage dropped as federal increases failed to keep up with inflation. Federal increases in the 1990s also failed to compensate for this erosion. Even the three consecutive \$0.70 per hour increases implemented in 2007, 2008, and 2009 failed to restore the inflation-adjusted value of the minimum wage to its pre-1980 levels. Since the last minimum wage increase to \$7.25 an hour in 2009, the value of the minimum wage has fallen by 17 percent.²⁷ This means that “[i]n 2018, a worker earning \$7.25 per hour needs an extra 41 working days more than eight weeks—just to take home the same pay as she did in a single year when the federal minimum wage was last increased.”²⁸

The minimum wage has also failed to keep up with increases in worker productivity. Between 1973 and 2017, workers’ productivity grew by 77 percent, while the typical worker’s hourly wages grew by just 12 percent in real terms.²⁹ The widening gap between how much workers produce and how much they are paid is one major factor contributing to the historic levels of income inequality. Had the minimum wage kept pace with worker productivity, as it once did, it would be more than \$20 per hour today.³⁰ Had the value of the federal minimum wage in 1968, its historical high point, simply grown at the rate of average wages, it would be approximately \$12 per hour today.³¹

As a direct result of the decline in the value of the minimum wage, hourly pay for workers earning the federal minimum wage has declined in real terms since 1979. Today’s minimum wage workers earn nearly \$3 an hour less, adjusted for inflation, than their counterparts over 50 years ago earned, despite being significantly more productive.³² This means workers are making 29 percent less in real terms than what their counterparts made nearly 50 years ago.³³

The widening gap between the value of the minimum wage and the median wage is another indicator of growing income inequality. At its peak in inflation-adjusted terms, the 1968 minimum wage (\$1.60 per hour) was about half of the typical hourly worker’s wages at that time (the median hourly wage in 1968 was about \$20 in 2018 dollars and the minimum wage was about \$10). Today, at \$7.25 an hour, the minimum wage is only about one-third of the median hourly wage.³⁴ This widening gap shows the extent to which low-wage workers are losing ground in today’s economy. As Dr. Spriggs testified at the February 7th hearing, citing a David Autor and Alan Manning report, a significant portion of wage in-

power-to-improve-their-jobs-and-unrig-the-economy/; Bureau of Labor Statistics, *Union Membership (Annual) News Release*, Econ. News Release (Jan. 18, 2019, 10:00 AM), <https://www.bls.gov/news.release/union2.htm>.

²⁷ David Cooper, *Congress has never let the federal minimum wage erode for this long*, Econ. Snapshot (Jun. 17, 2019), <https://www.epi.org/publication/congress-has-never-let-the-federal-minimum-wage-erode-for-this-long/>.

²⁸ Rachel West, *March 1 is Minimum Wage Workers’ Equal Pay Day*, Ctr. for Am. Progress (Mar. 1, 2018, 10:00 AM), <https://www.americanprogress.org/issues/poverty/news/2018/03/01/447359/march-1-minimum-wage-workers-equal-pay-day/>.

²⁹ Econ. Policy Inst., *The Productivity-Pay Gap*, <https://www.epi.org/productivity-pay-gap/>.

³⁰ Zipperer Testimony at 2 (See 45:15).

³¹ Economic Policy Institute’s analysis of the Fair Labor Standards Act and amendments. Based on the average hourly wages of production nonsupervisory workers from the Bureau of Labor statistics Current Employment Statistics.

³² Cooper, *supra* note 3, at 2.

³³ Zipperer Testimony at 2.

³⁴ Cooper, *supra* note 3, at 6 (For full-time, full-year workers).

equality that developed during the 1980s between workers at the bottom ten percent of the wage distribution and median wage earners was because the federal minimum wage was unchanged between 1981 and 1990.³⁵

The declining value of the minimum wage and slow wage growth for low-wage workers have left millions of workers economically insecure, undermining the minimum wage's original purpose as a living wage. As Dr. Spriggs testified at the February 7th hearing:

Since 1980, the once strong relationship between an expanding economy, falling unemployment and lower poverty levels became weak. Improvements in the living standards of lower income working families no longer comes from work, but from transfers, primarily through Medicaid and Medicare. The expansion of the 1980s made little progress on lowering poverty, as did the expansion from 2001 to 2008.³⁶

An individual earning the federal minimum wage of \$7.25 an hour and working full time earns only \$15,080 pre-tax annually.³⁷ This income level would put a family of two below the federal poverty level (\$16,910 for a two-person family in 2018).³⁸

Persistently low wages have left working people in precarious economic situations. An estimated 41 percent of American adults cannot afford a \$400 emergency³⁹ and minimum wage workers cannot afford a two-bedroom apartment in any part of the country.⁴⁰ Mr. Wise testified about his experience earning the minimum wage at the February 7th hearing:

[I]t is frightening, because we are truly one missed paycheck away from being homeless. So there is no such thing as being sick or having to call in or a family emergency. Refrigerator breaking down, car breaks, any of that going out is catastrophic, basically, for me and my family. So it is just it is all pure luck, you know, hoping everything is okay every day.⁴¹

³⁵ *Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Businesses, and Good for the Economy Before H. Comm. on Educ. and Labor*, 116th Cong. (2019) (written testimony of William E. Spriggs, Professor of Economics at Howard University and Chief Economist to the AFL-CIO, at 6) [Hereinafter "Spriggs Testimony"]; See also David H. Autor et al., *The Contribution of the Minimum Wage to US Wage Inequality over Three Decades: A Reassessment*, 8 Am. Econ. Journal: Applied Econs. 58 (2016).

³⁶ Spriggs Testimony at 6.

³⁷ Based on working 40 hours a week and 52 weeks a year.

³⁸ U.S. Dept of Health and Human Servs., *2019 Poverty Guidelines*, <https://aspe.hhs.gov/2019-poverty-guidelines>.

³⁹ Board of Governors of the Federal Reserve System, *Report on the Economic Well-Being of U.S. Households in 2017* 21 (2018), <https://www.federalreserve.gov/publications/files/2017-report-economic-well-being-us-households-201805.pdf>.

⁴⁰ Nat'l Low Income Housing Coal., *Out of Reach: The High Cost of Housing 1* (2018), https://reports.nlihc.org/sites/default/files/oor/OOR_2018.pdf; Tracy Jan, *A Minimum-Wage Worker Can't Afford a 2-Bedroom Apartment Anywhere in the U.S.*, Washington Post (Jun. 13, 2018), https://www.washingtonpost.com/news/wonk/wp/2018/06/13/a-minimum-wage-worker-cant-afford-a-2-bedroom-apartment-anywhere-in-the-u-s/?utm_term=.4689024537a1.

⁴¹ *Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Businesses, and Good for the Economy Before H. Comm. on Educ. and Labor*, 116th Cong. (2019) (written testimony of Terrence Wise, Shift Manager, McDonalds) [Hereinafter Wise Testimony]. See also House Comm. on Educ. and Labor, *Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Business, Good for the Economy*, YouTube (Feb. 7, 2019), <https://www.youtube.com/watch?v=JDGkim7aaHI> (statement by Mr. Wise at 3:08:20).

H.R. 582 WOULD RESTORE THE VALUE OF THE MINIMUM WAGE
THROUGH GRADUAL STEPS IN LINE WITH HISTORICAL INCREASES

Gradually raising the minimum wage to \$15 by 2024 pursuant to H.R. 582 is a key step toward restoring the value of the minimum wage and correcting past failures to increase it. H.R. 582 would restore the minimum wage, putting it 28 percent above the peak minimum wage in 1968. The Act would finally ensure the minimum wage is no longer a poverty level wage.⁴² As Dr. Zipperer explained at the February 7th hearing, “[a] \$15 wage in 2024 would have 28 percent more purchasing power than the minimum wage did at its 1968 high point, but over that time period, the economy’s potential for higher living standards, as reflected in labor productivity, will have grown by 119 percent.”⁴³ H.R. 582 would also lift the minimum wage’s share of the full-time, full-year median wage to anywhere between 56 to 58 percent and finally begin to close the gap between typical workers and minimum wage workers.⁴⁴

H.R. 582 restores the value of the minimum wage through increases well within the ranges of past increases. As Table 1 demonstrates, year-over-year increases in the federal minimum wage have ranged from 5 percent in 1975 to 47 percent in 1950. Historically, the average one-year increase to the minimum wage was 14 percent. As Table 1 shows, 17 of the 22 increases were greater than 9 percent, which is the smallest one-year percentage increase (in year 2024) under H.R. 582. For the seven times in the last 80 years where more than five years passed between minimum wage increases, the average one-year increase was 17 percent. The largest one-year percentage increase under H.R. 582 would be 18 percent in 2019.

RAISING THE FEDERAL MINIMUM WAGE IMPROVES WORKERS’ ECO-
NOMIC SECURITY WITH LITTLE TO NO NEGATIVE IMPACT ON EM-
PLOYMENT

*Minimum wage increases raise workers’ income, narrow race and
gender pay gaps, and reduce poverty rates*

Raising the federal minimum wage broadly increases family incomes for low-wage workers. Economists at the University of Massachusetts⁴⁵ and the U.S. Census Bureau found that low-income families experienced large and economically meaningful earnings and income boosts after minimum wage increases.⁴⁶ They found

⁴²The federal poverty guidelines are adjusted at the rate of inflation each year using the CPI-U. Thus, the poverty line will be the same as today in real terms (\$16,910 for a family of two) as in 2024. Meanwhile, today’s real value of a \$15 minimum wage in 2024 is approximately \$13, resulting in earnings of about \$27,040 per year for full-time work; See also U.S. Dep’t of Health and Human Servs., *Frequently Asked Questions Related to Poverty Guidelines and Poverty*, <https://aspe.hhs.gov/frequently-asked-questions-related-poverty-guidelines-and-poverty>.

⁴³Zipperer Testimony at 3.

⁴⁴David Cooper, *Raising the Minimum Wage to \$15 by 2024 Would Lift Pay for Nearly 40 Million American Workers* 7 (2019), <https://www.epi.org/files/pdf/160909.pdf>.

⁴⁵Arindrajit Dube, *Minimum Wages and the Distribution of Family Incomes* 3 (2018), <https://equitablegrowth.org/wp-content/uploads/2018/11/11162018-WP-MINIMUM-WAGES-AND-FAMILY-INCOMES.pdf>.

⁴⁶Kevin Rinz & John Voorhies, *The Distributional Effects of Minimum Wages: Evidence from Linked Survey and Administrative Data* 5 (2018), <https://www.census.gov/content/dam/Census/library/working-papers/2018/adrm/carra-wp-2018-02.pdf>.

that these income-increasing effects grew in magnitude up to five years after the policy change.⁴⁷

Raising the federal minimum wage also impacts gender and racial pay gaps. Six in ten workers earning the current federal minimum wage are women.⁴⁸ Women on average earn 80 cents for every dollar earned by their male counterparts.⁴⁹ Evidence from the states shows that raising the minimum wage can have an impact on the gender pay gap. In states where the minimum wage is at or above \$8.25 an hour, the gender wage gap is 41 percent smaller than states where the minimum wage is lower.⁵⁰ Similarly, analysts estimate that today, there is a 25 percent gap between the average annual earnings of African American and White workers.⁵¹ Researchers found that the 1966 expansion of federal minimum wage protections to industries predominantly filled with workers of color, which resulted in a wage increase for many of these workers, reduced the black-white earnings gap by 20 percent.⁵²

Higher minimum wages also reduce poverty rates. For every 10 percent increase in the minimum wage, research finds a 5 percent reduction in the nonelderly poverty rate over the long run (three or more years).⁵³ These findings suggest that if the United States had a \$12 national minimum wage in 2017, there would be about 6.2 million fewer individuals living in poverty today.⁵⁴ Furthermore, the most comprehensive assessment of the effect of the minimum wage on family incomes finds that every 10 percent increase in the inflation-adjusted minimum wage reduces Black and Hispanic poverty rates by approximately 10.9 percent.⁵⁵

Analysis shows that gradually raising the federal minimum wage to \$15 by 2024 under H.R. 582 would increase wages for 39.7 million working people (26.6 percent of the workforce) and produce \$118 billion in additional wages through 2024.⁵⁶ It would directly lift the wages of 28.1 million workers.⁵⁷ For those 28.1 million workers, this translates into a nearly \$4,000 increase in annual wage income, a 20.9 percent raise.⁵⁸ Another 11.6 million workers would indirectly benefit from a spillover effect as employers in-

⁴⁷ *Id.*

⁴⁸ Nat'l Women's Law Ctr., *The Raise the Wage Act: Boosting Women's Paychecks and Advancing Equal Pay 1* (2019), <https://nwlc-ci49tixgw5lbab.stackpathdns.com/wp-content/uploads/2019/02/Raise-the-Wage-Act-Boosting-Womens-Pay-Checks.pdf>.

⁴⁹ Am. Assoc. of Univ. Women, *The Simple Truth About the Gender Pay Gap 5* (2018), https://www.aauw.org/aauw_check/pdf/download/show_pdf.php?file=The_Simple_Truth.

⁵⁰ Nat'l Women's Law Ctr., *Higher Minimum Wages Promote Equal Pay for Women 1* (2017), <https://nwlc.org/wp-content/uploads/2017/04/2017-Higher-State-Minimum-Wages-Promote-Equal-Pay-for-Women.pdf>.

⁵¹ Elora Derenoncourt & Claire Montialoux, *Minimum Wages and Racial Inequality 1* (2018), https://scholar.harvard.edu/files/elloraderenoncourt/files/montialoux_jmp_2018.pdf.

⁵² *Id.*

⁵³ Arindrajit Dube, *Minimum Wages and the Distribution of Family Incomes 23* (2018), <https://equitablegrowth.org/wp-content/uploads/2018/11/11162018-WP-MINIMUM-WAGES-AND-FAMILY-INCOMES.pdf>; Washington Ctr. for Equitable Growth, *Minimum wages and the distribution of family incomes in the United States* (April 26, 2017), <https://equitablegrowth.org/minimum-wages-and-the-distribution-of-family-incomes-in-the-us/>.

⁵⁴ *Id.* at 28.

⁵⁵ Ben Zipperer, *The Erosion of the Federal Minimum Wage has Increased Poverty, Especially for Black and Hispanic Families*, Econ. Snapshot (Jun. 13, 2018), <https://www.epi.org/publication/the-erosion-of-the-federal-minimum-wage-has-increased-poverty-especially-for-black-and-hispanic-families/>.

⁵⁶ David Cooper, *Raising the Minimum Wage to \$15 by 2024 Would Lift Pay for Nearly 40 Million American Workers 2* (2019), <https://www.epi.org/files/pdf/160909.pdf>.

⁵⁷ *Id.* at 3.

⁵⁸ *Id.*

crease wages for workers making slightly more than \$15 in order to attract and retain workers.⁵⁹

Millions of full-time workers between the ages of 25 and 54, many of whom are the primary breadwinners for their families, would see a raise under H.R. 582.⁶⁰ Ninety percent of the workers who would see a raise are over the age of 20 and more than half of all affected workers are prime-age workers between the ages of 25 and 54.⁶¹ In fact, among affected workers, the average age is 35 years old.⁶² Women, though not quite a majority of the overall workforce, represent 57.9 percent of workers affected by a \$15 minimum wage in 2024 under H.R. 582.⁶³ H.R. 582 would have a particular impact on workers of color. Nearly 36 percent of working women of color would be impacted by a \$15 minimum wage in 2024,⁶⁴ including African American and Latina women, who are overrepresented in low-paying jobs⁶⁵ and most likely to be paid the lowest wages.⁶⁶ Thirty-eight percent of all African American workers and 33.4 percent of all Hispanic workers will be impacted.⁶⁷

Workers with families who will benefit from a \$15 minimum wage in 2024 are typically the primary breadwinner for their families; they earn an average of 51.9 percent of their family's total income.⁶⁸ The effects for single working parents are more dramatic: "43.0 percent of all single mothers would receive a raise if the federal minimum wage were increased to \$15 by 2024, as would nearly a third (29.4 percent) of single fathers."⁶⁹ The parents of 14.4 million children across the United States, nearly one-fifth (19.6 percent) of all U.S. children, would see increased wages under H.R. 582.⁷⁰

Past minimum wage increases have had little or no negative impact on employment

The most prevalent and consistent criticism of raising the minimum wage is that it will lead to job loss, or negative employment effects. However, neither the evidence nor the experiences from recent state and local increases support this claim. As Dr. Zipperer testified at the February 7th hearing, "the weight of recent evidence shows that minimum wages have worked exactly as intended, by raising wages without substantial negative consequences on employment."⁷¹ A 2019 paper, considered to be the most important economic study on the minimum wage since the 1990s, analyzed 138 state-level minimum wage increases:⁷² "[W]e

⁵⁹ *Id.* at 9.

⁶⁰ *Id.* at 11.

⁶¹ *Id.* at 9.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ David Cooper, Raising the Minimum Wage to \$15 by 2024 Would Lift Pay for Nearly 40 Million American Workers 9 (2019), <https://www.epi.org/files/pdf/160909.pdf>.

⁶⁵ Irene Trung et al., The Growing Movement for \$15 1 (2015), <http://www.nelp.org/content/uploads/Growing-Movement-for-15-Dollars.pdf>.

⁶⁶ *Id.*

⁶⁷ David Cooper, Raising the Minimum Wage to \$15 by 2024 Would Lift Pay for Nearly 40 Million American Workers 9–10 (2019), <https://www.epi.org/files/pdf/160909.pdf>.

⁶⁸ *Id.* at 11.

⁶⁹ *Id.* at 12.

⁷⁰ David Cooper, Raising the Minimum Wage to \$15 by 2024 Would Lift Wages for Nearly 40 Million American Workers 12 (2019), <https://www.epi.org/files/pdf/160909.pdf>.

⁷¹ Zipperer Testimony at 4.

⁷² Doruk Cengiz et al., The Effect of Minimum Wages on Low-Wage Jobs: Evidence from the United States Using a Bunching Estimator 1 (2019), <https://www.nber.org/papers/w25434.pdf>.

studied all major state-level minimum wage increases between 1979 and 2016 and found they significantly raised wages without reducing the employment of low-wage workers. Notably, we also found the same positive outcomes for even the highest minimum wages in our study.”⁷³ Additionally, researchers have found that requiring that tipped workers be paid the full regular minimum wage has had no discernable effect on leisure and hospitality employment growth in the seven states where tipped workers receive the full, regular minimum wage.⁷⁴ Further, the evidence from six large cities that were early adopters of higher minimum wages (Chicago, the District of Columbia, Oakland, San Francisco, San Jose, and Seattle) shows that following pay increases for workers in food service, employment did not change, and employers did not replace these workers with more-educated workers.⁷⁵

In July 2019, the Congressional Budget Office (CBO) released a report analyzing the employment and family income of a minimum wage proposal similar the H.R. 582.⁷⁶ CBO also analyzed the impacts of federal minimum wage increases to \$12 by 2025 and \$10 by 2025. CBO estimated that gradually raising the minimum wage to \$15 would increase earnings for up to 27.3 million workers in 2025, boost annual family income by hundreds of dollars per year on average for families with income below three times the federal poverty line, reduce income inequality, and lift 1.3 million Americans—including 600,000 children—out of poverty. Simultaneously, CBO predicted the policy would decrease number of workers employed in any given week by 1.3 million in 2025. However, CBO’s approach should not be applied to H.R. 582. To arrive at its employment estimate, CBO states that it synthesized results from multiple research studies, some of which used high-quality, credible methods, but many of which were methodologically flawed.⁷⁷ CBO also overlooked the fact that the vast majority of rigorous research from labor economists, particularly more recent studies that take advantage of significant state-level variation in minimum wages, finds minimal or no negative effects on employment when raising the minimum wage and multiple recent studies even find positive effects.⁷⁸

While a 2017 University of Washington analysis of the first stage of Seattle’s minimum wage increase to \$15 concluded that the increase resulted in large employment losses,⁷⁹ the study drew wide criticism for its methodology, including but not limited to: its reliance on a single case study; its inability to properly statistically

⁷³ Zipperer Testimony at 5.

⁷⁴ Sylvia Allegretto & David Cooper, Twenty-Three Years and Still Waiting for Change: Why It’s Time to Give Tipped Workers the Regular Minimum Wage 4 (2014), <https://www.epi.org/files/2014/EPI-CWED-BP379.pdf>.

⁷⁵ Reich testimony at 11.

⁷⁶ Like H.R. 582, CBO’s \$15 scenario would raise wages with five annual increases, and thereafter index the minimum wage to median wage growth. Similarly, CBO’s scenario would also phase out exemptions for tipped workers, workers with disabilities, and teens. However, CBO assumes the first wage increase will take effect in 2020 rather than 2019. Cong. Budget Office, The Effects on Employment and Family Income of Increasing the Federal Minimum Wage (July 8, 2019), <https://www.cbo.gov/publication/55410>.

⁷⁷ Heidi Shierholz, CBO report shows broad benefits from higher minimum wage (July 9, 2019), <https://www.epi.org/press/cbo-report-shows-broad-benefits-from-higher-minimum-wage/>.

⁷⁸ Dale Belman & Paul Wolfson, What Does the Minimum Wage Do? 15 (2014), https://research.upjohn.org/cgi/viewcontent.cgi?filename=0&article=1245&context=up_press&type=additional; Shierholz, CBO report shows broad benefits from higher minimum wage (2019).

⁷⁹ Ekaterina Jardim et. al, Minimum Wage Increases, Wages, and Low-Wage Employment: Evidence from Seattle, 38 (2018), <https://www.nber.org/papers/w23532.pdf>.

control for Seattle’s booming economy during the time of the study; and failure to account for businesses with multiple locations, which excluded an estimated 40 percent of the impacted workforce.⁸⁰ Notably, the study’s results imply that Seattle’s minimum wage increase was the cause of a large increase in the number of jobs paying more than \$19 per hour an implausible result, given that the minimum wage had increased to only \$13 during the authors’ period of study.⁸¹ In 2018, the study’s authors issued a revised version that walked back the study’s strong conclusions, although many labor economists have remaining methodological criticisms.⁸²

Moreover, estimates that singularly focus on job loss or other negative employment effects ignore the evidence that working people overwhelmingly benefit when there is an increase in the minimum wage. Dr. Zipperer’s testimony at the February 7th hearing noted that: “The benefits of a \$15 minimum wage in 2024 for workers, their families, and their communities will far outweigh any potential costs of the policy.”⁸³ Indeed, CBO’s 2014 analysis found that raising the minimum wage lifted nearly 1 million workers out of poverty and even the revised 2018 Seattle case study found that minimum wage workers on average netted a pre-tax increase of \$10 an hour per week.

Furthermore, focusing on a static estimate such as job losses ignores the high degree of worker “churn” in the low-wage labor market, giving the misleading impression that the result of higher minimum wages is that a given pool of workers would lose their jobs, find no replacement, and have no earnings over an entire year.⁸⁴ By contrast, research on the nature of low-wage work shows that higher minimum wages may reduce hours worked and marginally increase time between jobs, but generally do not lead to loss of entire jobs. Moreover, the impact of lost hours and increased time between jobs are spread across a large number of affected workers, each of whom work a little less but earn more during the year overall.⁸⁵ In other words, a study finding any “total reduction in employment” (job loss) is in reality likely uncovering that workers may work several fewer hours during a week, but they still take home more pay due to an increase in the minimum wage.

MINIMUM WAGE INCREASES ARE LINKED WITH IMPROVED SOCIAL OUTCOMES

Raising the minimum wage is also associated with positive social outcomes, including better health outcomes for working adults, in-

⁸⁰ *Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Businesses, and Good for the Economy Before H. Comm. on Educ. and Labor*, 116th Cong. (2019) (written testimony of Michael Reich, Professor, University of California) [Hereinafter Reich Testimony]. See also Josh Hoxie, The Seattle Minimum Wage Study is Utter B.S., *Fortune* (Jun. 27, 2017), <http://fortune.com/2017/06/27/seattle-minimum-wage-study-results-impact-15-dollar-uw/>; Ben Zipperer & John Schmitt, The ‘High Road’ Seattle Labor Market and the Effects of the Minimum Wage Increase 8 (2017), <https://www.epi.org/files/pdf/130743.pdf>.

⁸¹ Ben Zipperer & John Schmitt, The ‘High Road’ Seattle Labor Market and the Effects of the Minimum Wage Increase 4 (2017), <https://www.epi.org/files/pdf/130743.pdf>.

⁸² Noam Scheiber, *They Said Seattle’s Higher Base Pay Would Hurt Workers. Why Did They Flip?*, *New York Times* (Oct. 22, 2018), <https://www.nytimes.com/2018/10/22/business/economy/seattle-minimum-wage-study.html>.

⁸³ Zipperer Testimony at 5.

⁸⁴ David Cooper et al., *Bold Increases in the Minimum Wage Should be Evaluated for the Benefits of Raising Low-wage Workers’ Total Earnings* 2 (2018), <https://www.epi.org/files/pdf/143838.pdf>.

⁸⁵ *Id.*

fants, and children. As Massachusetts State Representative Paul Brodeur testified at the February 7th hearing:

The secondary, and in some cases tertiary benefits of raising the minimum wage are clear. Issues such as food insecurity, improved childhood health statistics, reduced employment turnover, and other factors have emerged as having been largely effected by these [minimum wage] increases. For example, a 2016 report by the Century Foundation estimated that the increase to a \$15 minimum wage would decrease food insecurity in the Commonwealth [of Massachusetts] by 7% as 18,000 households would no longer be food insecure. We expect these trends to continue.⁸⁶

In adults, studies strongly correlate increases in minimum wages with increases in overall health and fewer illness-induced absences from work.⁸⁷ Researchers found that increases in state minimum wages have been linked to decreased smoking,⁸⁸ particularly among women in low wage work.⁸⁹ Additionally, with higher wages, workers have access to health options that increase quality of life and longevity, including the ability to afford healthier food.⁹⁰ Researchers have also linked a \$15 minimum wage to a 4 to 8 percent reduction in premature deaths among low-income populations in New York City.⁹¹

Raising the minimum wage will have a positive impact on children and families. Nearly one in five working mothers with children under the age of three work in low-wage jobs.⁹² Raising the minimum wage boosts families' disposable incomes and directly affects a caregiver's ability to provide a child with basic needs such as appropriate clothing, more food and nutrients, medical care, and better home conditions. This is particularly important for children growing up in single, female-headed households who are more likely to lack basic needs⁹³ and indirectly experience toxic stress due to deep poverty.⁹⁴ As Mr. Wise testified at the February 7th hearing:

I often imagine what \$15 an hour would mean for me and my family. I wouldn't have to worry about providing the basic necessities for my family. We could keep food on

⁸⁶ *Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Businesses, and Good for the Economy Before H. Comm. on Educ. and Labor*, 116th Cong. (2019) (written testimony of Paul A. Brodeur, State Representative 32nd Middlesex District Commonwealth of Massachusetts House of Representatives, at 3) [Hereinafter Brodeur Testimony].

⁸⁷ J. Paul Leigh & Juan Du, *Effects of Minimum Wages on Population Health* 5 (2018), https://www.healthaffairs.org/doi/10.1377/hpb20180622.107025/full/HPB_2018_RWJF_06_W.pdf.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ Steven H. Woolf et al., *How Are Income and Wealth Linked to Health and Longevity?* 5 (2015), <https://www.urban.org/sites/default/files/publication/49116/2000178-How-are-Income-and-Wealth-Linked-to-Health-and-Longevity.pdf>.

⁹¹ Tsu-Yu Tsao et al., *Estimating Potential Reductions in Premature Mortality in New York City From Raising the Minimum Wage to \$15*, 106 *Am. Journal of Pub. Health* 1036 (2016).

⁹² Julie Vogtman, *Nearly one in Five Working Mothers of Very Young Children Work in Low-Wage Jobs*, *Nat'l Women's Law Ctr.* (Apr. 5, 2017), <https://nwlc.org/blog/nearly-one-in-five-working-mothers-of-very-young-children-work-in-low-wage-jobs/>.

⁹³ Kerri M. Raissian & Lindsey Rose Bullinger, *Money Matters: Does the Minimum Wage Affect Child Maltreatment Rates?*, 72 *Child and Youth Serv. Rev.* 60, 65 (2017).

⁹⁴ Nat'l Sci. Council on the Developing Child, *The Timing and Quality of Early Experiences Combine to Shape Brain Architecture* 8 (2007), <https://46y5eh11fhgw3ve3ytpwxt9r-wpengine.netdna-ssl.com/wp-content/uploads/2007/05/Timing-Quality-Early-Experiences-1.pdf>.

the table. No one would have to worry about doing homework in the dark. I could get them the school supplies whenever they need them.⁹⁵

Moreover, minimum wage increases are proven to reduce the risk of child maltreatment, particularly neglect. These effects are pronounced for young children under 5 years of age and school-aged children. Recently published research provides strong evidence that increasing the minimum wage by \$1.00 would lead to an annual reduction of 9,700 child neglect reports to Child Protection Services.⁹⁶

Increases in the federal minimum wage are also linked to improved health and economic outcomes for low-wage mothers and their babies. Researchers have found that infant mortality, low birth weight, and risk of poor health are greater for those babies born into families where the primary breadwinner earns the federal minimum wage or less.⁹⁷ Researchers have found that a 10 percent increase in the minimum wage reduces infant mortality rates by 3.2 percent⁹⁸ and that a \$1.00 increase in the minimum wage increases birth weight significantly.⁹⁹ A 2016 study found that “[i]f all states in 2014 had increased their minimum wages by one dollar there would have likely been an estimated 2,790 fewer low birth weight births and 518 fewer post neonatal deaths for the year.”¹⁰⁰ Increases in income during pregnancy are also correlated with a number of positive effects for both maternal and babies’ health including improved nutrition, lower financial stress, and greater prenatal care.¹⁰¹

Research also demonstrates that increases in the minimum wage reduce recidivism by drawing individuals into the legal labor market rather than income-generating criminal activity (e.g., property crimes or selling illegal drugs). A 2018 study found that a minimum wage increase of \$0.50 translates into a 2.8 percent decrease in the probability of men and women returning to prison within one year.¹⁰² This decrease in recidivism can translate into savings in corrections costs for state and federal governments.

RAISING THE FEDERAL MINIMUM WAGE BENEFITS LOCAL BUSINESSES

Congress has long recognized the impact of the minimum wage on commerce, declaring in the FLSA’s preamble that “[l]abor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general wellbeing of workers” are harmful to the economy by burdening “the free flow

⁹⁵ Wise Testimony at 3.

⁹⁶ Christopher Maynard, *How Raising the Minimum Wage by \$1 Could Reduce Cases of Child Neglect*, Consumer Affairs (August 18, 2017), <https://www.consumeraffairs.com/news/how-raising-the-minimum-wage-by-1-could-reduce-cases-of-child-neglect-081817.html>.

⁹⁷ Kelli Komro, *The Effect of an Increased Minimum Wage on Infant Mortality and Birth Weight*, 106 Am. Journal of Pub. Health 1514, 1516 (2016).

⁹⁸ Ali Jalali, *The Minimum Wage and Infant Mortality* 14 (2018), <https://static1.squarespace.com/static/5b79a2af9f8770250f45ab0c/t/5bd7bb3e24a694466008aae9/1540864832308/JMP.pdf>.

⁹⁹ George Wehby et al., *Effects of the Minimum Wage on Infant Health* 4 (2018), <https://www.nber.org/papers/w22373.pdf>.

¹⁰⁰ Kelli Komro, *The Effect of an Increased Minimum Wage on Infant Mortality and Birth Weight*, 106 Am. Journal of Pub. Health 1514, 1516 (2016).

¹⁰¹ George Wehby et al., *Effects of the Minimum Wage on Infant Health* 3 (2016), <https://www.nber.org/papers/w22373.pdf>.

¹⁰² Amanda Y. Agan & Michael D. Makowsky, *The Minimum Wage, EITC, and Criminal Recidivism* 15 (2018), <https://www.nber.org/papers/w25116.pdf>.

of goods.”¹⁰³ Yet, efforts to raise the federal minimum wage are often met with concerns regarding impacts to businesses, including small and local businesses. As discussed below, research indicates businesses can absorb gradual minimum wage increases, without loss of profits or negative employment effects, through small price adjustments, partially offset by increased sales and decreased employee turnover costs.

Businesses adjust to minimum wage increases through slight price increases without loss of profits

Research shows that businesses absorb minimum wage increases primarily through relatively small price increases passed on to consumers as well as through reduced turnover and enhanced productivity among their workers. A 2018 U.C. Berkeley study of 884 restaurants in San Jose, California, following a 25 percent minimum wage increase from \$8 to \$10 an hour did not find reduced employment. Instead, it found that restaurants absorbed higher labor costs by slightly increasing menu prices—1.45 percent on average—and through cost savings from lower employee turnover.¹⁰⁴ Similarly, a 2017 Federal Reserve Bank of Boston analysis of 27 metropolitan statistical areas found that a 10 percent increase in the minimum wage increased prices on the whole by only 0.3 percent.¹⁰⁵ Further, recent analysis on the impact of a \$15 minimum wage by 2024 estimates that “businesses could absorb the remaining payroll cost increases by increasing prices by 0.6 percent through 2024. This price increase is well below the annual inflation rate of 1.7 percent over the past five years.”¹⁰⁶

Businesses and local economies benefit from increased spending by low-wage workers

Minimum wage increases stimulate consumer spending and consumption, which helps offset price increases. A 2013 report estimated that a \$1.75 increase in the hourly federal minimum wage could increase aggregate household spending by \$48 billion, or 0.3 percent of the Gross Domestic Product, in the year following the minimum wage hike.¹⁰⁷ Similarly, a 2016 report projected that a 10 percent increase in the minimum wage would increase national sales by \$2 billion, or 1.1 percent, per year.¹⁰⁸ A 2017 Federal Reserve Bank of Boston paper found that increases in minimum wages lead to nominal increases in food consumption both at and away from home.¹⁰⁹ Specifically, the authors noted that a 10 percent minimum wage increase led to an increase in real spending

¹⁰³ 29 U.S.C. § 202(a).

¹⁰⁴ Sylvia Allegretto & Michael Reich, Are Local Minimum Wages Absorbed by Price Increases? Estimates from Internet-based Restaurant Menus 25 (2016), <http://www.irl.berkeley.edu/files/2015/Are-Local-Minimum-Wages-Absorbed-by-Price-Increases.pdf>.

¹⁰⁵ Daniel Cooper et al., The Local Aggregate Effects of Minimum Wage Increases 12 (2017), <https://www.minneapolisfed.org/institute/working-papers/wp17-25.pdf>.

¹⁰⁶ Michael Reich et al., The Employment Effects of a \$15 Minimum Wage in the U.S. and in Mississippi: A Simulation Approach 5 (2019), <http://irl.berkeley.edu/files/2019/02/The-Employment-Effects-of-a-15-Minimum-Wage-in-the-US-and-in-Mississippi.pdf>.

¹⁰⁷ Daniel Aaronson & Eric French, How Does a Federal Minimum Wage Hike Affect Aggregate Household Spending 3 (2013), <https://www.chicagofed.org/publications/chicago-fed-letter/2013/august-313>.

¹⁰⁸ Cristian Alonso, Beyond Labor Market Outcomes: The Impact of the Minimum Wage on Nondurable Consumption 1–2 (2016), <http://dx.doi.org/10.2139/ssrn.2818623>.

¹⁰⁹ Daniel Cooper et al., The Local Aggregate Effects of Minimum Wage Increases 3 (2017), <https://www.minneapolisfed.org/institute/working-papers/wp17-25.pdf>.

on food away from home by about 0.5 percentage points.¹¹⁰ This same paper also found increased purchases in durable good purchases, such as cars, in advance of a change in the minimum wage.¹¹¹

Ms. Eckhouse, an Iowan small business owner, testified at the February 7th hearing on how increased spending and consumption from a minimum wage increase is important for sales:

Workers in one business are the consumers for another. Minimum wage increases put money in the hands of people who most need to spend it—for car repairs and new shoes for a child, or by not having to choose between groceries and a medical bill. Increased minimum wages mean increased consumer spending across all businesses, helping other businesses grow.¹¹²

This powerful impact to economic growth from a small wage increase is due to the well-documented tendency of low-wage workers to spend their additional earnings. In 2012, economists found that immediately following a minimum wage hike, household income rose on average by about \$250 per quarter; however, for households with minimum wage workers spending increased by roughly \$700 per quarter.¹¹³ Mr. Wise testified at the February 7th hearing about how an increase to the minimum wage would mean he would more money in his community:

With a \$15 living wage, I could afford to take them out to do something fun. Honestly, the last time I went on a date with my fiancé was to see the movie ‘Matrix’. That was in 1999. Valentine’s Day is next week and I want to buy each of the women in my life some flowers . . . [B]ut what would \$15 really mean? It would mean my daughters could meet their grandmother for the very first time, because we could afford to travel to South Carolina to visit her.¹¹⁴

Ms. Eckhouse made this point at the February 7th hearing: “[i]t’s not raising the minimum wage that is a threat to business. It’s stagnant wages, such as we’ve seen in recent decades, which weaken the consumer demand that businesses depend on to survive and grow.”¹¹⁵

Businesses benefit from cost savings from decreased employee turnover

As a result of the increase in the minimum wage, businesses also realize cost savings from lower employee turnover, which also offset price increases.¹¹⁶ A 2012 case study found that turnover of an individual employee costs businesses about one-fifth of the employ-

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Businesses, and Good for the Economy Before H. Comm. on Educ. and Labor*, 116th Cong. (2019) (written testimony of Kathy Eckhouse Owner of La Quercia at 3) [Hereinafter Eckhouse Testimony].

¹¹³ Daniel Aaronson et al., *The Spending and Debt Response to Minimum Wage Hikes*, 7 *Am. Econ. Review* 3111, 3125 (2012).

¹¹⁴ Wise Testimony at 3.

¹¹⁵ Eckhouse Testimony at 3.

¹¹⁶ Arindrajit Dube et al., *Minimum Wage Shocks, Employment Flows and Labor Market Frictions*, 34 *Journal of Labor Econ.* 663-704, 664 (2016).

ee's salary.¹¹⁷ A 2014 report found turnover rates for teenaged and restaurant workers fell substantially following a minimum wage increase, with most of the reductions coming within the first three quarters after the increase and without significant changes in employment levels.¹¹⁸ Specifically, the economists found that "[f]or a 10 percent minimum wage increase, turnover rates decline by around 2.0 percent for teenagers and 2.1 percent for the restaurant workforce."¹¹⁹

Ms. Eckhouse's testimony at the February 7th hearing explained how businesses benefit from decreased employee turnover as a result of minimum wage increases:

Employees new to our operation—or any operation—aren't as productive as long-term staff. They require skills and training specific to us. It takes at least three months for an employee to understand our particular processes and be efficient, even those who have worked in meat processing plants before. That's just the beginning. It takes a year for true proficiency; all jobs in all occupations require familiarity and skill. We see more waste, more down time, and more inefficiency on our production line with newer staff. That's costly to us. And because turnover is costly for all employers, reduced turnover is an important benefit of raising the minimum wage.

In addition, not spending time on a constant cycle of re-hiring and training frees us to look beyond the day-to-day to innovate and grow our business. It encourages employees to be a part of that process, too, as they develop new skills and techniques in our field, and familiarity with what customers want.¹²⁰

A statement signed by over 800 businesses in support of raising the federal minimum wage to \$15 by 2024 states, "[r]aising the minimum wage pays off in lower employee turnover, reduced hiring and training costs, lower error rates, increased productivity and better customer service. Employees often make the difference between repeat customers or lost customers."¹²¹

Minimum wage increases lead to government savings on public benefits

Ensuring that workers have enough money to cover their basic needs can result in a reduction in public expenditures. For example, a 2014 report looking at the impacts of raising the minimum wage to \$10.10 an hour on the Supplemental Nutrition Assistance Program (SNAP) found programmatic cost savings.¹²² The report estimated that raising the federal minimum wage to \$10.10 per

¹¹⁷ Heather Boushey & Sarah Jane Glynn, *There Are Significant Business Costs to Replacing Employees*, Ctr. for Am. Progress (November 16, 2012, 3:44 AM), <https://www.americanprogress.org/issues/economy/reports/2012/11/16/44464/there-are-significant-business-costs-to-replacing-employees/>.

¹¹⁸ *Supra* note 116 at 700.

¹¹⁹ *Id.*

¹²⁰ Eckhouse Testimony at 2.

¹²¹ Businesses for a Fair Minimum Wage, *Federal Sign On Statement*, <https://www.businessforafairminimumwage.org/Federal-15-By-2024-Sign-On-Statement> (last visited Jun. 18, 2019).

¹²² Rachel West & Michael Reich, *The Effects of Minimum Wages on SNAP Enrollments and Expenditures* 5 (2014), <https://cdn.americanprogress.org/wp-content/uploads/2014/03/MinimumWage-report.pdf>.

hour would lead to an annual decrease in program expenditures by nearly \$4.6 billion (or about 6 percent of the SNAP program), leading to program savings of \$46 billion over 10 years,¹²³ and an increase to \$12 per hour would save \$53 billion over 10 years.¹²⁴

Mr. Brodeur testified at the February 7th hearing regarding the impacts of raising wages on benefit programs in Massachusetts:

[We] saw that the increased purchasing power, increased taxable income, reduced caseloads in social benefits programs, and growth in business confidence and success were outcomes of our incremental increases in the minimum wage.¹²⁵

Ms. Eckhouse testified at the February 7th hearing regarding the costs to public benefit programs:

When businesses pay wages that are not enough to live on, the costs of necessities like food and housing get partly shifted to the community at large, to taxpayer-funded government assistance programs and food banks, for example. It also means that our business is subsidizing the profits of low-pay competitors. This is not a fair or efficient way to run an economy.¹²⁶

SUBMINIMUM WAGES UNDER THE FLSA CREATE INEQUITY FOR TIPPED WORKERS, INDIVIDUALS WITH DISABILITIES, AND TEENAGERS

The tipped minimum wage leaves workers vulnerable

Tipped workers are generally low-wage workers, earning about \$6.50 per hour less (in 2016 dollars) than the median, hourly non-tipped worker and experiencing poverty at more than twice the rate of non-tipped workers.¹²⁷ Tipped workers' earnings are often irregular and unpredictable, making it difficult to budget and plan. Compounding these challenges, research shows that tipping is often discriminatory, with both White and Black consumers discriminating against Black workers and leaving smaller tips than those left for White tipped workers.¹²⁸

Ms. Gupta testified at the February 7th hearing about how the origins of tipping are intertwined with the country's ongoing struggles with racial and gender inequality. Ms. Gupta noted that:

[B]efore the Civil War, tipping was largely frowned upon in the United States. But after its end, the practice of tipping proliferated. At that time, the restaurant and hospitality industry, exemplified by the Pullman Company, hired newly freed slaves without paying them base wages. The effect was to create a permanent servant class, for

¹²³ *Id.*

¹²⁴ Rachel West, *The Murray-Scott Minimum-Wage Bill: A Win-Win for Working Families and Taxpayers*, Ctr. for Am. Progress (Apr. 30, 2015, 9:01 AM), <https://www.americanprogress.org/issues/poverty/news/2015/04/30/111808/the-murray-scott-minimum-wage-bill-a-win-win-for-working-families-and-taxpayers/>.

¹²⁵ Brodeur Testimony at 3.

¹²⁶ Eckhouse Testimony at 2.

¹²⁷ David Cooper, *Valentine's Day is Better on the West Coast (at Least For Restaurant Servers)*, Working Econs. Blog (February 7, 2017, 1:46 PM), <https://www.epi.org/blog/valentines-day-is-better-on-the-west-coast-at-least-for-restaurant-servers/>.

¹²⁸ Michael Lynn et al., *Consumer Racial Discrimination in Tipping: A Replication and Extension* 13 (2008), <https://www.wagehourlitigation.com/wp-content/uploads/sites/215/2015/10/cornell.pdf>.

whom the responsibility of paying a wage was shifted from employers to customers.¹²⁹

As first passed in 1938, the FLSA did not reference tips or tipped workers. “Retail and service establishments,” which have a high number of tipped workers, were not covered under the statute.¹³⁰ In 1942, the U.S. Supreme Court affirmed the tipping model exemplified by Pullman workers, holding in *Williams v. Jacksonville Terminal Co.* that an employer may count an employee’s tips as a credit against the employer’s full obligation to pay the minimum wage.¹³¹ This policy continued to have a disproportionate impact on workers of color. By 1900, about 25 percent of all Black non-agricultural workers had jobs as servants or waiters, including the overwhelming majority of Black women.¹³² “Having to depend on tipping kept African Americans in an economically and socially subordinate position.”¹³³

In 1966, Congress amended the FLSA to expand its coverage to hotels and restaurants, and it included “tip credit” provisions for the first time.¹³⁴ Under section 3(m) of the FLSA, an employer may pay a “tipped employee”¹³⁵ a cash wage that is less than the full federal minimum wage, as long as the combination of tips and the cash wage from the employer equals the federal minimum wage. A “tip credit” is the amount from employee tips that an employer may count against its liability for the required payment of the full federal minimum wage.¹³⁶ The first tip credit was established as part of the 1966 FLSA amendments, which set the cash wage, also known as the tipped minimum wage, to 50 percent of the minimum wage. Over the next three decades, this percent ranged from 50 to 60 percent of the minimum wage.¹³⁷ In 1996, however, Congress decoupled the tipped minimum wage from the minimum wage, locking the cash wage at \$2.13 per hour.¹³⁸ There has not been an increase in the tipped minimum wage in 28 years.¹³⁹

Of the approximately five million tipped workers, an estimated four million tipped employees work in areas where employers are permitted to take a tip credit.¹⁴⁰ An estimated one million tipped

¹²⁹ *Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Businesses, and Good for the Economy Before H. Comm. on Educ. and Labor*, 116th Cong. (2019) (written testimony of Vanita Gupta President and CEO of the Leadership Conference on Civil and Human Rights at 4) [Hereinafter Gupta Testimony].

¹³⁰ Fair Labor Standards Act of 1938, Pub. L. No. 75–718, 52 Stat. 1060.

¹³¹ 315 U.S. 386 (1942).

¹³² R. R. Wright, Jr., *The Negro in Unskilled Labor*, 49 *The Annals of the Am. Acad. of Political and Soc. Scis.* 19, 19–27 (1913).

¹³³ Gupta Testimony at 4.

¹³⁴ Fair Labor Standards Amendments of 1966, Pub. Law No. 89–601, 80 Stat. 830 (current version at 29 U.S.C. § 201, et seq.).

¹³⁵ To be considered a tipped employee, an employee must be “engaged in an occupation in which he customarily and regularly receives more than \$30 a month in tips.” 29 U.S.C. § 203(t).

¹³⁶ Prior to 1996, the employer cash wage and tip credit were set as a percentage of the minimum wage. The percentage ranged from 40 to 55 percent of the minimum wage.

¹³⁷ In 1979, the tipped minimum wage was set to 55 percent of the minimum wage (Fair Labor Standards Amendments of 1977, Pub. L. No. 95–151). In 1980, the tipped minimum wage was set to 60 percent of the minimum wage (the Fair Labor Standards Amendments of 1977, Pub. L. No. 95–151). In 1990, the tipped minimum wage was set to 55 percent of the minimum wage (Fair Labor Standards Amendments of 1989, Pub. L. No. 101–157). In 1991, the tipped minimum wage was set to 50 percent of the minimum wage (Fair Labor Standards Amendments of 1989, Pub. L. No. 101–157).

¹³⁸ Small Business Job Protection Act of 1996, Pub. L. No. 104–188, 110 Stat. 1755.

¹³⁹ From inception to 1996, the tipped wage was set as a percentage of the full minimum wage. In 1996, the tipped wage was decoupled from the minimum wage and set as a fixed amount.

¹⁴⁰ There is no definitive count of the number of tipped employees. The Current Population Survey (CPS), which is typically used to study minimum wage and related labor issues, does

employees work in the seven states (Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington) often referred to as “equal treatment states” that prohibit employers from using a tip credit and require tipped employees be paid the full statutory state or federal minimum wage, whichever is greater. Seventeen states require a cash wage that is equal to the federal rate of \$2.13 per hour.¹⁴¹ Twenty-six states and the District of Columbia set a tipped minimum wage that is greater than the federal rate of \$2.13 per hour.¹⁴²

Research demonstrates that tipped workers fare better in the seven states that prohibit employers from taking a tip credit. Tipped workers in these states that have eliminated the tipped subminimum wage earn about 15 percent more per hour than workers receiving \$2.13 as a cash wage.¹⁴³ Data also show that customers in equal treatment states continue to tip. In fact, a higher percentage of customers tip in Washington State (an equal treatment state) than in New York State (a state that allows employers to take a tip credit), and customers in Alaska (an equal treatment state) leave the highest average tip among all 50 states.¹⁴⁴ Poverty rates for tipped workers, especially waitstaff and bartenders, in equal treatment states are lower than states with a \$2.13 tipped minimum wage.¹⁴⁵ Tipped occupations in equal treatment states also have a 23 percent smaller gender wage gap compared to states with a \$2.13 tipped minimum cash wage.¹⁴⁶

Research also shows that increases in the tipped minimum wage do not have negative effects on employment in full-service restaurants or on the number of full-service restaurants.¹⁴⁷ In fact, analysis of employment and establishment data from equal treatment states shows that between 2011 and 2014, the number of full-service restaurants grew by 6.0 percent in equal treatment states compared to 4.1 percent growth in states with separate, lower tipped minimum wages.¹⁴⁸ In the same period, employment in full-service restaurants grew 13.2 percent in equal treatment states

not contain an identifier for tipped workers. Rather, the CPS includes a variable identifying individuals as receiving “overtime pay, tips, or commissions.” While this is not specific enough to determine the tipped status of any given respondent in the CPS, most researchers in this area have tended to use the CPS as a starting point by identifying individuals in the CPS reporting high shares of tips, overtime, or commissions. Based on calculations from the Congressional Research Service, an estimated 5.1 million workers are in occupations typically considered “predominantly tipped” occupations. An estimated 1.05 million tipped employees work in the seven states that have prohibited use of a tip credit. Estimates are based on BLS Occupational Employment Statistics (OES) data for 2017.

¹⁴¹ Twelve states require a cash wage of \$2.13 an hour by state law or by reference to federal law: Georgia, Indiana, Kansas, Kentucky, Nebraska, New Jersey, New Mexico, North Carolina, Texas, Utah, Virginia, and Wyoming. Five states have no state minimum wage: Alabama, Louisiana, Mississippi, South Carolina, and Tennessee. Wage and Hour Division, *Minimum Wages for Tipped Employees* (January 1, 2019), <https://www.dol.gov/whd/state/tipped.htm>.

¹⁴² *Id.*

¹⁴³ Elise Gould & David Cooper, *Seven Facts about Tipped Workers and the Tipped Minimum Wage*, Working Econs. Blog (May 31, 2018, 4:40 PM), <https://www.epi.org/blog/seven-facts-about-tipped-workers-and-the-tipped-minimum-wage/>.

¹⁴⁴ Roberto A. Ferdman, *Which US States Tip the Most (and Least), as Shown by Millions of Square Transactions*, Quartz (March 21, 2014), <https://qz.com/189458/the-united-states-of-tipping/>.

¹⁴⁵ Elise Gould & David Cooper, *supra* note 143.

¹⁴⁶ Nat’l Women’s Law Ctr., *The Raise the Wage Act: Boosting Women’s Paychecks and Advancing Equal Pay 2* (2017), <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2019/02/Raise-the-Wage-Act-Boosting-Womens-Pay-Checks.pdf>.

¹⁴⁷ Michael Lynn & Christopher Boone, *Have Minimum Wage Increases Hurt the Restaurant Industry? The Evidence Says No!* 3–13 (2015), <https://scholarship.sha.cornell.edu/cgi/viewcontent.cgi?article=1000&context=chrreports>.

¹⁴⁸ Elise Gould & David Cooper, *supra* note 143.

compared to 9.1 percent in non-equal treatment states.¹⁴⁹ Additionally, from January 1995 to May 2014, employment in the leisure and hospitality sector, which employs a high percentage of tipped workers, grew 43.2 percent in the seven equal treatment states, compared with 39.2 percent growth in non-equal treatment states.¹⁵⁰

Proponents of keeping the tip credit argue that because employers are obligated to ensure tipped employees are always making the full federal minimum wage, there is no need to change the system. However, the complexity of the two-tier wage system can be confusing and burdensome for employers, making compliance and enforcement difficult. Too often, employers, through error or outright wage theft, fail to make up the difference and ensure their workers are making the full minimum wage. According to a 2014 report, more than 1 in 10 of surveyed workers in predominantly tipped occupations report they received hourly wages, including tips, *below* the full federal minimum wage.¹⁵¹ A compliance sweep of nearly 9,000 full-service restaurants by the U.S. Department of Labor's (DOL) Wage and Hour Division (WHD) from 2010 to 2012 found 83.8 percent of investigated restaurants had some type of violation; WHD found 1,170 tip credit violations that resulted in nearly \$5.5 million in back wages.¹⁵²

In November 2018, the Trump Administration rescinded guidance that prohibited employers from using a tip credit for employees who spend more than 20 percent of their time performing duties incidental to the tipped employee's regular duties and that are not by themselves directed toward producing tips. This rescinded guidance was designed to ensure that employers could not evade minimum wage requirements by having tipped workers perform work that a non-tipped worker would normally perform. The rollback of this guidance will allow employers to more often make use of a tip credit, making workers more vulnerable to wage theft.

The subminimum wage for individuals with disabilities is a vestige of the discriminatory past

Section 14(c) of the FLSA allows employers and organizations to apply to DOL for special certificates to pay individuals with disabilities at wages less than the minimum wage and less than the prevailing wage. There is no minimum wage requirement for employers hiring an individual with a disability under 14(c) certificates. More than half of these employees earn \$2.50 an hour or less.¹⁵³ Eliminating subminimum wage certificates for individuals with disabilities will create opportunities for individuals with disabilities to be competitively employed, taxpaying citizens and participate more fully in their communities. Furthermore, the use of these certifi-

¹⁴⁹ *Id.*

¹⁵⁰ Sylvia Allegretto & David Cooper, Twenty-three Years and Still Waiting for Change 18 (2014), <https://www.epi.org/files/2014/EPI-CWED-BP379.pdf>.

¹⁵¹ The Nat'l Econ. Council et al., The Impact of Raising the Minimum Wage on Women, and the Importance of Ensuring a Robust Tipped Minimum Wage 2 (2014), <https://obamawhitehouse.archives.gov/sites/default/files/docs/20140325minimumwageandwomenreportfinal.pdf>.

¹⁵² Sylvia A. Allegretto, Should New York State Eliminate its Subminimum Wage? 11 (2018), <http://irle.berkeley.edu/files/2018/04/Should-New-York-State-Eliminate-its-Subminimum-Wage.pdf>.

¹⁵³ Gov't Accountability Office, Special Minimum Wage Program: Centers Offer Employment and Support Services to Workers with Disabilities, but Labor Should Improve Oversight 4 (2001), <https://www.gao.gov/new.items/d01886.pdf>.

cates is on the decline. A GAO review of 14(c) certificate holders in 2001 found over 5,600 employers nationwide utilized 14(c) certificates for 424,000 workers.¹⁵⁴ In July 2018, there were less than 200,000 workers with disabilities paid subminimum wages.¹⁵⁵

In 1938, when Section 14(c) of the FLSA was enacted, individuals with disabilities were predominantly housed in institutions and viewed as unable to learn or function independently. There were no statutory requirements to support individuals with disabilities in the workplace, and individuals with disabilities did not have legal protections from discrimination. Today, individuals with disabilities are trained to enter the workforce alongside their peers. Federal policy now makes a presumption of ability, reflecting advances in research and a better understanding of disability. This presumption of ability, paired with improvements in technology and support for access to such technology, empowers individuals with disabilities to be as productive as their peers. Section 14(c) is the only remaining vestige of the outdated model and the presumption of inability in federal policy.

Since 1990, the *Americans with Disabilities Act of 1990* (ADA) has defined disability discrimination as the failure to provide a reasonable accommodation to a person with a disability who is otherwise qualified to perform the essential functions of his or her job. Further, in 1999 the Supreme Court held in *Olmstead v. L.C.* that “unjustified isolation” of individuals with disabilities is discrimination and a violation of Title II of the ADA (which prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by state and local governments).¹⁵⁶ The decision became known as the “integration mandate” as the Court held that public entities must provide community-based services to individuals with disabilities when the services are appropriate, if the individual wants the services, and if the services can be reasonably accommodated. The decision underscored the importance of the four goals of the ADA: that individuals with disabilities have a right to independent living, equal opportunities, economic self-sufficiency, and full participation in society.

During an exchange at the February 7th hearing between Ms. Gupta and Congressman Andy Levin (D-MI-9), they discussed the intersection of the ADA and phasing out 14(c):

Mr. Levin: [. . .] The FLSA has a provision, section 14(c), as you know, that allows individuals with disabilities to be paid a subminimum wage. As your testimony states, some are paid as little as pennies an hour. Why is it important to phase out 14(c) to ensure all people in this country are paid a fair wage, as these groups are requesting?

Ms. Gupta: Thank you, Congressman. Section 14(c) of the FLSA was actually written at a time when individuals with disabilities were predominantly housed in institutions and endured long-term segregation. At that time, there were no statutory requirements that would support individuals with disabilities in the workplace, and individuals with disabilities didn’t actually have legal protections from

¹⁵⁴ *Id.*

¹⁵⁵ Dep’t of Labor, *14(c) Certificate Holders*, <https://www.dol.gov/whd/workerswithdisabilities/certificates.htm>.

¹⁵⁶ *Olmstead v. L.C. by Zimring*, 527 U.S. 581, 582 (1999).

discrimination. And when Congress passed the ADA in 1990, it ushered in a new era, and then the Supreme Court issued their *Olmstead versus L.C.* opinion. And the reality is that people with disabilities deserve to work alongside friends, peers, and neighbors without disabilities. They deserve to earn fair wages, to access equal opportunity for advancement. And the 14(c) of the FLSA has really locked classes of people with disabilities, particularly with intellectual and developmental disabilities, into really degrading subminimum wage and sheltered workshops.

Mr. Levin: And I assume it almost assures their continued dependence on family or Federal dollars of other kinds to be able to live and have food and shelter and so forth.

Ms. Gupta: That is right. It has created an increased long-term dependency and, of course, this also can create deeply kind of humiliating and personal experiences that make people with disabilities feel like kind of sub-human.¹⁵⁷

Despite congressional inaction, six states and the city of Seattle, Washington, have taken steps to phase out 14(c) certificates. Vermont was the first state to phase out 14(c) certificates; beginning in 1996 and ending in 2002, the state defunded entities holding 14(c) certificates. Oregon and Rhode Island are in the process of phasing out 14(c) certificates after settling a lawsuit with the Obama Administration's Department of Justice on cases alleging violations under the ADA. In 2018, Seattle became the first city to phase out the use of 14(c) certificates. This is notable as Seattle was among the first cities to pass a law raising its minimum wage to \$15 an hour.

Opponents of phasing out of 14(c) certificates contend that eliminating 14(c) certificates will leave individuals with disabilities without employment. However, thoughtful and well-planned supports for individuals and for employers holding 14(c) certificates can help transition workplaces and avoid job loss for these individuals. States that have phased out 14(c) have found that individuals with disabilities continue to work and contribute to their local economies. Vermont reports that 62 percent of individuals with disabilities in the state find work in the community within one year of receiving state employment supports.¹⁵⁸ Since 2005, Vermont has seen individuals with disabilities pay \$11.9 million in payroll taxes, and the state has reduced Social Security and other social services by over \$5.5 million.¹⁵⁹

Another common criticism of phasing out of 14(c) certificates is that individuals with disabilities cannot be as productive as workers without disabilities and therefore cannot be paid a regular wage. Individuals with disabilities have their wages calculated

¹⁵⁷House Comm. on Educ. and Labor, *Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Business, Good for the Economy*, YouTube (Feb. 7, 2019), <https://www.youtube.com/watch?v=JDGkim7aaHI> (question and answer between Mr. Levin and Mr. Gupta at 6:15:10).

¹⁵⁸Halle Stockton, *Vermont Closed Workshops for People with Disabilities; What Happened Next*, Public Source (Sept. 24, 2014), <https://www.publicsource.org/vermont-closed-workshops-for-people-with-disabilities-what-happened-next/#.VLQ0V9LF8fY>.

¹⁵⁹Chris Serres, *Inclusion Pays Off*, Star Tribune (Nov. 11, 2015), <http://www.startribune.com/vermont-took-bold-step-to-end-segregation-of-disabled-adults/330697181/#/>.

under 14(c) certificates based on time trials that have no oversight and are not compliant with the ADA. Thus, the very nature of the calculation is discriminatory. While some employer advocates of 14(c) certificates suggest subminimum wage employment leads to higher-paying jobs, GAO found that in 2000 only “[a]bout 13 percent of all 14(c) workers in work centers left the center; about 5 percent of the workers left to take a job in the community earning either special minimum wages or at least the minimum wage.”¹⁶⁰ Ms. Gupta stated during her testimony at the February 7th hearing:

[U]nfortunately, 20 years after Olmstead and almost 30 years after the passage of the ADA, too many people with disabilities spend their time in segregated workshops or day programs with some paid just pennies per hour. While in theory segregated settings provide job training and experience to people with disabilities and help them find regular employment in their community, the reality is that too many remain stuck in segregated settings for years.¹⁶¹

Phasing out 14(c) will allow workers with disabilities to earn the same wage as other workers and will prevent discrimination on the basis of disability.

Eliminating 14(c) will have additional positive impacts on individuals with disabilities. When transitioning to competitive employment, research has shown that individuals with disabilities spend more time engaged in and contributing to their communities and developing meaningful natural supports.¹⁶² Individuals with disabilities will also have more money from their paychecks to spend in their communities and contribute to the local economy.

During the February 7th hearing, Ms. Gupta and Congressman Joseph Morelle (D-NY-25) discussed the positive impacts of phasing out 14(c) for individuals with disabilities who move into competitive, integrated employment:

Mr. Morelle: [. . .] Let me just in closing, six States, as you mentioned, have completed or are in the process of phasing out 14(c). I think Vermont and New Hampshire have completely phased out. Maryland, Alaska, Oregon and Rhode Island are in the process of it, and I understand Hawaii and Kentucky are at least considering it.

Can you just talk about the other benefits individuals with disabilities experience other than financial benefits from the phasing out of 14(c) and moving into a competitive integrated employment setting?

Ms. Gupta: Yes. I mean, so much of what we are talking about today is really about the dignity of work and people with disabilities feeling the dignity of being human beings entitled to the same protections as any other people in this

¹⁶⁰ Gov’t Accountability Office, Special Minimum Wage Program: Centers Offer Employment and Support Services to Workers with Disabilities, but Labor Should Improve Oversight 4 (2001), <https://www.gao.gov/new.items/d01886.pdf>.

¹⁶¹ House Comm. on Educ. and Labor, *Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Business, Good for the Economy*, YouTube (Feb. 7, 2019), <https://www.youtube.com/watch?v=JDGkim7aaHI> (statement by Ms. Gupta at 5:18:59).

¹⁶² Nat’l Core Indicators, *What work means: What does NCI tell us about the quality of life of adults with intellectual and developmental disabilities who are employed in the community?* 5 NCI Data Brief 7 (2011), http://www.nationalcoreindicators.org/upload/core-indicators/NCI_Data_Brief_Employment-Issue_5_Dec_2011_FINAL_1.pdf

country and being able to participate in the mainstream economy with people without disabilities, to have the opportunity, to have equal opportunity for jobs and housing and the like. And that this move from the ADA to Olmstead and beyond is really about ensuring that people with disabilities have equal opportunity and are not kind of considered, you know, folks to be segregated out of the mainstream economy.¹⁶³

The subminimum wage for workers under 20 years of age

Under the FLSA, an employer may pay employees under 20 years of age a subminimum wage of \$4.25 an hour for the first 90 calendar days of employment. This provision was added to the FLSA in 1996¹⁶⁴ based on the false assumptions that an increase in the federal minimum wage leads to increased unemployment among teenagers.¹⁶⁵ However, research shows that minimum wage increases do not reduce employment among teenagers.¹⁶⁶ In fact, research suggests a higher minimum wage may be especially beneficial for teenaged workers of color who often have higher barriers to employment and may be unable to afford the supports and services they need, such as transportation, to seek and maintain employment.¹⁶⁷

The subminimum was also established with the purpose of creating job opportunities for young workers.¹⁶⁸ However, there is no employer reporting of the use of the youth minimum wage, and it is believed to be rarely used. As Dr. Reich testified at the February 7th hearing, “[t]hese considerations suggest that the federal youth subminimum wage is not accomplishing its intended purpose.”¹⁶⁹

Many teenage workers are from low-income families, and their earnings are an important contribution to their households’ incomes. Mr. Brodeur testified at the February 7th hearing about the decision to reject a subminimum wage for teen workers when increasing the state’s minimum wage:

Initially, I was intrigued by the concept, and from my efforts on workforce development issues as well as my own experience, I understood the lifelong benefits of learning the value and dignity of work at a young age. However, as I continued to meet with my constituents and review expert testimony submitted to my committee, I again determined that this policy would adversely impact the very

¹⁶³ House Comm. on Educ. and Labor, *Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Business, Good for the Economy*, YouTube (Feb. 7, 2019), <https://www.youtube.com/watch?v=JDGkim7aaHI> (question and answer between Mr. Morelle and Ms. Gupta at 6:28:06).

¹⁶⁴ Fair Labor Standards Amendments of 1966, P.L. 89–601, 80 Stat. 830.

¹⁶⁵ 42 Cong. Rec. H9850 (daily ed. Aug. 2, 1996) (statement of Representative Goodling). The 1996 Amendments to the Fair Labor Standards Act (H.R. 3448) contained the permanent provision for a youth minimum wage. This language was based on House Amendment 1085 offered by Rep. Goodling for H.R. 1227 (104th Congress), approved May 23, 1996. During debate of H.R. 3448, Representative Goodling stated “Many studies support the conclusion that a mandated increase in the minimum wage would jeopardize . . . young Americans looking for their first job. . . .” *Id.*

¹⁶⁶ Sylvia A. Allegretto et al., Do Minimum Wages Really Reduce Teen Employment? 50 (2) Industrial Relations 205, 221 (2011), <http://irle.berkeley.edu/files/2011/Do-Minimum-Wages-Really-Reduce-Teen-Employment.pdf>; Arindrajit Dube et al., *supra* note 116 at 699.

¹⁶⁷ Allegretto et al., *supra* note 166, at 228.

¹⁶⁸ “The opportunity wage allows employers to pay new hires under the age of 20 not less than \$4.25 per hour for the first 90 calendar days of employment. This will encourage employers to hire new workers” Conference Report On H.R. 3448, *supra* note 163.

¹⁶⁹ Reich Testimony at 17.

population it was designed to help. Among families in Massachusetts whose earnings are at the bottom 20th percentile, teen workers bring home nearly 18% of the family income. These teens are not merely working a summer job for extra spending money, but are instead functioning as breadwinners for their families. To tell these hardworking young people that their work product or services, which might be rendered alongside and identical to those of an older worker, are somehow less valuable because of their age was unacceptable to me.¹⁷⁰

Eliminating the subminimum wage for teenaged workers and raising the minimum wage generally may also help improve educational outcomes. For young workers, increased earnings may reduce the likelihood of working substantial hours while in school, helping them better balance work and school. Mr. Wise underscored this point during his testimony at the February 7th hearing:

I was a great student and by the eighth grade was in advanced placement classes. My teachers said, “Terrence you’re going to do great things. You can be anything.” I wanted to be a Gamecock at the University of South Carolina. I was going to be a writer. But I went to work at age 16 to try to help my family survive. One day I came home from school, there were no lights or food in the fridge and I couldn’t do homework without food and lights.

So I went and got my first job at Taco Bell. I only made \$4.25 an hour, which I believe was the minimum wage at the time but I knew my family needed the money—desperately. My first paycheck was \$150. It went to the light bill. One job wasn’t enough. So I got a second job at Wendy’s to bring in more money for my family. I tried to balance both work and school. I had As in AP History, English, Science, and Math. I started falling asleep in class. My teachers asked, “Terrence, what’s wrong?” I told them I was working two jobs. I didn’t need my AP Calculus to run the numbers at home. There simply wasn’t enough money for basic necessities. I had left school and my dream of college behind. At 17, I became a full-time worker and was left with no other choice but to dropout of school.¹⁷¹

Nearly half of U.S. students pursuing a two-year degree, and over 40 percent of students pursuing a four-year degree, work more than 35 hours per week.¹⁷² Studies show that working more than 20 hours per week puts college students at risk of dropping out.¹⁷³

Ms. Gupta also testified at the February 7th hearing that Congress should be concerned about the “potential negative consequences of the youth minimum wage on food insecurity faced by too many college students today.”¹⁷⁴ A 2018 Wisconsin HOPE Lab

¹⁷⁰ Brodner Testimony at 4 (internal citation omitted).

¹⁷¹ Wise Testimony at 1.

¹⁷² U.S. Dept of Educ., Profile of Undergraduate Students: 2011–12 5 (2014), <https://nces.ed.gov/pubs2015/2015167.pdf>.

¹⁷³ Elisabeth Hovdhaugen, *Working While Studying: the Impact of Term-time Employment on Dropout Rates*, 28 Journal of Educ. and Work 631, 631–51 (2015).

¹⁷⁴ Vanita Testimony at 8.

survey of 43,000 students at 66 institutions in 20 states and the District of Columbia found that 36 percent of students at 4-year institutions were food insecure, including 47 percent of Black students, 42 percent of Hispanic students, and 46 percent of Pell Grant recipients.¹⁷⁵

FEDERAL ACTION IS NEEDED TO ENSURE THE MINIMUM WAGE IS A
STRONG, UNIFORM FEDERAL WAGE FLOOR

The FLSA sets a federal floor for the minimum wage, and states and localities are free to build upon that floor and establish higher minimum wages. In states with weak labor standards or low union density, a federal minimum wage may be the only effective labor market institution that elevates wages for low-paid workers. The fact that wages are lower in states with weaker labor standards suggests that a wage floor has a greater impact for workers in those states. Restoring the value of the federal minimum wage to ensure the minimum wage is a strong, uniform federal wage floor is key for these workers.

Raising the federal minimum wage to \$15 by 2024, as H.R. 582 would do, creates a strong national wage that will protect covered workers no matter where they live. By 2024, \$15 an hour (the equivalent of approximately \$13 in 2019 dollars) is the minimum amount a single adult working full time will need to earn to cover basic living expenses.¹⁷⁶ Even in the area with the lowest cost of living in the country Beckley, West Virginia¹⁷⁷ in 2024, a two-parent, two-child household in which both parents earn \$15 an hour and pay taxes will only have \$1 left each month after covering basic living expenses, according to calculations based on MIT's Living Wage Calculator.¹⁷⁸ As Dr. Zipperer testified at the February 7th hearing:

By 2024, in areas all across the United States, even a single adult with no children will need to be earning more than \$15 per hour on a full-time, full-year basis in order to achieve a modest but adequate standard of living . . . [e]arning at least \$15 per hour will be a necessity for parents who wish to raise families. Two adults working 40 hours a week at \$15 per hour will earn \$62,400 per year. If these two adults have two children to care for, by 2024 there will be no area in the country where they can live and meet the basic requirements of their family budget with wage income alone.¹⁷⁹

Failing to ensure workers across the country have a strong, uniform wage floor risks workers falling farther behind. This is especially true where states enact preemption laws to block local efforts to increase the minimum wage at the municipal or county level. Currently, 17 of the 21 states at the \$7.25 an hour federal minimum have enacted preemption laws. During her testimony at the

¹⁷⁵ Vanessa Romo, *Hunger and Homelessness are Widespread Among College Students, Study Finds*, Nat'l Pub. Radio (April 3, 2018, 8:48 PM), <https://www.npr.org/sections/thetwo-way/2018/04/03/599197919/hunger-and-homelessness-are-widespread-among-college-students-study-finds>.

¹⁷⁶ Nat'l Emp't Law Project, *Workers in all 50 States will Need \$15 an Hour by 2024 to Afford the Basics 1* (2017), <https://s27147.pcdn.co/wp-content/uploads/workers-in-all-50-states-will-need-15-by-2024.pdf>.

¹⁷⁷ As determined by the Census Bureau.

¹⁷⁸ Living Wage Calculator, Massachusetts Institute of Technology, <http://livingwage.mit.edu>.

¹⁷⁹ Zipperer Testimony 6.

February 7th hearing, Ms. Eckhouse lamented how her home state of Iowa enacted a law preventing cities and counties from setting a higher minimum wage, even as the state is unlikely to raise its minimum wage above the current federal rate of \$7.25 an hour. Ms. Eckhouse stated that “[w]e need a federal increase to ensure that wherever people live and work in Iowa or around the country, they can meet their basic needs.”¹⁸⁰ Mr. Wise also testified about his state’s efforts to block local increases to the minimum wage at the February 7th hearing:

75% of voters in Kansas City voted for a \$15 minimum wage in 2017. Workers won that victory by taking big, bold, and dramatic actions like going on strike, marching, and sleeping on the steps of City Hall for a week in our “Fast for \$15.” It was a huge victory for us until the state legislature pre-empted the minimum wage, returning it to \$7.65. Missouri voters increased the minimum wage in 2018 but we’re still not achieving \$15 per hour—the minimum we need to support our families. That’s why we need Congress to take action immediately to raise the federal minimum wage.¹⁸¹

Ms. Gupta, during her testimony at the February 7th hearing, highlighted a similar occurrence in Alabama, where state legislators in Alabama nullified the Birmingham City Council’s vote to increase the minimum wage—an effort led by workers and faith leaders.¹⁸² Ms. Gupta quoted Derrick Johnson, CEO of the NAACP, who noted, “[t]he state’s legislature must be held accountable for discriminating against hard working Birmingham citizens fighting to get out of poverty.”¹⁸³

A regionalized minimum wage would leave workers and communities behind

The notion of a regionalized minimum wage is not new. During the debates leading up to the passage of the FLSA, Southern legislators who feared a national wage floor would create wage equity between white workers and workers of color proposed a regional approach that would have maintained racial wage disparities.¹⁸⁴ Civil rights leaders at the time strongly opposed this approach, and Congress ultimately rejected a regional approach. In fact, every time Congress has considered a regional approach, it has rejected it.

A regionalized minimum wage would permanently lock in lower wages, especially in certain Southern states where depressed wages are a result of a history of racially discriminatory policies. As Ms. Gupta testified at the February 7th hearing, “[t]en of the 21 states stuck at \$7.25 an hour are in the South, with large African American populations, and growing Latino and Asian American popu-

¹⁸⁰ Eckhouse Testimony at 2.

¹⁸¹ Wise Testimony at 3.

¹⁸² Several worker advocacy groups and civil rights groups have challenged the state legislature’s actions in court.

¹⁸³ Gupta Testimony at 9.

¹⁸⁴ See Sean Farhang & Ira Katznelson, *The Southern Imposition: Congress and Labor in the New Deal and Fair Deal* 19 (2005), https://gspp.berkeley.edu/assets/uploads/research/pdf/article_4.pdf.

lations.”¹⁸⁵ Analysis of a recent proposal to regionalize the minimum wage found that 15.6 million fewer workers would receive a raise than under H.R. 582, and over one-third of those left behind—5.6 million—would be women of color.¹⁸⁶ As Dr. Spriggs testified at the February 7th hearing:

If you agree to those regional pay ideas, which Congress debated extensively in 1937 and rejected, extensively in 1966 and rejected, you won’t be accepting a new idea, you will be cementing an old idea that got rejected twice and you will create a racial pay disparity. It will be, once again, America understands the problem, we are going to pass a labor law that improves the lives of American workers, and Black workers will be told, the bus is full when it pulls out. If you do that, that is what you will be doing.¹⁸⁷

A regionalized minimum wage would weaken the federal minimum wage as a counterweight to outsized employer bargaining power, especially in rural areas. Research suggests that low wages for employees in low-wage industries can often be attributed to the employer’s bargaining power to set low wages, rather than an employee’s work experience or education.¹⁸⁸ A strong national floor serves as a counterweight to this bargaining power, while lower federal minimum wages based on region lock in this wage depression. A single national minimum wage as a counterweight is especially important for small-towns or rural areas where often only a few companies are the main source of employment and thus are able to keep wages low for entire regions.

A regional minimum wage would rob low-wage states and areas of economic stimulus. As discussed above, when low-wage workers have increases in income, they spend that money locally, stimulating their local economies. Because the increases in income will be larger for workers in low-wage states and areas, these places will also benefit from a greater stimulus effect. Creating a lower minimum wage for these areas deprives these local economies of the full economic stimulus of minimum wage increases. Additionally, higher minimum wages can also help states keep workers who are in their prime earning years, leaving these states with a better-quality workforce that attracts businesses into the state.¹⁸⁹

In fact, by rejecting a regional approach in the 1930s and 1960s and setting a strong national standard, Congress had a positive, dynamic effect on economies in the South. As Dr. Reich testified at the February 7th hearing:

By establishing a single national floor at a time of other major economic transformations, Congress set in motion a series of substantial positive economic changes in the South. In particular, the isolated economies of the rural

¹⁸⁵ Gupta Testimony at 9 (internal citation omitted).

¹⁸⁶ Econ. Policy Inst. et al., *The Federal Minimum Wage Should be a Robust National Wage Floor, Not Adjusted Region by Region 2* (2019), <https://www.epi.org/files/uploads/minimum-wage-fact-sheet-2019.pdf>.

¹⁸⁷ House Comm. on Educ. and Labor, *Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Business, Good for the Economy*, YouTube (Feb. 7, 2019), <https://www.youtube.com/watch?v=JDGkim7aaHI> (statement by Dr. Spriggs at 3:09:40).

¹⁸⁸ John Abowd et al., *Persistent Inter-industry Wage Differences: Rent Sharing and Opportunity Costs*, IZA Journal of Labor Econs. 1, 22 (2012).

¹⁸⁹ Reich Testimony at 14.

South became more linked to the national economy. The South prospered in succeeding decades, and the southern regional wage differential became much smaller. A similar development occurred as a result of the civil rights revolution and the associated extension of Fair Labor Standard Act coverage to more of the South's industries [sic].¹⁹⁰

This positive impact of a strong, uniform federal minimum wage floor on the Southern economy could continue. For example, recent research evaluating the impact of a \$15 an hour minimum wage in 2024 on Mississippi estimates a net gain in employment of approximately 2,000 jobs by 2024. This would be equal to 0.1 percent of total employment in Mississippi.¹⁹¹

The Committee is also concerned that a regional minimum wage would hamper DOL's enforcement of the federal minimum wage, making it harder to ensure workers get the pay they are owed. Already, DOL has limited resources for ensuring workers are paid federal minimum wage. It is unclear how a multiplicity of regional federal minimum wages will impact the time and resources needed to investigate and enforce minimum wage standards, especially for employers that operate in multiple metropolitan statistical areas within a given state or region.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section states that the title of the bill is the Raise the Wage Act (the Act).

Section 2. Minimum wage increases

Federal Minimum Wage. The Act increases the federal minimum wage "6(a)(1) wage." for employees over a six-year period. In the first year (2019), the federal minimum wage will increase by \$1.30 from \$7.25 to \$8.55 per hour. This increase will occur on the first day of the third month that begins after the date of enactment of the Act (the effective date). One year after the effective date, the minimum wage will increase by \$1.30 to \$9.85; two years after the effective date it will increase by \$1.30 to \$11.15; three years after the effective date, it will increase by \$1.30 to \$12.45; four years after the effective date, it will increase by \$1.30 to \$13.75; and five years after the effective date, the minimum wage will increase by \$1.25 to \$15.00. Six years after the effective date (2025), the minimum wage will be indexed to median wages.

Annual Indexing of Minimum Wage Based on Median Wages. Six years after enactment, and each subsequent year, the minimum wage will increase based on the percentage increase, if any, in the median hourly wages of all employees. The Secretary of Labor, through the Bureau of Labor Statistics (BLS), will calculate this change by compiling data on the hourly wages of all employees. The minimum wage will not decrease based on BLS' calculation.

¹⁹⁰ Reich Testimony at 16 (citation omitted).

¹⁹¹ Michael Reich et al., The Employment Effects of a \$15 Minimum Wage in the U.S. and in Mississippi: A Simulation Approach 42 (2019), <http://irle.berkeley.edu/files/2019/02/The-Employment-Effects-of-a-15-Minimum-Wage-in-the-US-and-in-Mississippi.pdf>.

Section 3. Tipped employees

The Act increases the tipped wage from \$2.13 to \$3.60 in 2019. For each succeeding year, the Act increases the tipped wage by the lesser of either \$1.50 or the difference between the tipped wage and the 6(a)(1) wage. Once the tipped wage reaches the 6(a)(1) wage in 2027, the Act eliminates the tipped wage by stipulating that the tipped wage will be the 6(a)(1) wage.

This section also clarifies that any employee has the right to retain any tips received by such employee.

Section 4. Newly hired employees who are less than 20 years old

The Act increases the minimum wage for youth under 20 years of age from \$4.25 to \$5.50 in 2019. Each subsequent year, the Act increases the youth wage by the lesser of either \$1.25 or the difference between the youth wage and the 6(a)(1) wage. Once the youth wage reaches the 6(a)(1) wage in 2027, the Act eliminates the youth wage by stipulating that the youth wage will be the 6(a)(1) wage.

Section 5. Publication of notice of changes to the minimum wage

The Act requires the Secretary of Labor to publish in the Federal Register and on DOL's website announcements of the increases in the 6(a)(1), tipped, 14(c), and youth wages sixty days prior to each effective date.

Section 6. Promoting economic self-sufficiency for individuals with disabilities

The Secretary of Labor will discontinue issuing 14(c) certificates on the date of enactment of the Act. Existing 14(c) certificate holders will be permitted to continue using their subminimum wage certificates for six years after enactment. Certificate holders will increase the hourly wages paid to individuals with disabilities who are being paid subminimum wages pursuant to 14(c) on the following schedule: one year after the 6(a)(1) wage takes effect (the effective date), the subminimum wage paid shall be at least \$4.25; two years after the effective date, the subminimum wage paid shall be at least \$6.40; three years after the effective date, the subminimum wage paid shall be at least \$8.55; four years after the effective date, the subminimum wage paid shall be at least \$10.70; and five years after the effective date, the subminimum wage paid shall be at least \$12.85. Six years after the effective date, the subminimum wage paid to 14(c) covered employees must be the same as the 6(a)(1) wage. During the six years of transition to the 6(a)(1) wage, the Secretary of Labor shall, upon request, assist certificate holders with compliance and continuing employment opportunities for individuals with disabilities.

Section 7. General effective date

Unless otherwise provided for in the Act, the amendments made by the Act take effect on the first day of the third month that begins after the date of enactment. The effective date in the Commonwealth of the Northern Mariana Islands is 18 months after the Act's general effective date.

Section 8. GAO report

The Act requires the Government Accountability Office (GAO) to review the economic conditions in the Commonwealth of the Northern Mariana Islands, estimate the proportion of employees directly affected by wage increases under the Act (disaggregated by industry and occupation), and submit a report to Congress within one year after H.R. 582's enactment.

EXPLANATION OF AMENDMENTS

The Amendment in the Nature of a Substitute is explained in the descriptive portions of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act*, Pub. L. No. 104-1, H.R. 582, as amended, applies to terms and conditions of employment within the legislative branch by amending the FLSA.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. No. 104-4), the Committee adopts as its own the estimate of and statement regarding federal mandates in H.R. 582, as amended, prepared by the Director of the Congressional Budget Office.

EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 582 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 582:

Date: 3/6/2019

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 1

Bill: H.R. 582

Amendment Number: 2

Disposition: Defeated by a vote of 14-27

Sponsor/Amendment: Cline / to prohibit minimum wage increases if, during the year prior, there is negative employment growth, increased unemployment, or an unemployment rate above 6%

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mrs. DAVIS (CA)		X		Mr. ROE (TN)	X		
Mr. GRIJALVA (AZ)		X		Mr. THOMPSON (PA)			X
Mr. COURNTEY (CT)		X		Mr. WALBERG (MI)	X		
Ms. FUDGE (OH)		X		Mr. GUTHRIE (KY)	X		
Mr. SABLON (MP)		X		Mr. BYRNE (AL)			X
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)			X^
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)			X^
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. ROONEY (FL)			X
Mr. DESAULNIER (CA)		X		Mr. SMUCKER (PA)	X		
Mr. NORCROSS (NJ)			X*	Mr. BANKS (IN)	X		
Ms. JAYAPAL (WA)		X		Mr. WALKER (NC)			X^
Mr. MORELLE (NY)		X		Mr. COMER (KY)	X		
Ms. WILD (PA)		X		Mr. CLINE (VA)			X^
Mr. HARDER (CA)		X		Mr. FULCHER (ID)	X		
Mrs. MCBATH (GA)		X		Mr. TAYLOR (TX)	X		
Ms. SCHRIER (WA)		X		Mr. WATKINS (KS)			X^
Ms. UNDERWOOD (IL)		X		Mr. WRIGHT (TX)	X		
Mrs. HAYES (CT)		X		Mr. MEUSER (PA)	X		
Ms. SHALALA (FL)		X		Mr. TIMMONS (SC)	X		
Mr. LEVIN (MI)		X		Mr. JOHNSON (SD)	X		
Ms. OMAR (MN)		X					
Mr. TRONE (MD)		X					
Ms. STEVENS (MI)		X					
Mrs. LEE (NV)		X					
Mrs. TRAHAN (MA)		X					
Mr. CASTRO (TX)		X					

TOTALS: Ayes: 14

Nos: 27

Not Voting: 9

Total: 50 / Quorum: 26 / Report:

(28 D - 22 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 3/6/2019

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 2

Bill: H.R. 582

Amendment Number: 3

Disposition: Defeated by a vote of 21-24

Sponsor/Amendment: Meuser / to exclude enterprises with fewer than 10 employees or less than \$1 million in annual gross volume of sales from minimum wage increases under the Act

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mrs. DAVIS (CA)		X		Mr. ROE (TN)	X		
Mr. GRUJALVA (AZ)		X		Mr. THOMPSON (PA)	X		
Mr. COURNTEY (CT)		X		Mr. WALBERG (MI)	X		
Ms. FUDGE (OH)		X		Mr. GUTHRIE (KY)	X		
Mr. SABLON (MP)		X		Mr. BYRNE (AL)			X
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. ROONEY (FL)			X
Mr. DESAULNIER (CA)		X		Mr. SMUCKER (PA)	X		
Mr. NORCROSS (NJ)		X		Mr. BANKS (IN)	X		
Ms. JAYAPAL (WA)		X		Mr. WALKER (NC)	X		
Mr. MORELLE (NY)		X		Mr. COMER (KY)	X		
Ms. WILD (PA)			X	Mr. CLINE (VA)	X		
Mr. HARDER (CA)		X		Mr. FULCHER (ID)	X		
Mrs. MCBATH (GA)			X	Mr. TAYLOR (TX)	X		
Ms. SCHRIER (WA)		X		Mr. WATKINS (KS)	X		
Ms. UNDERWOOD (IL)			X	Mr. WRIGHT (TX)	X		
Mrs. HAYES (CT)		X		Mr. MEUSER (PA)	X		
Ms. SHALALA (FL)		X		Mr. TIMMONS (SC)	X		
Mr. LEVIN (MI)		X		Mr. JOHNSON (SD)	X		
Ms. OMAR (MN)		X					
Mr. TRONE (MD)		X					
Ms. STEVENS (MI)	X						
Mrs. LEE (NV)		X					
Mrs. TRAHAN (MA)		X					
Mr. CASTRO (TX)		X					

TOTALS: Ayes: 21

Nos: 24

Not Voting: 5

Total: 50 / Quorum: / Report:

(28 D - 22 R)

Date: 3/6/2019

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 3

Bill: H.R. 582

Amendment Number: 4

Disposition: Defeated by a vote of 20-28

Sponsor/Amendment: Allen / to prohibit minimum wage increases under this Act unless the unemployment rate for 16 to 24 year olds is below 8% for the prior year

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mrs. DAVIS (CA)		X		Mr. ROE (TN)	X		
Mr. GRIJALVA (AZ)		X		Mr. THOMPSON (PA)	X		
Mr. COURNTIEY (CT)		X		Mr. WALBERG (MI)	X		
Ms. FUDGE (OH)		X		Mr. GUTHRIE (KY)	X		
Mr. SABLON (MP)		X		Mr. BYRNE (AL)			X
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. ROONEY (FL)			X
Mr. DESAULNIER (CA)		X		Mr. SMUCKER (PA)	X		
Mr. NORCROSS (NJ)		X		Mr. BANKS (IN)	X		
Ms. JAYAPAL (WA)		X		Mr. WALKER (NC)	X		
Mr. MORELLE (NY)		X		Mr. COMER (KY)	X		
Ms. WILD (PA)		X		Mr. CLINE (VA)	X		
Mr. HARDER (CA)		X		Mr. FULCHER (ID)	X		
Mrs. MCBATH (GA)		X		Mr. TAYLOR (TX)	X		
Ms. SCHRIER (WA)		X		Mr. WATKINS (KS)	X		
Ms. UNDERWOOD (IL)		X		Mr. WRIGHT (TX)	X		
Mrs. HAYES (CT)		X		Mr. MEUSER (PA)	X		
Ms. SHALALA (FL)		X		Mr. TIMMONS (SC)	X		
Mr. LEVIN (MI)		X		Mr. JOHNSON (SD)	X		
Ms. OMAR (MN)		X					
Mr. TRONE (MD)		X					
Ms. STEVENS (MI)		X					
Mrs. LEE (NV)		X					
Mrs. TRAHAN (MA)		X					
Mr. CASTRO (TX)		X					

TOTALS: Ayes: 20

Nos: 28

Not Voting: 2

Total: 50 / Quorum: / Report:

(28 D - 22 R)

Date: 3/6/2019

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 4

Bill: H.R. 582

Amendment Number: 5

Disposition: Defeated by a vote of 20-28

Sponsor/Amendment: Smucker / to prohibit state and local governments from adopting minimum wage laws that exempt employees covered by a bona fide collective bargaining agreement

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mrs. DAVIS (CA)		X		Mr. ROE (TN)	X		
Mr. GRIJALVA (AZ)		X		Mr. THOMPSON (PA)	X		
Mr. COURNTHEY (CT)		X		Mr. WALBERG (MI)	X		
Ms. FUDGE (OH)		X		Mr. GUTHRIE (KY)	X		
Mr. SABLON (MP)		X		Mr. BYRNE (AL)			X
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. ROONEY (FL)			X
Mr. DESAULNIER (CA)		X		Mr. SMUCKER (PA)	X		
Mr. NORCROSS (NJ)		X		Mr. BANKS (IN)	X		
Ms. JAYAPAL (WA)		X		Mr. WALKER (NC)	X		
Mr. MORELLE (NY)		X		Mr. COMER (KY)	X		
Ms. WILD (PA)		X		Mr. CLINE (VA)	X		
Mr. HARDER (CA)		X		Mr. FULCHER (ID)	X		
Mrs. MCBATH (GA)		X		Mr. TAYLOR (TX)	X		
Ms. SCHRIER (WA)		X		Mr. WATKINS (KS)	X		
Ms. UNDERWOOD (IL)		X		Mr. WRIGHT (TX)	X		
Mrs. HAYES (CT)		X		Mr. MEUSER (PA)	X		
Ms. SHALALA (FL)		X		Mr. TIMMONS (SC)	X		
Mr. LEVIN (MI)		X		Mr. JOHNSON (SD)	X		
Ms. OMAR (MN)		X					
Mr. TRONE (MD)		X					
Ms. STEVENS (MI)		X					
Mrs. LEE (NV)		X					
Mrs. TRAHAN (MA)		X					
Mr. CASTRO (TX)		X					

TOTALS: Ayes: 20

Nos: 28

Not Voting: 2

Total: 50 / Quorum: / Report:

(28 D - 22 R)

Date: 3/6/2019

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 5

Bill: H.R. 582

Amendment Number: 6

Disposition: Defeated by a vote of 20-28

Sponsor/Amendment: Foxx / to strike provisions setting the effective date in the Commonwealth of the Northern Mariana Islands (CNMI)

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mrs. DAVIS (CA)		X		Mr. ROE (TN)	X		
Mr. GRUJALVA (AZ)		X		Mr. THOMPSON (PA)	X		
Mr. COURNTEY (CT)		X		Mr. WALBERG (MI)	X		
Ms. FUDGE (OH)		X		Mr. GUTHRIE (KY)	X		
Mr. SABLON (MP)		X		Mr. BYRNE (AL)			X
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. ROONEY (FL)			X
Mr. DESAULNIER (CA)		X		Mr. SMUCKER (PA)	X		
Mr. NORCROSS (NJ)		X		Mr. BANKS (IN)	X		
Ms. JAYAPAL (WA)		X		Mr. WALKER (NC)	X		
Mr. MORELLE (NY)		X		Mr. COMER (KY)	X		
Ms. WILD (PA)		X		Mr. CLINE (VA)	X		
Mr. HARDER (CA)		X		Mr. FULCHER (ID)	X		
Mrs. MCBATH (GA)		X		Mr. TAYLOR (TX)	X		
Ms. SCHRIER (WA)		X		Mr. WATKINS (KS)	X		
Ms. UNDERWOOD (IL)		X		Mr. WRIGHT (TX)	X		
Mrs. HAYES (CT)		X		Mr. MEUSER (PA)	X		
Ms. SHALALA (FL)		X		Mr. TIMMONS (SC)	X		
Mr. LEVIN (MI)		X		Mr. JOHNSON (SD)	X		
Ms. OMAR (MN)		X					
Mr. TRONE (MD)		X					
Ms. STEVENS (MI)		X					
Mrs. LEE (NV)		X					
Mrs. TRAHAN (MA)		X					
Mr. CASTRO (TX)		X					

TOTALS: Ayes: 20

Nos: 28

Not Voting: 2

Total: 50 / Quorum: / Report:

(28 D - 22 R)

Date: 3/6/2019

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 6

Bill: H.R. 582

Amendment Number: 7

Disposition: Defeated by a vote of 21-27

Sponsor/Amendment: Wright / to prohibit the Act from taking effect if GAO finds more than 500,000 jobs will be lost due to automation

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mrs. DAVIS (CA)		X		Mr. ROE (TN)	X		
Mr. GRIJALVA (AZ)		X		Mr. THOMPSON (PA)	X		
Mr. COURNTEY (CT)		X		Mr. WALBERG (MI)	X		
Ms. FUDGE (OH)		X		Mr. GUTHRIE (KY)	X		
Mr. SABLON (MP)		X		Mr. BYRNE (AL)			X
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. ROONEY (FL)			X
Mr. DESAULNIER (CA)		X		Mr. SMUCKER (PA)	X		
Mr. NORCROSS (NJ)		X		Mr. BANKS (IN)	X		
Ms. JAYAPAL (WA)		X		Mr. WALKER (NC)	X		
Mr. MORELLE (NY)		X		Mr. COMER (KY)	X		
Ms. WILD (PA)		X		Mr. CLINE (VA)	X		
Mr. HARDER (CA)		X		Mr. FULCHER (ID)	X		
Mrs. MCBATH (GA)		X		Mr. TAYLOR (TX)	X		
Ms. SCHRIER (WA)		X		Mr. WATKINS (KS)	X		
Ms. UNDERWOOD (IL)		X		Mr. WRIGHT (TX)	X		
Mrs. HAYES (CT)		X		Mr. MEUSER (PA)	X		
Ms. SHALALA (FL)		X		Mr. TIMMONS (SC)	X		
Mr. LEVIN (MI)		X		Mr. JOHNSON (SD)	X		
Ms. OMAR (MN)		X					
Mr. TRONE (MD)		X					
Ms. STEVENS (MI)	X						
Mrs. LEE (NV)		X					
Mrs. TRAHAN (MA)		X					
Mr. CASTRO (TX)		X					

TOTALS: Ayes: 21

Nos: 27

Not Voting: 2

Total: 50 / Quorum: / Report:

(28 D - 22 R)

Date: 3/6/2019

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 7

Bill: H.R. 582

Amendment Number: 8

Disposition: Defeated by a vote of 20-28

Sponsor/Amendment: Roe / to prohibit the Act from taking effect if GAO finds more than 200,000 jobs will be lost in areas with a median hourly wage less than \$18

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mrs. DAVIS (CA)		X		Mr. ROE (TN)	X		
Mr. GRIJALVA (AZ)		X		Mr. THOMPSON (PA)	X		
Mr. COURNTHEY (CT)		X		Mr. WALBERG (MI)	X		
Ms. FUDGE (OH)		X		Mr. GUTHRIE (KY)	X		
Mr. SABLON (MP)		X		Mr. BYRNE (AL)			X
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. ROONEY (FL)			X
Mr. DESAULNIER (CA)		X		Mr. SMUCKER (PA)	X		
Mr. NORCROSS (NJ)		X		Mr. BANKS (IN)	X		
Ms. JAYAPAL (WA)		X		Mr. WALKER (NC)	X		
Mr. MORELLE (NY)		X		Mr. COMER (KY)	X		
Ms. WILD (PA)		X		Mr. CLINE (VA)	X		
Mr. HARDER (CA)		X		Mr. FULCHER (ID)	X		
Mrs. MCBATH (GA)		X		Mr. TAYLOR (TX)	X		
Ms. SCHRIER (WA)		X		Mr. WATKINS (KS)	X		
Ms. UNDERWOOD (IL)		X		Mr. WRIGHT (TX)	X		
Mrs. HAYES (CT)		X		Mr. MEUSER (PA)	X		
Ms. SHALALA (FL)		X		Mr. TIMMONS (SC)	X		
Mr. LEVIN (MI)		X		Mr. JOHNSON (SD)	X		
Ms. OMAR (MN)		X					
Mr. TRONE (MD)		X					
Ms. STEVENS (MI)		X					
Mrs. LEE (NV)		X					
Mrs. TRAHAN (MA)		X					
Mr. CASTRO (TX)		X					

TOTALS: Ayes: 20

Nos: 28

Not Voting: 2

Total: 50 / Quorum: / Report:

(28 D - 22 R)

Date: 2/26/2019

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 8

Bill: H.R. 582

Amendment Number: Motion

Disposition: Agreed to by a vote of 28-20

Sponsor/Amendment: Ms. Adams/ to report bill to the House with amendment and with the recommendation
that the amendment be agreed to, and the bill as amended, do pass

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)	X			Mrs. FOXX (NC) (Ranking)		X	
Mrs. DAVIS (CA)	X			Mr. ROE (TN)		X	
Mr. GRIJALVA (AZ)	X			Mr. THOMPSON (PA)		X	
Mr. COURNTEY (CT)	X			Mr. WALBERG (MI)		X	
Ms. FUDGE (OH)	X			Mr. GUTHRIE (KY)		X	
Mr. SABLON (MP)	X			Mr. BYRNE (AL)			X
Ms. WILSON (FL)	X			Mr. GROTHMAN (WI)		X	
Ms. BONAMICI (OR)	X			Ms. STEFANIK (NY)		X	
Mr. TAKANO (CA)	X			Mr. ALLEN (GA)		X	
Ms. ADAMS (NC)	X			Mr. ROONEY (FL)			X
Mr. DESAULNIER (CA)	X			Mr. SMUCKER (PA)		X	
Mr. NORCROSS (NJ)	X			Mr. BANKS (IN)		X	
Ms. JAYAPAL (WA)	X			Mr. WALKER (NC)		X	
Mr. MORELLE (NY)	X			Mr. COMER (KY)		X	
Ms. WILD (PA)	X			Mr. CLINE (VA)		X	
Mr. HARDER (CA)	X			Mr. FULCHER (ID)		X	
Mrs. MCBATH (GA)	X			Mr. TAYLOR (TX)		X	
Ms. SCHRIER (WA)	X			Mr. WATKINS (KS)		X	
Ms. UNDERWOOD (IL)	X			Mr. WRIGHT (TX)		X	
Mrs. HAYES (CT)	X			Mr. MEUSER (PA)		X	
Ms. SHALALA (FL)	X			Mr. TIMMONS (SC)		X	
Mr. LEVIN (MI)	X			Mr. JOHNSON (SD)		X	
Ms. OMAR (MN)	X						
Mr. TRONE (MD)	X						
Ms. STEVENS (MI)	X						
Mrs. LEE (NV)	X						
Mrs. TRAHAN (MA)	X						
Mr. CASTRO (TX)	X						

TOTALS: Ayes: 28

Nos: 20

Not Voting: 2

Total: 50 / Quorum: / Report:

(28 D - 22 R)

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, H.R. 582 would update current law to increase the federal minimum wage, phase out subminimum wages for teen-aged and tipped workers, and eliminate subminimum wage certificates for individuals with disabilities in an effort to increase workers' wages, decrease poverty, and stimulate local economies.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 582 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

HEARINGS

Pursuant to section 103(i) of H. Res. 6 for the 116th Congress, the Committee held a legislative hearing entitled "*Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Businesses, and Good for the Economy*," which was used to consider H.R. 582. The Committee heard testimony on the declining value of the federal minimum wage and its impact on workers, how increasing the minimum wage will raise wages for workers with little to no negative employment impacts, and the benefits to businesses and local economies from minimum wage increases. The Committee heard testimony from Dr. William Spriggs, Chief Economist at the AFL-CIO; Mr. Terrence Wise, a shift manager at McDonald's; Dr. Douglas Holtz-Eakin, President of the American Action Forum; Dr. Ben Zipperer, Economist at the Economic Policy Institute; Ms. Vanita Gupta, President and CEO of the Leadership Conference on Civil and Human Rights; Ms. Simone Barron, a server in a full service restaurant; Ms. Kathy Eckhouse, owner of La Quercia; Dr. Michael Strain, Resident Scholar and Director of Economic Policy Studies at the American Enterprise Institute; Dr. Michael Reich, Professor at University of California Berkeley; and Mr. Paul Brodeur, Massachusetts State Representative.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the fol-

lowing estimate for H.R. 582 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 22, 2019.

Hon. BOBBY SCOTT,
Chairman, Committee on Education and Labor,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 582, the Raise the Wage Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Meredith Decker.

Sincerely,

MARK P. HADLEY,
(For Keith Hall, Director).

Enclosure.

At a Glance			
H.R. 582, Raise the Wage Act			
As ordered reported by the House Committee on Education and Labor on March 6, 2019			
Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Off-budget outlays)	0	*	1
Revenues	0	0	0
Deficit Effect	0	*	1
Spending Subject to Appropriation (Outlays)	0	9	76
Pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	Yes, Over Threshold
		Contains private-sector mandate?	Yes, Over Threshold
* = between zero and \$500,000.			

The bill would

- Increase the federal minimum wage in six annual steps, from \$7.25 per hour to \$15 per hour, and then adjust the wage annually thereafter to keep pace with the median hourly wage
- Increase spending subject to appropriation by increasing the wages of some federal workers
- Increase off-budget direct spending by increasing the wages of some postal workers
- Impose intergovernmental and private-sector mandates by requiring employers to pay a higher minimum wage to employees who are covered under the Fair Labor Standards Act

Estimated budgetary effects would primarily stem from

- Increasing the wages of some federal employees

Areas of significant uncertainty include

- Projections of increases in the median hourly wage and wage growth for federal workers over the next decade

Bill summary: H.R. 582 would amend the Fair Labor Standards Act (FLSA) to increase the federal minimum wage in six annual steps from \$7.25 per hour to \$15 per hour in 2025 (shortly after enactment, the minimum wage would be \$8.55 per hour). After 2025, the minimum wage would be adjusted annually to account for changes in the median hourly wage of all workers. By 2029, the minimum wage would be \$16.82, CBO estimates. In addition, the bill would repeal the separate federal minimum cash wage for workers who receive tips by gradually raising that wage until it equals the federal minimum wage for nontipped workers. Finally, H.R. 582 would repeal the separate minimum wage for teenage workers and workers with disabilities by raising their wages gradually to equal the federal minimum wage.

Estimated Federal cost: The estimated budgetary effect of H.R. 582 is shown in Table 1. The costs of the legislation fall within all budget functions except 950 (undistributed offsetting receipts).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 582

	By fiscal year, millions of dollars—												
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019– 2024	019– 2029
Increases in Off-Budget Direct Spending													
Estimated Budget Authority	0	0	0	0	*	*	*	*	*	*	*	*	1
Estimated Outlays	0	0	0	0	*	*	*	*	*	*	*	*	1
Increases in Spending Subject to Appropriation													
Estimated Authorization	0	*	*	1	2	6	11	14	14	14	14	9	76
Estimated Outlays	0	*	*	1	2	6	11	14	14	14	14	9	76

* = between zero and \$500,000.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted by October 1, 2019, and that starting in 2020, the minimum wage would rise incrementally, reaching \$15 in 2025. In subsequent years, the minimum wage would increase to keep pace with the increase in median hourly earnings.

Increasing the minimum wage would directly affect the federal budget by raising the pay of a small group of federal employees who are paid an hourly wage. This estimate accounts only for those direct effects on the budget.

H.R. 582 also would indirectly affect the budget by boosting the prices of some goods and services that the government purchases. Tax receipts and federal spending for health and income security programs also would be indirectly affected as income increases for some people and falls for others. Without further analysis, CBO cannot estimate whether the net result of those indirect effects over the coming decade would be to increase or decrease budget deficits.

Direct spending (off-budget): Currently, all Postal Service employees earn more than \$8.55 per hour. Using information from the Postal Service, CBO estimates that under H.R. 582, about 100 employees would receive pay increases to minimum hourly rates starting in 2023. CBO estimates that raising wages for the affected workers in step with the provisions of H.R. 582 would increase direct spending by less than \$150,000 per year over the 2023–2029 period, with a cumulative cost of about \$700,000 over the 2020–2029 period. Changes in the cost of operating the Postal Service are

reflected in the unified budget as changes in direct spending. The Postal Service operations are designated as off-budget.

Spending Subject to Appropriation: Implementing H.R. 582 would increase spending subject to appropriation by \$76 million over the next 10 years, CBO estimates. Using information from the Office of Personnel Management, CBO estimates that fewer than 100 workers initially would see a pay increase. As the minimum wage increased over time, however, more workers' pay would rise, and by the end of 2029, nearly 7,000 workers' wages would increase. For most affected employees, the pay raise would be less than 50 cents per hour, but for others the raise could be as much as \$10 per hour.

Uncertainty: The uncertainty in this estimate depends in part on CBO's projections of various measures of wage growth. CBO uses the employment cost index to project wage growth for federal employees because current law explicitly links federal employee pay to that index. After reaching \$15 per hour in 2025, however, increases in the minimum wage would depend on growth in median wages. Thus, if growth in one of those two measures diverged significantly from the other, outlays could be greater or smaller than CBO estimated.

Over the past 10 years, policymakers have in some cases constrained increases in federal pay that would have otherwise occurred because of changes in the employment cost index. If that trend continued, increases in the minimum wage would probably outpace federal wage increases, and a larger group of federal employees would see faster increases in their wages.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Only on-budget changes to outlays or revenues are subject to pay-as-you-go procedures. Spending for the Postal Service is classified as off-budget, therefore H.R. 582 is not subject to pay-as-you-go procedures.

Increase in long-term deficits: CBO estimates that enacting H.R. 582 would not increase on-budget deficits in any of the four consecutive 10-year periods beginning in 2030.

Mandates: H.R. 582 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) by requiring employers whose workers are covered under the FLSA to pay a higher minimum wage.

CBO estimates that the aggregate additional amount paid to those workers to meet the new minimum wage requirements would significantly exceed the thresholds established in UMRA for private-sector and intergovernmental entities in each year beginning in 2020 and 2021, respectively. In 2019, the intergovernmental threshold under UMRA is \$82 million and the private-sector threshold is \$164 million; both are adjusted annually for inflation.

CBO estimates that by 2025—when the minimum wage under H.R. 582 reaches \$15 per hour—state, local, and tribal employers would be required to pay covered workers \$3 billion in additional wages annually; the additional annual cost to private-sector employers would be \$48 billion. Those amounts do not account for employers' possible responses to the higher wage requirements, which could include reducing hiring, among other responses. If employers respond by taking such actions, CBO expects the costs to be lower,

but still significantly higher than the thresholds established in UMRA.

CBO estimated the cost of the mandates using monthly data from the Census Bureau's Current Population Survey to estimate the distribution of workers' hourly wages under current law. In projecting future hourly wages, CBO accounted for prospective increases in some states' minimum wage rates, including those coming into effect under current and future state law.

CBO then identified the subset of workers covered under the FLSA whose hourly wages, in CBO's projections, would fall below the schedule of minimum wages set by H.R. 582. For this analysis, CBO excluded workers who are not covered by the FLSA—including those in most small businesses and in occupations that generally are exempt from the FLSA under current law—and workers whose wages would be more than \$15 per hour in 2025. For both of those types of workers, CBO expects that employers would incur additional costs to increase wages, but such costs would not directly result from the employers' compliance with the mandate.

Estimate prepared by: Federal costs: Meredith Decker, Mark Grabowicz, Daniel Ready; Mandates: Nabeel Alsalam, Andrew Laughlin.

Estimate reviewed by: Christi Hawley Anthony, Chief, Projections; Sheila Dacey, Chief, Income Security and Education; Susan Willie, Chief, Mandates; Kim Cawley, Chief, Natural and Physical Resources; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis; Theresa Gullo, Assistant Director for Budget Analysis.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 582. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 582, as reported, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

FAIR LABOR STANDARDS ACT OF 1938

* * * * *

DEFINITIONS

SEC. 3. As used in this Act—

(a) “Person” means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

(b) “Commerce” means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(c) “State” means any State of the United States or the District of Columbia or any Territory or possession of the United States.

(d) “Employer” includes any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

(e)(1) Except as provided in paragraphs (2), (3), and (4), the term “employee” means any individual employed by an employer.

(2) In the case of an individual employed by a public agency, such term means—

(A) any individual employed by the Government of the United States—

(i) as a civilian in the military departments (as defined in section 102 of title 5, United States Code),

(ii) in any executive agency (as defined in section 105 of such title),

(iii) in any unit of the judicial branch of the Government which has positions in the competitive service,

(iv) in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces,

(v) in the Library of Congress, or

(vi) the Government Printing Office;

(B) any individual employed by the United States Postal Service or the Postal Rate Commission; and

(C) any individual employed by a State, political subdivision of a State, or an interstate governmental agency, other than such an individual—

(i) who is not subject to the civil service laws of the State, political subdivision, or agency which employs him; and

(ii) who—

(I) holds a public elective office of that State, political subdivision, or agency,

(II) is selected by the holder of such an office to be a member of his personal staff,

(III) is appointed by such an officeholder to serve on a policymaking level,

(IV) is an immediate adviser to such an officeholder with respect to the constitutional or legal powers of his office, or

(V) is an employee in the legislative branch or legislative body of that State, political subdivision, or agency and is not employed by the legislative library of such State, political subdivision, or agency.

(3) For purposes of subsection (u), such term does not include any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family.

(4)(A) The term "employee" does not include any individual who volunteers to perform services for a public agency which is a State, a political subdivision of a State, or an interstate governmental agency, if—

(i) the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered; and

(ii) such services are not the same type of services which the individual is employed to perform for such public agency.

(B) An employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency may volunteer to perform services for any other State, political subdivision, or interstate governmental agency, including a State, political subdivision or agency with which the employing State, political subdivision, or agency has a mutual aid agreement.

(5) The term "employee" does not include individuals who volunteer their services solely for humanitarian purposes to private non-profit food banks and who receive from the food banks groceries.

(f) "Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

(g) "Employ" includes to suffer or permit to work.

(h) "Industry" means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.

(i) "Goods" means goods (including ships and marine equipment), wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof, but does not include goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof.

(j) "Producer" means produced, manufactured, mined, handled, or in any manner worked on in any State; and for the purposes of this Act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State.

(k) "Sale" or "sell" includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

(l) "Oppressive child labor" means a condition of employment under which (1) any employee under the age of sixteen years is employed by an employer (other than a parent or a person standing

in place of a parent employing his own child or a child in his custody under the age of sixteen years in an occupation other than manufacturing or mining or an occupation found by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being) in any occupation, or (2) any employee between the ages of sixteen and eighteen years is employed by an employer in any occupation which the Secretary of Labor shall find and by order declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being; but oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child labor age. The Secretary of Labor shall provide by regulation or by order that the employment of employees between the ages of fourteen and sixteen years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being.

(m)(1) "Wage" paid to any employee includes the reasonable cost, as determined by the Secretary of Labor, to the employer of furnishing such employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by such employer to his employees: *Provided*, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further*, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee.

(2)(A) In determining the wage an employer is required to pay a tipped employee, the amount paid such employee by the employee's employer shall be an amount equal to—

[(i) the cash wage paid such employee which for purposes of such determination shall be not less than the cash wage required to be paid such an employee on the date of the enactment of this paragraph; and]

(i) the cash wage paid such employee, which for purposes of such determination shall be not less than—

(I) for the 1-year period beginning on the effective date under section 7 of the Raise the Wage Act, \$3.60 an hour;

(II) for each succeeding 1-year period until the hourly wage under this clause equals the wage in effect under section 6(a)(1) for such period, an hourly wage equal to the amount determined under this clause for the preceding year, increased by the lesser of—

(aa) \$1.50; or

(bb) the amount necessary for the wage in effect under this clause to equal the wage in effect under section 6(a)(1) for such period, rounded up to the nearest multiple of \$0.05; and

(III) for each succeeding 1-year period after the increase made pursuant to subclause (II), the minimum wage in effect under section 6(a)(1); and

(ii) an additional amount on account of the tips received by such employee which amount is equal to the difference between the wage specified in clause (i) and the wage in effect under section 6(a)(1).

The additional amount on account of tips may not exceed the value of the tips actually received by an employee. The preceding 2 sentences shall not apply with respect to any tipped employee unless such employee has been informed by the employer of the provisions **[of this subsection, and all tips received by such employee have been retained by the employee]** of this subsection. Any employee shall have the right to retain any tips received by such employee, except that this subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips. An employer shall inform each employee of the right and exception provided under the preceding sentence.

[Subsections (a) and (b) of section 3 of H.R. 582 (as reported) provides for amendments to section 3(m)(2)(A) of the Fair Labor Standards Act of 1938, which are shown above. Subsection (c)(1) of section 3 of H.R. 582 (as reported) also provides for amendments to subparagraph (A) (as amended by subsections (a) and (b) of section 3). Paragraph (3) of section 3(c) of H.R. 582 (as reported) provides: "The amendments made by paragraphs (1) and (2) shall take effect on the date that is one day after the date on which the hourly wage under subclause (III) of section 3(m)(2)(A)(i) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)(2)(A)(i)), as amended by subsection (a), takes effect." The following version of subparagraph (A) reflects the amendments made to it by subsections (a), (b), and (c)(1) of section 3 of H.R. 582.]

(A) **[In determining the wage an employer is required to pay a tipped employee, the amount paid such employee by the employee's employer shall be an amount equal to—]**

[(i) the cash wage paid such employee, which for purposes of such determination shall be not less than—

[(I) for the 1-year period beginning on the effective date under section 7 of the Raise the Wage Act, \$3.60 an hour;

[(II) for each succeeding 1-year period until the hourly wage under this clause equals the wage in effect under section 6(a)(1) for such period, an hourly wage equal to the amount determined under this clause for the preceding year, increased by the lesser of—

[(aa) \$1.50; or

[(bb) the amount necessary for the wage in effect under this clause to equal the wage in effect under section 6(a)(1) for such period, rounded up to the nearest multiple of \$0.05; and

[(III) for each succeeding 1-year period after the increase made pursuant to subclause (II), the minimum wage in effect under section 6(a)(1); and

[(ii) an additional amount on account of the tips received by such employee which amount is equal to the difference between the wage specified in clause (i) and the wage in effect under section 6(a)(1).

The additional amount on account of tips may not exceed the value of the tips actually received by an employee. The preceding 2 sentences shall not apply with respect to any tipped employee unless such employee has been informed by the employer of the provisions of this subsection.] *The wage required to be paid to a tipped employee shall be the wage set forth in section 6(a)(1).* Any employee shall have the right to retain any tips received by such employee, except that this subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips. An employer shall inform each employee of the right and exception provided under the preceding sentence.

(B) An employer may not keep tips received by its employees for any purposes, including allowing managers or supervisors to keep any portion of employees' tips, regardless of whether or not the employer takes a tip credit.

(n) "Resale" shall not include the sale of goods to be used in residential or farm building construction, repair, or maintenance: *Provided*, That the sale is recognized as a bona fide retail sale in the industry.

(o) HOURS WORKED.—In determining for the purposes of sections 6 and 7 the hours for which an employee is employed, there shall be excluded any time spent in changing clothes or washing at the beginning or end of each workday which was excluded from measured working time during the week involved by the express terms of or by custom or practice under a bona fide collective-bargaining agreement applicable to the particular employee.

(p) "American vessel" includes any vessel which is documented or numbered under the laws of the United States.

(q) "Secretary" means the Secretary of Labor.

(r)(1) "Enterprise" means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor. Within the meaning of this subsection, a retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not necessarily limited to, an agreement, (A) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (B) that it will join with other such establishments in the same industry for the purpose of collective purchasing, or (C) that it will have the exclusive rights to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased

to it by a person who also leases premises to other retail or service establishments.

(2) For purposes of paragraph (1), the activities performed by any person or persons—

(A) in connection with the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, a preschool, elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is operated for profit or not for profit), or

(B) in connection with the operation of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), or

(C) in connection with the activities of a public agency. shall be deemed to be activities performed for a business purpose.

(s)(1) “Enterprise engaged in commerce or in the production of goods for commerce” means an enterprise that—

(A)(i) has employees engaged in commerce or in the production of goods for commerce, or that has employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person; and

(ii) is an enterprise whose annual gross volume of sales made or business done is not less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated);

(B) is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, a preschool, elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit); or

(C) is an activity of a public agency.

(2) Any establishment that has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise. The sales of such an establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection.

(t) “Tipped employee” means any employee engaged in an occupation in which he customarily and regularly receives more than \$30 a month in tips.

(u) “Man-day” means any day during which an employee performs any agricultural labor for not less than one hour.

(v) “Elementary school” means a day or residential school which provides elementary education, as determined under State law.

(w) “Secondary school” means a day or residential school which provides secondary education, as determined under State law.

(x) “Public agency” means the Government of the United States; the government of a State or political subdivision thereof; any agency of the United States (including the United States Postal Service and Postal Rate Commission), a State, or a political subdivision of a State; or any interstate governmental agency.

(y) “Employee in fire protection activities” means an employee, including a firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous materials worker, who—

(1) is trained in fire suppression, has the legal authority and responsibility to engage in fire suppression, and is employed by a fire department of a municipality, county, fire district, or State; and

(2) is engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.

* * * * *

MINIMUM WAGES

SEC. 6. (a) Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates:

[(1) except as otherwise provided in this section, not less than—

[(A) \$5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2007;

[(B) \$6.55 an hour, beginning 12 months after that 60th day; and

[(C) \$7.25 an hour, beginning 24 months after that 60th day;]

(1) *except as otherwise provided in this section, not less than—*

(A) *\$8.55 an hour, beginning on the effective date under section 7 of the Raise the Wage Act;*

(B) *\$9.85 an hour, beginning 1 year after such effective date;*

(C) *\$11.15 an hour, beginning 2 years after such effective date;*

(D) *\$12.45 an hour, beginning 3 years after such effective date;*

(E) *\$13.75 an hour, beginning 4 years after such effective date;*

(F) *\$15.00 an hour, beginning 5 years after such effective date; and*

(G) *beginning on the date that is 6 years after such effective date, and annually thereafter, the amount determined by the Secretary under subsection (h);*

(2) if such employee is a home worker in Puerto Rico or the Virgin Islands, not less than the minimum piece rate prescribed by regulation or order; or, if no such minimum piece rate is in effect, any piece rate adopted by such employer which shall yield, to the proportion or class of employees pre-

scribed by regulation or order, not less than the applicable minimum hourly wage rate. Such minimum piece rates or employer piece rates shall be commensurate with, and shall be paid in lieu of, the minimum hourly wage rate applicable under the provisions of this section. The Secretary of Labor, or his authorized representative, shall have power to make such regulations or orders as are necessary or appropriate to carry out any of the provisions of this paragraph, including the power without limiting the generality of the foregoing, to define any operation or occupation which is performed by such home work employees in Puerto Rico or the Virgin Islands; to establish minimum piece rates for any operation or occupation so defined; to prescribe the method and procedure for ascertaining and promulgating minimum piece rates; to prescribe standards for employer piece rates, including the proportion or class of employees who shall receive not less than the minimum hourly wage rate; to define the term "home worker"; and to prescribe the conditions under which employers, agents, contractors, and subcontractors shall cause goods to be produced by home workers;

(3) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement); or

(4) if such employee is employed in agriculture, not less than the minimum wage rate in effect under paragraph (1) after December 31, 1977.

(b) Every employer shall pay to each of his employees (other than an employee to whom subsection (a)(5) applies) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this section by the amendments made to this Act by the Fair Labor Standards Amendments of 1966, title IX of the Education Amendments of 1972, or the Fair Labor Standards Amendments of 1974, wages at the following rate: Effective after December 31, 1977, not less than the minimum wage rate in effect under subsection (a)(1).

(d)(1) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality or production; or (iv) a differential based on any other

factor other than sex: *Provided*, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.

(2) No labor organization, or its agents, representing employees of an employer having employees subject to any provisions of this section shall cause or attempt to cause such an employer to discriminate against an employee in violation of paragraph (1) of this subsection.

(3) For purposes of administration and enforcement, any amounts owing to any employees which have been withheld in violation of this subsection shall be deemed to be unpaid minimum wages or unpaid overtime-compensation under this Act.

(4) As used in this subsection, the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(e)(1) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof), every employer providing any contract services (other than linen supply services) under a contract with the United States or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965 (41 U.S.C. 351-357) or to whom subsection (a)(1) of this section is not applicable, wages at rates not less than the rates provided for in subsection (b) of this section.

(2) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof) and the provisions of the Service Contract Act of 1965, every employer in an establishment providing linen supply services to the United States under a contract with the United States or any subcontract thereunder shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (b), except that if more than 50 per centum of the gross annual dollar volume of sales made or business done by such establishment is derived from providing such linen supply services under any such contracts or subcontracts, such employer shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (a)(1) of this section.

(f) Any employee—

(1) who in any workweek is employed in domestic service in a household shall be paid wages at a rate not less than the wage rate in effect under section 6(b) unless such employee's compensation for such service would not because of section 209(a)(6) of the Social Security Act constitute wages for the purpose of title II of such Act, or

(2) who in any workweek—

(A) is employed in domestic service in one or more households, and

(B) is so employed for more than 8 hours in the aggregate,

shall be paid wages for such employment in such workweek at a rate not less than the wage rate in effect under section 6(b).

(g)(1) In lieu of the rate prescribed by subsection (a)(1), any employer may pay any employee of such employer, during the first 90 consecutive calendar days after such employee is initially employed by such employer, **【a wage which is not less than \$4.25 an hour.】**
a wage at a rate that is not less than—

(A) for the 1-year period beginning on the effective date under section 7 of the Raise the Wage Act, \$5.50 an hour;

(B) for each succeeding 1-year period until the hourly wage under this paragraph equals the wage in effect under section 6(a)(1) for such period, an hourly wage equal to the amount determined under this paragraph for the preceding year, increased by the lesser of—

(i) \$1.25; or

(ii) the amount necessary for the wage in effect under this paragraph to equal the wage in effect under section 6(a)(1) for such period, rounded up to the nearest multiple of \$0.05; and

(C) for each succeeding 1-year period after the increase made pursuant to subparagraph (B)(ii), the minimum wage in effect under section 6(a)(1).

(2) In lieu of the rate prescribed by subsection (a)(1), the Governor of Puerto Rico, subject to the approval of the Financial Oversight and Management Board established pursuant to section 101 of the Puerto Rico Oversight, Management, and Economic Stability Act, may designate a time period not to exceed four years during which employers in Puerto Rico may pay employees who are initially employed after the date of enactment of such Act a wage which is not less than the wage described in paragraph (1). Notwithstanding the time period designated, such wage shall not continue in effect after such Board terminates in accordance with section 209 of such Act.

(3) No employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in paragraph (1) or (2).

(4) Any employer who violates this subsection shall be considered to have violated section 15(a)(3) (29 U.S.C. 215(a)(3)).

(5) This subsection shall only apply to an employee who has not attained the age of 20 years, except in the case of the wage applicable in Puerto Rico, 25 years, until such time as the Board described in paragraph (2) terminates in accordance with section 209 of the Act described in such paragraph.

【Section 4(a) of H.R. 582 (as reported) provides for an amendment to section 6(g)(1) of the Fair Labor Standards Act of 1938, which is shown above. Subsection (b)(1) of section 4 of H.R. 582 (as reported) also provides for an amendment to repeal subsection (g) of section 6 (as amended by subsection (a) of such section 4). Paragraph (3) of section 4(b) of H.R. 582 (as reported) provides: “The repeal and amendment made by paragraphs (1) and (2), respectively, shall take effect on the date that is one day after the date on which the hourly wage under subparagraph (C) of section 6(g)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(g)(1)), as amended by subsection (a), takes effect.”. The following version of subsection (g) reflects the amendments made to it by subsections (a) and (b)(1) of section 4 of H.R. 582.】

[(g)(1) In lieu of the rate prescribed by subsection (a)(1), any employer may pay any employee of such employer, during the first 90 consecutive calendar days after such employee is initially employed by such employer, a wage at a rate that is not less than—

[(A) for the 1-year period beginning on the effective date under section 7 of the Raise the Wage Act, \$5.50 an hour;

[(B) for each succeeding 1-year period until the hourly wage under this paragraph equals the wage in effect under section 6(a)(1) for such period, an hourly wage equal to the amount determined under this paragraph for the preceding year, increased by the lesser of—

[(i) \$1.25; or

[(ii) the amount necessary for the wage in effect under this paragraph to equal the wage in effect under section 6(a)(1) for such period, rounded up to the nearest multiple of \$0.05; and

[(C) for each succeeding 1-year period after the increase made pursuant to subparagraph (B)(ii), the minimum wage in effect under section 6(a)(1).

[(2) In lieu of the rate prescribed by subsection (a)(1), the Governor of Puerto Rico, subject to the approval of the Financial Oversight and Management Board established pursuant to section 101 of the Puerto Rico Oversight, Management, and Economic Stability Act, may designate a time period not to exceed four years during which employers in Puerto Rico may pay employees who are initially employed after the date of enactment of such Act a wage which is not less than the wage described in paragraph (1). Notwithstanding the time period designated, such wage shall not continue in effect after such Board terminates in accordance with section 209 of such Act.

[(3) No employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in paragraph (1) or (2).

[(4) Any employer who violates this subsection shall be considered to have violated section 15(a)(3) (29 U.S.C. 215(a)(3)).

[(5) This subsection shall only apply to an employee who has not attained the age of 20 years, except in the case of the wage applicable in Puerto Rico, 25 years, until such time as the Board described in paragraph (2) terminates in accordance with section 209 of the Act described in such paragraph.]

(h)(1) Not later than each date that is 90 days before a new minimum wage determined under subsection (a)(1)(G) is to take effect, the Secretary shall determine the minimum wage to be in effect under this subsection for each period described in subsection (a)(1)(G). The wage determined under this subsection for a year shall be—

(A) not less than the amount in effect under subsection (a)(1) on the date of such determination;

(B) increased from such amount by the annual percentage increase, if any, in the median hourly wage of all employees as determined by the Bureau of Labor Statistics; and

(C) rounded up to the nearest multiple of \$0.05.

(2) In calculating the annual percentage increase in the median hourly wage of all employees for purposes of paragraph (1)(B), the

Secretary, through the Bureau of Labor Statistics, shall compile data on the hourly wages of all employees to determine such a median hourly wage and compare such median hourly wage for the most recent year for which data are available with the median hourly wage determined for the preceding year.

(i) Not later than 60 days prior to the effective date of any increase in the required wage determined under subsection (a)(1) or subparagraph (B) or (C) of subsection (g)(1), or in accordance with subclause (II) or (III) of section 3(m)(2)(A)(i) or section 14(c)(1)(A), the Secretary shall publish in the Federal Register and on the website of the Department of Labor a notice announcing each increase in such required wage.

【Section 5 of H.R. 582 (as reported) provides for an amendment to add a new subsection (i) at the end of section 6 of the Fair Labor Standards Act of 1938, which is shown above. Sections 3(c)(2), 4(b)(2), and 6(b)(1) of H.R. 582 (as reported) also provide for amendments to section 6(i). For the delayed effective dates to these amendments, see sections 3(c)(3), 4(b)(3), and 6(b)(2) of H.R. 582 (as reported). The following version of subsection (i) reflects all amendments by sections 3(c)(2), 4(b)(2), 5, and 6(b)(1) of H.R. 582.】

(i) Not later than 60 days prior to the effective date of any increase in the required wage determined under subsection (a)(1) [or subparagraph (B) or (C) of subsection (g)(1), or in accordance with subclause (II) or (III) of section 3(m)(2)(A)(i) or section 14(c)(1)(A),] the Secretary shall publish in the Federal Register and on the website of the Department of Labor a notice announcing each increase in such required wage.

* * * * *

LEARNERS, APPRENTICES, STUDENTS, AND HANDICAPPED WORKERS

SEC. 14. (a) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for the employment of learners, of apprentices, and messengers employed primarily in delivering letters and messages, under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe.

(b)(1)(A) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or order provide, in accordance with subparagraph (B), for the employment, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 or not less than \$1.60 an hour, whichever is the higher, of full-time students (regardless of age but in compliance with applicable child labor laws) in retail or service establishments.

(B) Except as provided in paragraph (4)(B), during any month in which full-time students are to be employed in any retail or service establishment under certificates issued under this subsection the proportion of student hours of employment to the total hours of employment of all employees in such establishment may not exceed—

(i) in the case of a retail or service establishment whose employees (other than employees engaged in commerce or in the

production of goods for commerce) were covered by this Act before the effective date of the Fair Labor Standards Amendments of 1974—

(I) the proportion of student hours of employment to the total hours of employment of all employees in such establishment for the corresponding month of the immediately preceding twelve-month period,

(II) the maximum proportion for any corresponding month of student hours of employment to the total hours of employment of all employees in such establishment applicable to the issuance of certificates under this section at any time before the effective date of the Fair Labor Standards Amendments of 1974 for the employment of students by such employer, or

(III) a proportion equal to one-tenth of the total hours of employment of all employees in such establishment, whichever is greater;

(ii) in the case of retail or service establishment whose employees (other than employees engaged in commerce or in the production of goods for commerce) are covered for the first time on or after the effective date of the Fair Labor Standards Amendments of 1974—

(I) the proportion of hours of employment of students in such establishment to the total hours of employment of all employees in such establishment for the corresponding month of the twelve-month period immediately prior to the effective date of such Amendments,

(II) the proportion of student hours of employment to the total hours of employment of all employees in such establishment for the corresponding month of immediately preceding twelve-month period, or

(III) a proportion equal to one-tenth of the total hours of employment of all employees in such establishment, whichever is greater; or

(iii) in the case of a retail or service establishment for which records of student hours worked are not available, the proportion of students hours of employment to the total hours of employment of all employees based on the practice during the immediately preceding twelve-month period in (I) similar establishments of the same employer in the same general metropolitan area in which such establishment is located, (II) similar establishments of the same or nearby communities if such establishment is not in a metropolitan area, or (III) other establishments of the same general character operating in the community or the nearest comparable community.

For purpose of clauses (i), (ii), and (iii) of this subparagraph, the term “student hours of employment” means hours during which students are employed in a retail or service establishment under certificates issued under this subsection.

(2) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or order provide for the employment, at a wage rate not less than 85 per centum of the wage rate in effect under section 6(a)(5) or not less than \$1.30 an hour, whichever is the higher, of full-time students (regardless of age but

in compliance with applicable child labor laws) in any occupation in agriculture.

(3) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or order provide for the employment by an institution of higher education, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 or not less than \$1.60 an hour, whichever is the higher, of full-time students (regardless of age but in compliance with applicable child labor laws) who are enrolled in such institution. The Secretary shall by regulation prescribe standards and requirements to insure that this paragraph will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this paragraph is applicable.

(4)(A) A special certificate issued under paragraph (1), (2), or (3) shall provide that the student or students for whom it is issued shall, except during vacation periods, be employed on a part-time basis and not in excess of twenty hours in any workweek.

(B) If the issuance of a special certificate under paragraph (1) or (2) for an employer will cause the number of students employed by such employer under special certificates issued under this subsection to exceed six, the Secretary may not issue such a special certificate for the employment of a student by such employer unless the Secretary finds employment of such student will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection. If the issuance of a special certificate under paragraph (1) or (2) for an employer will not cause the number of students employed by such employer under special certificates issued under this subsection to exceed six—

(i) the Secretary may issue a special certificate under paragraph (1) or (2) for the employment of a student by such employer if such employer certifies to the Secretary that the employment of such student will not reduce the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection, and

(ii) in the case of an employer which is a retail or service establishment, subparagraph (B) of paragraph (1) shall not apply with respect to the issuance of special certificates for such employer under such paragraph.

The requirement of this subparagraph shall not apply in the case of the issuance of special certificates under paragraph (3) for the employment of full-time students by institutions of higher education; except that if the Secretary determines that an institution of higher education is employing students under certificates issued under paragraph (3) but in violation of the requirements of that paragraph or of regulations issued thereunder, the requirements of this subparagraph shall apply with respect to the issuance of special certificates under paragraph (3) for the employment of students by such institution.

(C) No special certificate may be issued under this subsection unless the employer for whom the certificate is to be issued provides evidence satisfactory to the Secretary of the student status of the employees to be employed under such special certificate.

(D) To minimize paperwork for, and to encourage, small businesses to employ students under special certificates issued under paragraphs (1) and (2), the Secretary shall, by regulation or order, prescribe a simplified application form to be used by employers in applying for such a certificate for the employment of not more than six full-time students. Such an application shall require only—

- (i) a listing of the name, address, and business of the applicant employer,
- (ii) a listing of the date the applicant began business, and
- (iii) the certification that the employment of such full-time students will not reduce the full-time employment opportunities of persons other than persons employed under special certificates.

(c)(1) The Secretary, to the extent necessary to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment, under special certificates, of individuals (including individuals employed in agriculture) whose earning or productive capacity is impaired by age, physical or mental deficiency, or injury, at wages which are—

[(A) lower than the minimum wage applicable under section 6,]

(A) *at a rate that equals, or exceeds, for each year, the greater of—*

- (i)(I) *\$4.25 an hour, beginning 1 year after the date the wage rate specified in section 6(a)(1)(A) takes effect;*
- (II) *\$6.40 an hour, beginning 2 years after such date;*
- (III) *\$8.55 an hour, beginning 3 years after such date;*
- (IV) *\$10.70 an hour, beginning 4 years after such date;*
- (V) *\$12.85 an hour, beginning 5 years after such date;*

and

(VI) *the wage rate in effect under section 6(a)(1), on the date that is 6 years after the date the wage specified in section 6(a)(1)(A) takes effect; or*

(ii) *if applicable, the wage rate in effect on the day before the date of enactment of the Raise the Wage Act for the employment, under a special certificate issued under this paragraph, of the individual for whom the wage rate is being determined under this subparagraph,*

(B) *commensurate with those paid to nonhandicapped workers, employed in the vicinity in which the individuals under the certificates are employed, for essentially the same type, quality, and quantity of work, and*

(C) *related to the individual's productivity.*

(2) The Secretary shall not issue a certificate under paragraph (1) unless the employer provides written assurances to the Secretary that—

(A) *in the case of individuals paid on an hourly rate basis, wages paid in accordance with paragraph (1) will be reviewed by the employer at periodic intervals at least once every 6 months, and*

(B) *wages paid in accordance with paragraph (1) will be adjusted by the employer at periodic intervals, at least once each year, to reflect changes in the prevailing wage paid to experienced nonhandicapped individuals employed in the locality for essentially the same type of work.*

(3) Notwithstanding paragraph (1), no employer shall be permitted to reduce the hourly wage rate prescribed by certificate under this subsection in effect on June 1, 1986, of any handicapped individual for a period of two years from such date without prior authorization of the Secretary.

(4) Nothing in this subsection shall be construed to prohibit an employer from maintaining or establishing work activities centers to provide therapeutic activities for handicapped clients.

(5)(A) Notwithstanding any other provision of this subsection, any employee receiving a special minimum wage at a rate specified pursuant to this subsection or the parent or guardian of such an employee may petition the Secretary to obtain a review of such special minimum wage rate. An employee or the employee's parent or guardian may file such a petition for and in behalf of the employee or in behalf of the employee and other employees similarly situated. No employee may be a party to any such action unless the employee or the employee's parent or guardian gives consent in writing to become such a party and such consent is filed with the Secretary.

(B) Upon receipt of a petition filed in accordance with subparagraph (A), the Secretary within 10 days shall assign the petition to an administrative law judge appointed pursuant to section 3105 of title 5, United States Code. The administrative law judge shall conduct a hearing on the record in accordance with section 554 of title 5, United States Code, with respect to such petition within 30 days after assignment.

(C) In any such proceeding, the employer shall have the burden of demonstrating that the special minimum wage rate is justified as necessary in order to prevent curtailment of opportunities for employment.

(D) In determining whether any special minimum wage rate is justified pursuant to subparagraph (C), the administrative law judge shall consider—

- (i) the productivity of the employee or employees identified in the petition and the conditions under which such productivity was measured; and
- (ii) the productivity of other employees performing work of essentially the same type and quality for other employers in the same vicinity.

(E) The administrative law judge shall issue a decision within 30 days after the hearing provided for in subparagraph (B). Such action shall be deemed to be a final agency action unless within 30 days the Secretary grants a request to review the decision of the administrative law judge. Either the petitioner or the employer may request review by the Secretary within 15 days of the date of issuance of the decision by the administrative law judge.

(F) The Secretary, within 30 days after receiving a request for review, shall review the record and either adopt the decision of the administrative law judge or issue exceptions. The decision of the administrative law judge, together with any exceptions, shall be deemed to be a final agency action.

(G) A final agency action shall be subject to judicial review pursuant to chapter 7 of title 5, United States Code. An action seeking such review shall be brought within 30 days of a final agency action described in subparagraph (F).

(6) *PROHIBITION ON NEW SPECIAL CERTIFICATES.*—Notwithstanding paragraph (1), the Secretary shall not issue a special certificate under this subsection to an employer that was not issued a special certificate under this subsection before the date of enactment of the Raise the Wage Act.

(7) *SUNSET.*—Beginning on the day after the date on which the wage rate described in paragraph (1)(A)(i)(VI) takes effect, the authority to issue special certificates under paragraph (1) shall expire, and no special certificates issued under paragraph (1) shall have any legal effect.

(8) *TRANSITION ASSISTANCE.*—Upon request, the Secretary shall provide—

(A) *technical assistance and information to employers issued a special certificate under this subsection for the purposes of—*

(i) *transitioning the practices of such employers to comply with this subsection, as amended by the Raise the Wage Act; and*

(ii) *ensuring continuing employment opportunities for individuals with disabilities receiving a special minimum wage rate under this subsection; and*

(B) *information to individuals employed at a special minimum wage rate under this subsection, which may include referrals to Federal or State entities with expertise in competitive integrated employment.*

(d) The Secretary may by regulation or order provide that sections 6 and 7 shall not apply with respect to the employment by any elementary or secondary school of its students if such employment constitutes as determined under regulations prescribed by the Secretary, an integral part of the regular education program provided by such school and such employment is in accordance with applicable child labor laws.

* * * * *

MINORITY VIEWS

INTRODUCTION

In recent years, the far-left has begun to call for socialist policies like free college and universal health care and now Committee Democrats are jumping on board by considering H.R. 582, legislation to hike the federal minimum wage from \$7.25 to \$15 an hour. Instead of providing tangible benefits to working class Americans, a bill to increase the federal minimum wage by 107 percent would cause the most harm to the very people its supporters claim to benefit. Studies cited below, including from the Congressional Budget Office (CBO), show significant job losses resulting from such an increase. Lesser-skilled workers in entry-level jobs, Americans without a GED, and tipped employees would bear the brunt of job losses caused by the mandate. Committee Republicans know that instead of reducing poverty, a radical, one-size-fits-all minimum wage hike would redistribute poverty.

Such a radical minimum wage hike would not happen in a vacuum and would have a number of severely negative consequences. Mandating a \$15 federal minimum wage would harm students, as it would have a negative impact on youth employment as most workers paid the minimum wage are below the age of 25. These are individuals at the start of their careers or filling part-time or summer jobs, and raising the minimum wage to \$15 an hour puts these types of jobs at risk of being eliminated altogether.

More than doubling the current federal minimum wage would harm businesses, especially small and local businesses, and the economy. This kind of unprecedented, one-size-fits-all mandate would force many job creators to reduce workers' hours, let employees go, or close their doors for good. The development would also lead to accelerated workplace automation, something that many Democrats oppose.

Currently, wages are on the rise thanks to a booming economy, the Republican Tax Cuts and Jobs Act, and elimination of unnecessary regulations. With more than 7 million unfilled jobs nationwide, job creators know they must offer competitive wages and benefits to attract and retain workers. Congress should be cautious when considering a policy that would interfere with this positive momentum for workers. For these reasons, and as set forth more fully below, Committee Republicans are united in their opposition to H.R. 582.

NEGATIVE CONSEQUENCES OF H.R. 582

Committee Republicans are justifiably concerned about many severely negative consequences of the bill for workers, students, small businesses, and the economy, including the following:

H.R. 582 IMPOSES A RADICAL AND UNPRECEDENTED MINIMUM WAGE
HIKE

Imposing a 107 percent increase in the federal minimum wage to \$15 would be a historically radical and unprecedented mandate. The last increase in the federal minimum wage was 41 percent, but prior increases were “typically lower.”¹ In the federal minimum wage’s history, it has been an average of \$7.40 in today’s dollars, slightly above the current wage rate of \$7.25 per hour.² If the minimum wage had been indexed to inflation in 2010, it would have been \$8.35 in 2018, based on the Bureau of Labor Statistics’ consumer price index. According to CBO, the federal minimum wage reached its peak in 1968, when its value in 2013 dollars was \$8.41 if the conversion is done with the price index for personal consumption expenditures published by the U.S. Bureau of Economic Analysis, which is the index CBO favors.³

Dr. Douglas Holtz-Eakin, former director of CBO, described in his testimony the magnitude of the minimum wage hike proposed in H.R. 582:

The federal government has never implemented a minimum wage hike of this magnitude and only a few cities are beginning to implement \$15 per hour minimum wages. It cannot be understated, however, that a minimum wage increase this large (over 100 percent) poses a major disruption to the U.S. labor market. Unfortunately, the low-wage workers the policy is intended to help would be the very ones who would most suffer these consequences.⁴

Dr. Michael R. Strain, Director of Economic Policy Studies at the American Enterprise Institute, stated in his testimony that a 107 percent increase to the federal minimum wage would be an unprecedented change in policy:

A \$15 minimum wage is outside both the national and international evidence base. . . . A \$15 per hour federal minimum wage is a large and risky gamble, and is outside our evidence base, because it is such a high minimum wage relative to the existing distribution of wage rates. . . . [A] \$15 per hour federal minimum wage is not a modest policy change. It is a very large policy change. It will impact a very large share of the labor market. Such a large increase in the minimum wage would send labor market policy into uncharted waters, and would risk harming the very groups of workers and individuals the policy is designed to help.⁵

A survey of 197 U.S. economists conducted in February 2019 found that 84 percent believe a \$15 federal minimum wage would

¹ CBO, *The Effects of a Minimum-Wage Increase on Employment and Family Income* 23 n.8 (Feb. 2014).

² Empl. Policies Inst., *The Impact of a \$15 Minimum Wage* 2 (Jan. 2019), https://www.epionline.org/wp-content/uploads/2019/01/EPI_NationalMWDdocument.pdf.

³ CBO, *supra* note 1, at 4 n.6.

⁴ *Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Businesses, and Good for the Economy: Hearing Before the H. Comm. on Educ. and Labor*, 116th Cong. (2019) (statement of Douglas Holtz-Eakin, President, American Action Forum, at 4).

⁵ *Id.* (statement of Michael R. Strain, Ph.D., Director of Economic Policy Studies, American Enterprise Institute, at 4–5).

have negative effects on youth employment, and 77 percent believe it would have a negative impact on jobs available.⁶ Even President Obama’s former Chairman of Economic Advisers argued in October 2015 that raising the minimum wage to \$15 would “put us in uncharted waters, and risk undesirable and unintended consequences.”⁷

H.R. 582 WOULD CAUSE EXTENSIVE JOB LOSSES

Raising the federal minimum wage to \$15 would cause extensive and disruptive job losses and harm entry-level workers in many regions around the country. In a comprehensive report issued in July 2019, CBO estimates that up to 3.7 million jobs would be lost from a minimum wage increase to \$15, with a median impact of 1.3 million workers becoming jobless because of the wage hike.⁸ Even under the estimated median impact, 7 percent of workers directly affected by the minimum wage hike would lose their jobs.⁹ Significantly, of those losing their jobs, 60 percent would be female workers, 46 percent would be young workers, and 38 percent would have less than a high school diploma.¹⁰

CBO also estimates that a \$15 federal minimum wage would lift 1.3 million individuals out of poverty.¹¹ Therefore, H.R. 582 would cause at least one job to be lost for every person who moved out of poverty, and in the worst-case scenario estimated by CBO, as many as three jobs would be lost for every individual moving out of poverty. As such, H.R. 582 creates a very ill-advised and undesirable trade off.

In addition, CBO found that there would be a net reduction in family income of \$9 billion resulting from a \$15 minimum wage—in other words, the so-called raise mandated by H.R. 582 will reduce pay for many American families.¹² Overall, the recent CBO study demonstrates that the unprecedented, one-size-fits-all wage hike dictated in H.R. 582 would hurt workers and small businesses, and force many job creators to cope by reducing workers’ hours, eliminating workers’ jobs, increasing automation, or closing their doors for good.

Furthermore, Dr. Holtz-Eakin, using the methodology from CBO’s 2014 minimum wage report,¹³ estimated that increasing the federal minimum wage to \$15 by 2024 would result in a loss of 9.6 million jobs, nearly as much as the 10.2 million jobs added to the U.S. economy since the end of 2014.¹⁴ Dr. Strain’s testimony agreed regarding the negative effects on employment: “I expect that raising the federal minimum wage to \$15 per hour would significantly reduce employment among lower-skilled workers and less-experienced workers.”¹⁵

⁶Lloyd Corder, Corcom, Inc., Carnegie Mellon Univ., Survey of US Economists on a \$15 Federal Minimum Wage 4 (Mar. 2019), https://www.epionline.org/wp-content/uploads/2019/03/EPI_Feb2019_MinWageSurvey-FINAL.pdf.

⁷Alan B. Krueger, *The Minimum Wage: How Much Is Too Much?*, N.Y. TIMES, Oct. 9, 2015.

⁸CBO, *The Effects on Employment and Family Income of Increasing the Federal Minimum Wage* (July 2019).

⁹*Id.* at 12.

¹⁰*Id.* at 14.

¹¹*Id.* at 3.

¹²*Id.* at 2.

¹³See CBO, *supra* note 1.

¹⁴Holtz-Eakin, *supra* note 4, at 4.

¹⁵Strain, *supra* note 5, at 4.

H.R. 582 WOULD HARM ENTRY-LEVEL WORKERS AND STUDENTS

Minimum wage workers tend to be young. In 2017, while workers under 25 were only about one-fifth of all hourly paid workers, they were about half of those paid the minimum wage or less. While workers 21 and under were only 11.1 percent of all hourly workers, 36 percent were paid the minimum wage or less.¹⁶ However, entry-level workers do not continue earning the minimum wage for long. Approximately two-thirds of minimum wage workers who remain in the workforce receive a raise within one year.¹⁷ Dr. Strain noted in his testimony the importance of the first job for younger workers as they move up the economic ladder: “Young workers need to get their start in the labor market, using their first jobs to learn and gain valuable experience.”¹⁸

As mentioned above, a survey of 197 economists found that 84 percent believe raising the federal minimum wage to \$15 will harm youth employment. Dr. Holtz-Eakin’s testimony referred to a comprehensive review of 100 minimum wage studies, which found that two-thirds of the studies “indicate that increasing the minimum wage negatively effects employment, especially among low-skill workers.” Later research shows that minimum wage increases “harm low-income workers in a variety of other ways, such as job loss, slowdown in hiring, increasing prices, firms replacing low-skilled workers with more productive workers, and firms shutting down all together.” For example, Jeffrey Clemens and Michael Wither found in 2014 that the last time Congress increased the minimum wage, job losses among workers earning less than \$7.50 were “so severe that their earnings, on net, declined. . . . [E]mployment in this group fell by 8 percent, translating to about 1.7 million jobs.” Further, “net average monthly incomes for low-wage workers [fell] by \$100 during the first year after the minimum wage increase and by an additional \$50 in the following two years.”¹⁹

Seattle’s experience with a \$15 minimum wage has confirmed that it will hurt lower-wage workers, as Dr. Holtz-Eakin explained:

[I]ndependent research on Seattle’s \$15 per hour minimum wage demonstrates that the new law has been destructive for the city’s low-wage workers. University of Washington (UW) researchers—hired by the Seattle City Council to analyze the new law—found that the minimum wage increase caused 6.8 percent of low-wage workers to lose their jobs, meaning that 10,000 workers in Seattle have lost their jobs. . . . Evidence also indicates that in addition to costing 10,000 low-wage workers their jobs, Seattle’s \$15 per hour minimum wage caused work hours among low-wage workers to fall by so much that their monthly earnings declined. In particular, the 2017 UW study concluded that Seattle’s minimum wage increase boosted the average wage rate among low-wage workers by

¹⁶ U.S. Dep’t of Lab., Bureau of Lab. Stat., *Characteristics of Minimum Wage Workers*, 2017 (Mar. 2018).

¹⁷ Empl. Policies Inst., *supra* note 2, at 3.

¹⁸ Strain, *supra* note 5, at 7.

¹⁹ Holtz-Eakin, *supra* note 4, at 4, 7.

just 3.1 percent or \$0.44 per hour. Unfortunately, this modest wage increase was entirely offset by declines in work hours. The UW researchers find that Seattle's minimum wage law has caused low-wage work hours to decline by 9.4 percent. Consequently, even among the low-wage workers who are still employed and earn slightly higher wages, their average monthly earnings, on net, declined by \$125 per month because they lost so many work hours. When combining the lost work hours with the 10,000 lost jobs, the 2017 UW study concluded that Seattle's \$15 minimum wage law reduced total income paid to the city's low-wage workers by \$120 million per year.²⁰

In addition, a \$15 minimum wage can cause harm beyond job losses and reduced hours. A minimum wage increase can also reduce employer-provided benefits such as health insurance. A recent study found that state-level minimum wage increases decreased the likelihood of individuals reporting having employer-sponsored health insurance, with the largest effects among very low-paying occupations.²¹ Dr. Strain commented on additional negative consequences of a \$15 minimum wage:

A minimum wage increase of this magnitude is also imprudent because of the likelihood that such a large increase will create unintended consequences. . . . In my own research, my coauthors and I have found that minimum wage increases are associated with decreases in self-reported health outcomes among men, particularly among unemployed men.²²

H.R. 582 WOULD HURT TIPPED WORKERS

Under the *Fair Labor Standards Act* (FLSA), tipped workers must be paid at least the federal minimum wage. However, the FLSA permits a business owner to utilize a tip credit toward its minimum wage obligation.²³ If cash wages and tips do not meet the federal minimum wage, the business owner must make up the difference.

Most tipped employees do not support eliminating the tip credit. They report earning over \$14 per hour on average, with top earners receiving \$24 or more.²⁴ A survey of hundreds of restaurant employees found that 97 percent preferred the current system of a base wage and tips to a no-tip system.²⁵ Moreover, Harvard Business School economists found a 14 percent increase in restaurant closures with each one-dollar increase in the base wage for tipped employees in the San Francisco Bay area.²⁶ Dr. Holtz-Eakin discussed in his testimony how eliminating the tip credit, as some cities have done, could hurt employment:

²⁰ *Id.* at 6.

²¹ Jeffrey Clemens et al., *The Minimum Wage, Fringe Benefits, and Worker Welfare*, NAT'L BUREAU OF ECON. RESEARCH, Working Paper 24635 (May 2018).

²² Strain, *supra* note 5, at 5–6.

²³ 29 U.S.C. 203(m)(2); 29 C.F.R. 531.59. Tipped employees are those who customarily receive more than \$30 per month in tips. 29 U.S.C. 203(t).

²⁴ EMPL. POLICIES INST., *supra* note 2, at 3.

²⁵ *Id.*

²⁶ *Id.*

Likely worsening the effect on job growth, a number of these cities boosted the “tipped” minimum wage by eliminating the tip credit. While intended to boost pay for tipped workers, eliminating the tip credit does not make the most vulnerable better off. . . . For the lowest earning tipped workers, eliminating the tip credit makes little difference in their take-home pay. Thus, removing the tip credit only places another burden on restaurant businesses without improving the livelihoods of low-income workers. This likely leads businesses to further cut hours, jobs, or hiring.²⁷

Ms. Simone Barron, a tipped worker in the full-service restaurant industry in Seattle, testified about her experience with a \$15 minimum wage and no tip credit. She first noted in her testimony the benefits of being a tipped worker:

Control over my earnings is one of the biggest perks of working in the restaurant industry. The harder I work to show hospitality to my guests, the better my tip. That’s an average of 20 percent I make on each bill. The standard tipping model has a cost of living increase built into its structure,—too as the cost of goods goes up, so do menu prices and then so do tips. Contrary to the rhetoric of my industry’s critics, I’m not “forced” to rely on tips—I’ve been able to thrive on tips. Historically, in short four to six hour shifts, I can earn \$25 to \$50 an hour—enough to make a life for myself and my son.²⁸

However, in response to a \$15 minimum wage in Seattle and no tip credit in the state of Washington, Ms. Barron’s restaurant changed to a service-charge model with no tip line on the bill. As a result, Ms. Barron has seen a reduction in her take-home pay: “The few dollars an hour increase in my minimum wage doesn’t cover the loss of income because of not receiving tips.”²⁹ She has had to take a second job to replace the lost income, her finances have become precarious, and her quality of life has been diminished:

I used to work 4 shifts a week and made enough money to raise a son, pay my rent, go to school and be a part of a vibrant arts community. With the cost of living skyrocketing and the impact of the minimum wage increase on my income, I had to get a second job and work 6 days a week. I couldn’t sustain that pace. Now, I worry every month about paying my rent. This is a worry I have never had until the minimum wage increase impacted my job. I have had to give up my passion of acting, I no longer can take trips with my kid in the summers. My smaller income

²⁷ Holtz-Eakin, *supra* note 4, at 6.

²⁸ *Gradually Raising the Minimum Wage to \$15: Good for Workers, Good for Businesses, and Good for the Economy: Hearing Before the H. Comm. on Educ. and Labor*, 116th Cong. (2019) (statement of Simone Barron at 1).

²⁹ *Id.* at 2.

all goes to bills, all my time goes to picking up just one more shift.³⁰

Ms. Barron's story shows the real-world damage H.R. 582 will have on individuals across the nation.

H.R. 582 WOULD THREATEN SMALL BUSINESSES AND THE ECONOMY

According to a January 2019 study done by the National Federation of Independent Business (NFIB), enacting H.R. 582 would over a 10-year period reduce U.S. private sector employment by over 1.6 million jobs and result in a cumulative reduction in U.S. real output of over \$2 trillion. Small businesses would be particularly hurt. Businesses with fewer than 500 employees would see 57 percent of private sector job losses—over 900,000 lost jobs; businesses with fewer than 100 employees would see about 43 percent of all jobs lost—nearly 700,000 jobs.³¹

Dr. Holtz-Eakin noted in his testimony that research has shown minimum wage hikes result in “a slowdown in hiring, increasing prices, . . . and firms shutting down altogether.” As previously discussed, Dr. Holtz-Eakin estimates a \$15 federal minimum wage would result in a loss of 9.6 million jobs, which would nearly wipe out the 10.2 million jobs the U.S. economy has added since the end of 2014.³²

In a survey of small businesses, 47 percent said a two-year phased-in \$15 minimum wage would negatively impact their business. Of those reporting a negative impact, 85 percent anticipated they would have to increase the price of goods and services, passing on some of those price increases to consumers, and 74 percent said they would absorb wage increases through lower earnings. Fifty-eight percent anticipated using less expensive or part-time workers; 69 percent would not fill an open position; 63 percent would reduce employee hours; and 62 percent would reduce the number of employees working at their business.³³

A recent survey of 173 restaurants representing more than 4,000 restaurant locations ranging from fine dining to fast food found that 71 percent of operators responded to state and local minimum wage hikes by raising menu prices. In addition, 64 percent said they responded by reducing employee hours, and 43 percent said they eliminated jobs.³⁴

H.R. 582 IS NOT AN EFFECTIVE ANTI-POVERTY POLICY

The \$15 minimum wage will not alleviate poverty. In 2014, only 35 percent of individuals living in households with incomes under the federal poverty line were employed at any time during the previous year. Conversely, most people who would be affected by a \$15 minimum wage are not poor. The average family income for affected individuals would be \$56,982. Nearly half—48.4 percent of

³⁰*Id.*

³¹Michael J. Chow and Paul S. Bettencourt, NFIB Research Ctr., *Economic Effects of Enacting the Raise the Wage Act on Small Businesses and the U.S. Economy* 10 (Jan. 25, 2019).

³²Holtz-Eakin, *supra* note 4, at 4.

³³NFIB Nat'l Small Business Poll, Job Openings 1 (2017), http://411sbfacts.com/files/NFIB_SBP_JobOpenings2017B_final.pdf.

³⁴Amelia Lucas, *Higher minimum wage means restaurants raise prices and fewer employee hours, survey finds*, CNBC, Apr. 11, 2019. The survey was conducted by Harri, a workplace management software company that works with restaurants.

those who would be affected by a \$15 minimum wage—live in households with incomes over three times the federal poverty line.³⁵

Dr. Holtz-Eakin elaborated on why a \$15 minimum wage will not help those in poverty:

Evidence on the federal and local level indicates that raising the minimum wage is an ineffective way to assist low-income workers. Hourly wages do not effectively identify economic well-being, as minimum wage workers are from families across the income distribution. While some minimum wage workers are in poverty, the vast majority are not. For instance, 80 percent of those who make the federal minimum wage of \$7.25 per hour are not in poverty. Meanwhile, over one-third of minimum wage workers are young adults who still live with their parents. The incomes of those families average more than \$100,000. Thus, raising the federal minimum wage to \$15 per hour would result in significant job loss in order to provide minimal benefits to low-income workers. When examining the effect of raising the federal minimum wage to \$15 per hour, the AAF–Manhattan Institute study found that only 6.7 percent of the net change in wage earnings would go to workers in poverty, according to the middle estimate. Twice as much, 14.7 percent, would go to workers with family incomes over six-times the poverty threshold. Consequently, at best, a \$15 per hour minimum wage will only marginally help low-income workers.³⁶

The previous points represent only a few of the predictable and extremely negative consequences of enacting H.R. 582. As noted in Dr. Strain’s testimony, because a 107 percent increase in the federal minimum wage is far outside the national and international evidence base, the potential unintended consequences of passing this legislation constitute a “large and risky gamble.” It is irresponsible for Congressional Democrats to foist a radical and unprecedented economic experiment on workers, businesses, and the American economy, and as such, H.R. 582 should be rejected.

REPUBLICAN AMENDMENTS

H.R. 582 imposes a sudden and significant shift in labor costs that will be felt by students, workers, businesses, and the economy. During Committee consideration of H.R. 582, Republicans offered amendments in an attempt to protect Americans from the irresponsible policy espoused in this bill, to no avail.

First, Representative Ben Cline (R–VA) focused on a key priority of Committee Republicans—American job growth. With our current growing economy and 7 million unfilled jobs nationwide, wages are rising as job creators understand the need to offer competitive wages and benefits in order to retain and attract workers. But with studies showing that a 107 percent increase in the federal minimum wage will result in the loss of 1.6 million jobs or even much

³⁵ Empl. Policies Inst., *supra* note 2, at 2.

³⁶ Holtz-Eakin, *supra* note 4, at 6–7.

more, it would be egregiously irresponsible to enact this legislation without an “off ramp” to prevent the increase from phasing in if harmful economic conditions arise. With this understanding, Mr. Cline offered an amendment to ensure that the radical wage hikes mandated by H.R. 582 will not continue if jobs are being lost, an approach similar to provisions in state minimum wage laws, including those in high-minimum wage states such as California and New York. On a party line vote, this amendment was defeated, with all Committee Democrats opposed.

Small businesses employ almost half of American workers and account for two-thirds of net new jobs. In an effort to protect those that drive local economies and are most vulnerable to a radical increase in the federal minimum wage, Representative Dan Meuser (R-PA) offered an amendment to shield the smallest of businesses from the sudden and extreme spike in labor costs mandated in this bill. A study by the NFIB estimated that 57 percent of job losses caused by this bill will come from small businesses,³⁷ which make up 99.9 percent of all businesses in the United States.³⁸ Despite these truths and the sensible support of this amendment by Representative Haley Stevens (D-MI), the amendment was disapproved by a vote of 24–21.

Concerned with the bill’s negative impacts on students and young workers, Representative Rick Allen (R-GA) offered an amendment to protect youth employment by ensuring future wage hikes are halted if a significant number of young workers are unemployed. Almost half of workers paid at or below minimum wage are under the age of 25.³⁹ A radical \$15 minimum wage rate would create an insurmountable barrier to entry for young workers who generally possess fewer skills and less experience, and who rely on entry-level jobs to build critical competencies of personal responsibility, teamwork, conflict resolution, discipline, and accountability. Committee Democrats continued to demonstrate a lack of confidence in their proffered policy’s ability to benefit American workers by unanimously opposing this amendment.

Because Committee Republicans believe all American workers deserve equal protection under the law, Representative Lloyd Smucker (R-PA) offered an amendment to prohibit any state or locality from adopting a minimum wage law that exempts employees covered by a collective bargaining agreement. In recent years, attempting to boost union organizing efforts, localities such as Los Angeles, San Francisco, San Jose, Oakland, Santa Monica, Long Beach, and the City of SeaTac, Washington, passed minimum wage laws which exempted workers covered by a collective bargaining agreement. The *Los Angeles Times* editorial board called this “hypocrisy at its worst.”⁴⁰ In a striking display of support for labor unions at the expense of a large majority of their constituents, Committee Democrats voted unanimously to defeat this amendment.

³⁷ Michael J. Chow and Paul S. Bettencourt, *supra* note 31.

³⁸ U.S. Small Bus. Admin., 2018 Small Business Profile, <https://www.sba.gov/sites/default/files/advocacy/2018-Small-Business-Profiles-US.pdf>.

³⁹ U.S. Dep’t of Labor, *supra* note 16.

⁴⁰ Editorial, *L.A. labor leaders’ hypocrisy on minimum wage hike*, L.A. Times, May 29, 2015.

Concerned about the lack of transparency and fairness displayed by the Committee Majority in the consideration of this legislation, the Committee's Republican Leader, Representative Virginia Foxx (R-NC), offered an amendment to strike the eleventh-hour provision in the chairman's Amendment in the Nature of a Substitute which delays the effective date of the legislation for workers in the Commonwealth of the Northern Mariana Islands.⁴¹ In defense of this last-minute exemption, Representative Gregorio Kilili Camacho Sablan (D-MP) explained that lower average wages in the Northern Mariana Islands require a different approach to the minimum wage—an argument that also applies to many regions of the United States which are not afforded such consideration under this legislation. In support of this eleventh-hour special exemption, Committee Democrats voted unanimously to defeat this amendment.

In recognition that H.R. 582's sudden and extreme hikes in labor costs would cause workforce automation to surge forward at a faster rate, Representative Ron Wright (R-TX) offered an amendment to stall the bill's damaging effects if the Government Accountability Office (GAO) finds the bill will cause more than 500,000 jobs to be lost due to automation. Committee Democrats, aside from Ms. Stevens, opposed the amendment, choosing to stand behind an ideological priority even if real American jobs are shown to be in peril.

Finally, Representative Phil Roe (R-TN) offered an amendment to protect workers in rural communities around the country. The Roe amendment instructs GAO to study the effect of this legislation on regions of the country with lower costs of living, such as rural areas, and prevents the legislation from going into effect if GAO finds it will result in the loss of 200,000 or more jobs in these areas. By unanimously voting against this straightforward amendment, Committee Democrats demonstrated a lack of concern for the regional implications of this radical legislation which threatens millions of American jobs around the country.

CONCLUSION

H.R. 582 would inflict a radical, unprecedented increase in the federal minimum wage. It would harm workers, businesses, and the economy while failing to provide benefits to the people the bill is purported to help. For these reasons, and those outlined above, Committee Republicans strongly oppose enactment of H.R. 582 as reported by the Committee on Education and Labor.

VIRGINIA FOXX,
Ranking Member.
 GLENN "GT" THOMPSON.
 BRETT GUTHRIE.
 GLENN GROTHMAN.
 RICK W. ALLEN.
 LLOYD SMUCKER.
 MARK WALKER.
 BEN CLINE.
 DAVID P. ROE, M.D.

⁴¹ Amendment in the Nature of a Substitute to H.R. 582 Offered by Mr. Scott of Virginia § 7(2).

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TIM WALBERG.
BRADLEY BYRNE.
RUSS FULCHER.

