

THE ADEQUACY OF NEW JERSEY'S MINIMUM WAGE

Submission to the New Jersey Minimum Wage Advisory Commission

From: New Jersey Policy Perspective
Brennan Center for Justice at NYU School of Law
New Jersey Institute for Social Justice

MAY 2007

Prior to adoption of the measure increasing it to \$6.15 an hour in 2005 and \$7.15 an hour last year, New Jersey's minimum wage had been raised by only 10 cents an hour over 13 years. The long delay left minimum wage workers with a lot of ground to make up—too much, in fact for the most recent increases to have kept pace with the rising cost of living. The following analysis shows that the minimum wage has not kept up with the cost of living in one of the nation's most expensive states, and offers recommendations for how to remedy the situation.

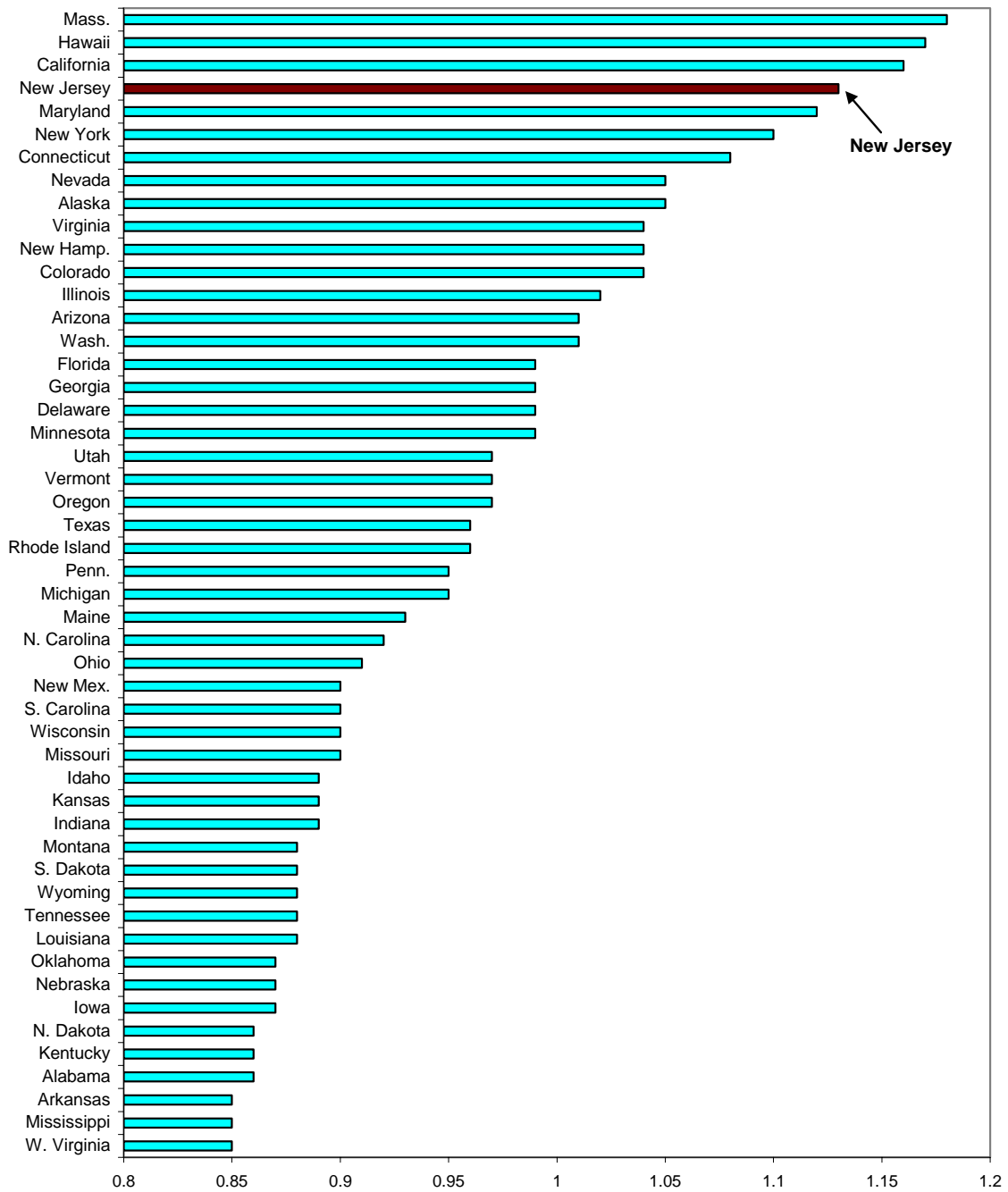
Cost of Living

The overall cost of living in New Jersey is the fourth highest in the country. According to recent information from the Political Economy Research Institute, New Jersey's cost-of-living is among the highest in the country, lagging only Massachusetts, California and Hawaii. This cost-of-living ranking is based on data from the Bureau of Labor Statistics and ACCRA, a nonprofit organization that compiles data on the cost of groceries, health care, housing, transportation, utilities and other necessities.

Especially dramatic is the impact of housing costs. According to the National Low Income Housing Coalition, only three states have costs higher than New Jersey's monthly average fair market rent of \$1,103 for a two-bedroom apartment.

Though only three states (Massachusetts, Hawaii and California) have a higher cost of living than New Jersey, eight states plus the District of Columbia today have a higher minimum wage. Four of these eight states are our neighbors (Connecticut, Massachusetts, Rhode Island and Vermont). And by 2010, based on previously enacted legislation and inflation projections for states that have automatic adjustments, the lowest income workers in 16 states will be assured a higher wage than those in New Jersey.

Cost of Living Index



Source: Political Economy Research Institute Work Environment Index based on ACCRA and BLS data

A useful breakdown of living costs both by category and by region within the state is provided by the Economic Policy Institute’s “basic family budget” calculation. It offers a realistic measure of the income required to make ends meet.

MONTHLY LIVING COSTS

AREA	HOUSING	FOOD	CHILD CARE	TRANSPOR-TATION	HEALTH	OTHER	TAXES	TOTAL
Middlesex-Somerset-Hunterdon	\$1,257	\$626	\$820	\$382	\$648	\$518	\$511	\$4,762
Jersey City	\$1,154	\$626	\$820	\$413	\$648	\$486	\$473	\$4,620
Bergen-Passaic	\$1,163	\$626	\$820	\$382	\$648	\$495	\$477	\$4,612
Monmouth-Ocean	\$1,170	\$626	\$820	\$382	\$648	\$518	\$444	\$4,564
Newark	\$1,063	\$626	\$820	\$382	\$648	\$463	\$428	\$4,431
Trenton	\$1,084	\$626	\$820	\$346	\$648	\$450	\$397	\$4,372
Philadelphia (NJ portion)	\$923	\$626	\$820	\$343	\$648	\$432	\$369	\$4,162
Atlantic-Cape May	\$964	\$626	\$820	\$346	\$648	\$413	\$339	\$4,157
Vineland-Millville-Bridgeton	\$889	\$626	\$820	\$400	\$648	\$403	\$344	\$4,131

SOURCE: Economic Policy Institute, 2006/07 Family Budgets, for 2 adults and 2 children

The trend in recent years shows consistent increases in the cost of major items that make up a family budget. The two tables below provide breakdowns of those increased costs.

ANNUAL COST OF LIVING INCREASES

New York-Northern New Jersey-Long Island, NY-NJ-CT-PA

YEAR	FOOD	HOUSING	FUEL & UTILITIES	MEDICAL	TRANS.	GASOLINE
2003	2.1%	4.1%	11.8%	2.9%	4.1%	17.7%
2004	4.2	4.2	5.3	3.2	3.4	17.1
2005	2.8	4.5	14.8	3.0	5.3	20.6
2006	3.1	5.1	7.6	4.0	3.8	13.6

Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD

YEAR	FOOD	HOUSING	FUEL & UTILITIES	MEDICAL	TRANS.	GASOLINE
2003	2.2%	1.9 %	6.1%	4.7%	2.5%	18.9%
2004	3.1	4.4	6.0	4.1	17.2	17.1
2005	2.8	4.0	6.9	5.4	7.1	23.0
2006	1.8	5.8	13.2	4.2	2.8	15.7

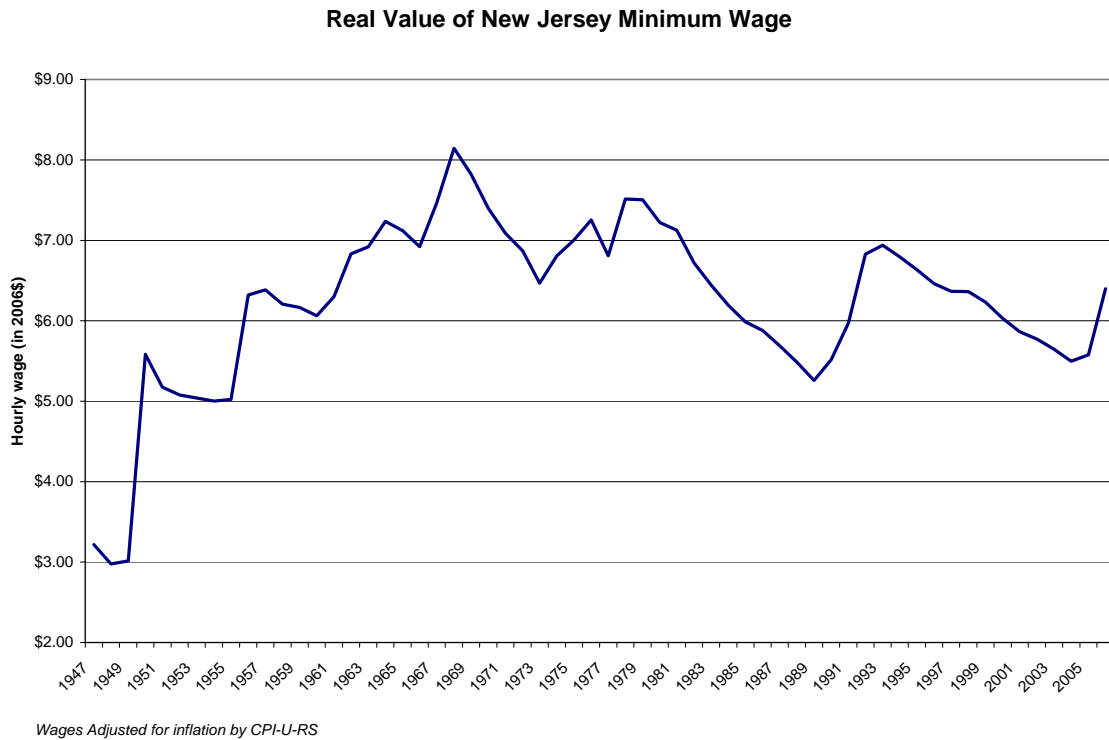
SOURCE: Bureau of Labor Statistics

Costs for childcare and nursery school are available only in nationwide data, but given overall costs in New Jersey it is reasonable to assume the trends are similar. In the US, these costs rose by 4.5% in 2003; 3.8% in 2004; 4.4% in 2005; and 5.4% in 2006.

The Minimum Wage

Securing the Wage Floor, a briefing paper released in October 2006 by the Economic Policy Institute, clearly explained why the minimum wage is more than just a number: “A minimum wage that doesn’t buy as much as it used to is a minimum wage that is placing a lower value on work and doing less for minimum wage workers.”

The purchasing power of New Jersey’s minimum wage peaked in 1968. **If New Jersey’s minimum wage had kept up with inflation since 1968, today it would be more than \$9 an hour.** The chart below adjusts wages for inflation and shows the overall decline in the real value of New Jersey’s minimum wage.



Changes in Value Relative to Other Measures

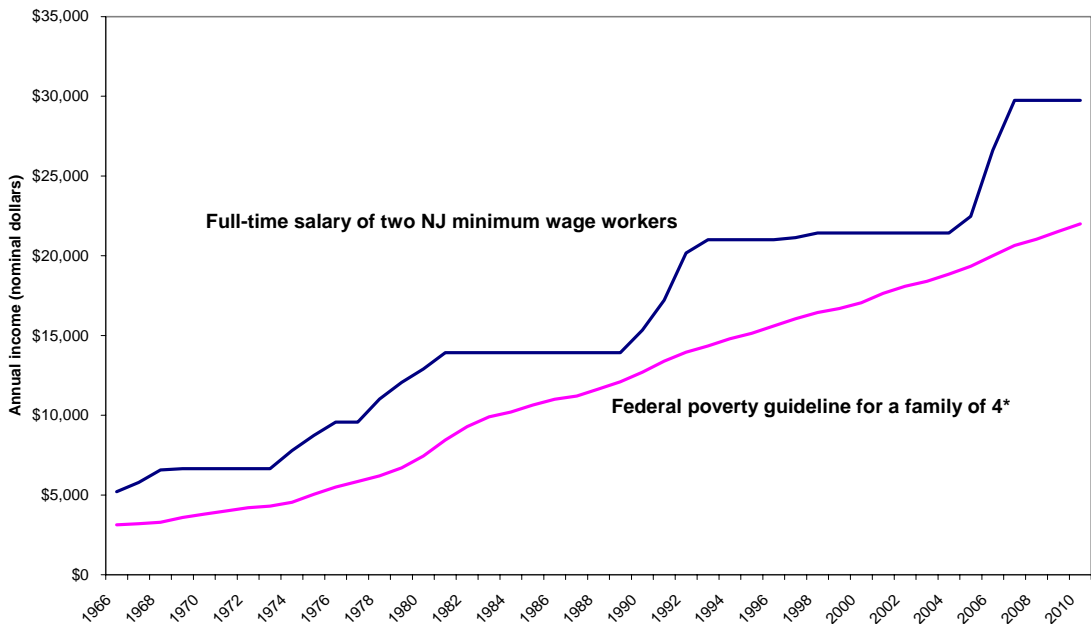
The current value of the New Jersey minimum wage can also be assessed by comparing it to other measures that focus on how much money is needed in order to live and support a family in New Jersey.

Though they are commonly used, the federal poverty guidelines are widely recognized as inadequate for measuring the self-sufficiency of households. The guide used by the federal government takes the cost of food staples and multiplies by three, then increases that amount yearly to reflect inflation. This made some sense in 1963, when it was instituted. Then, food accounted for 23% of a family budget and housing was 29%. But today, food costs are under 20% of a family budget and housing is greater than 40%. Also, the cost of some items not in the guidelines—health coverage, for example—tends to rise faster than items in the guidelines. Nor does the federal government take into account geographic variations in the cost of living; the federal poverty threshold in New Jersey is the same as in Mississippi.

The current federal poverty guideline for a two-adult, two-child family is \$20,650. The yearly income for a full-time worker in New Jersey at minimum wage is \$14,872. If both adults in this family work full-time at minimum wage their family's income over a year will exceed the federal poverty guideline by \$9,094. The table below shows that, while New Jersey's current minimum wage would put a two-full-time-worker family of four above the federal poverty threshold, it still considerably lags more realistic measures of family self-sufficiency.

Family of 4 with 2 Working Adults

Minimum Wage and Poverty

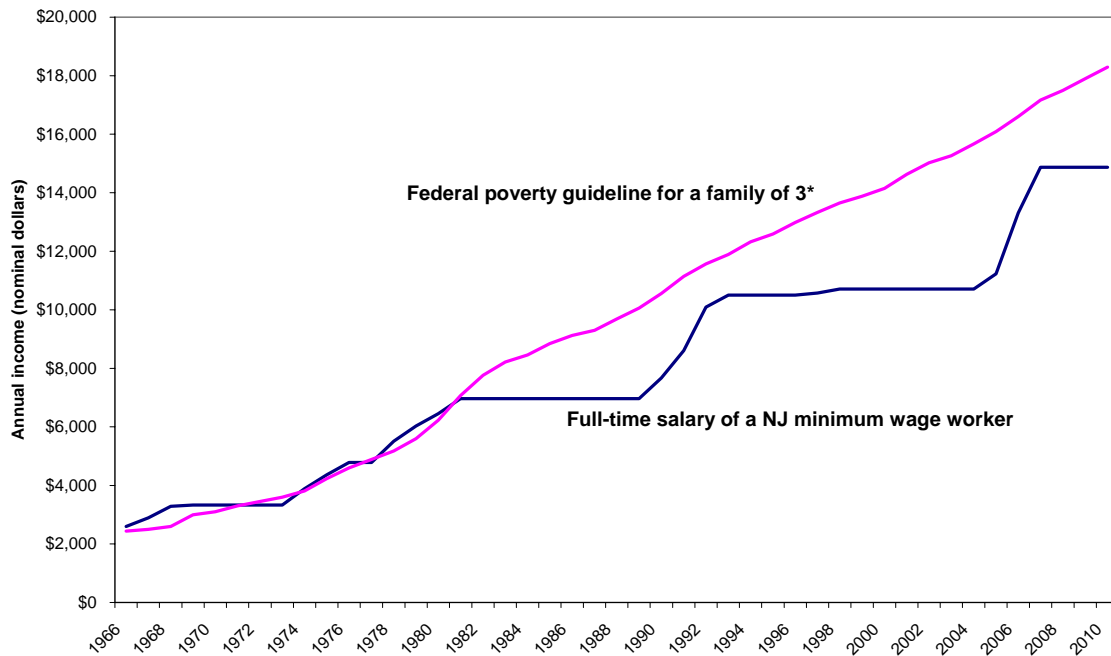


Source: HHS Poverty Guidelines
 * Adjusted by CBO inflation projections in 2008-2010

But a family of three with one adult working for minimum wage in New Jersey has found itself below the federal poverty line since the early 1980s and would continue to be there even with the most recent minimum wage increase. As the chart below shows, the 2005-2006 minimum wage hikes bring a one-adult, two-child family closer to reaching the poverty line but in the years to come the family would fall farther and farther below the line if the minimum wage fails to keep pace with rising costs.

Family of 3 with One Working Adult

Minimum Wage Increasingly Lags Poverty Line



Source: HHS Poverty Guidelines
 * Adjusted by CBO inflation projections in 2008-2010

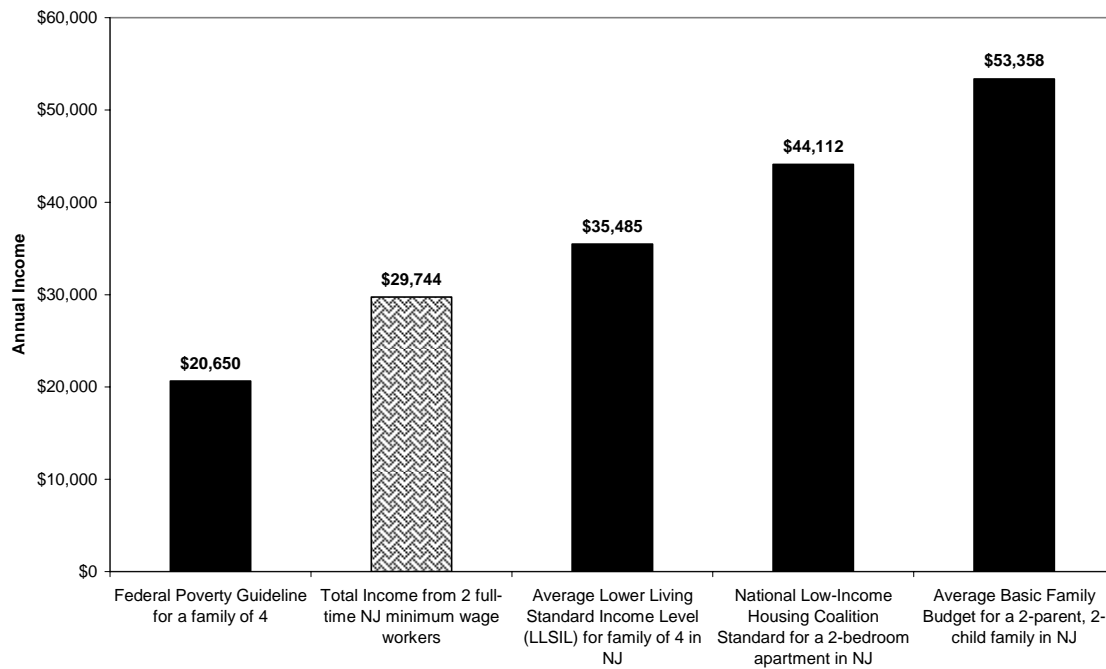
The federal government also produces a Lower Living Standard Income Level (LLSIL), which was authorized under the 1998 Workforce Investment Act. It is used to determine eligibility for various government programs open to those who are above the poverty guideline but still at an income level where assistance is needed. The LLSIL standard for a family of four in New York/ Northern New Jersey is \$36,900 and for Philadelphia/ South Jersey it is \$34,070. Both, then, are substantially higher than what fulltime work at minimum wage would provide a family of four with both adults working.

Another revealing way to assess the New Jersey minimum wage is against the cost of housing. The *Out of Reach* report issued by the National Low Income Housing Coalition found that in 2006, in order to afford fair market rent and utilities without paying more than 30% of its income on housing, a family would need \$44,112 a year. At the present state minimum wage, a two-bedroom apartment at the average fair market rent of \$1,103 a month in New Jersey would require 119 hours per week of work at minimum wage.

The Economic Policy Institute’s basic family budget calculations cited above for a two-parent, two-child household in nine geographic regions of New Jersey add up to a yearly need for between \$49,568 to \$57,148, depending on location—far greater than what can be earned from minimum wage work.

The table below illustrates how a minimum wage income for a family with two full-time compares to other measures of economic need.

2006 Measures of Cost of Living in New Jersey



Clearly, then, the question raised by the data is not whether the New Jersey minimum wage is adequate, but rather the degree to which it is inadequate.

What the Minimum Wage Should Be, and How it Should Get There

The federal minimum wage was enacted in 1938 after Congress found “labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers.” New Jersey’s first state minimum wage came in 1967. Over the past 40 years it has been raised 15 times, or an average of once every 2.7 years. It has often been recognized that in order to protect the lowest paid working people the minimum wage must be increased periodically. But, how often—and by how much?

These questions are most often resolved in the political arena. The impact of this is that while living costs are dynamic—changing constantly and, for the most part, rising—the economic security of minimum wage workers depends on sporadic efforts by government to help them keep pace. The longer the interval between minimum wage increases, the less the likelihood that the new wage will have kept up with price increases faced by workers. Nor is the process ideal for businesses, because it adds uncertainty to calculating labor costs and can lead to occasionally large increases that are harder for employers to absorb.

A minimum wage that does not go up is, in reality, a minimum wage that goes down. The marked decline in purchasing power of the minimum wage over time makes that clear.

There is a better way: make minimum wage increases a regular occurrence—based on economic realities and not political vagaries. Such automatic adjustments are known as indexing.

There are two ways of indexing the minimum wage: tying it either to the Consumer Price Index, or to average wages. Either way, these annual cost-of-living adjustments would help insure that future inflation does not erode the value of low-income workers' paychecks. Many government programs, such as Social Security, veterans' benefits, food stamps, the Earned Income Tax Credit and the federal income tax brackets are automatically adjusted each year to keep pace with the costs of good and services.

Ten states either index already or have enacted measures to begin indexing by January 1, 2008. Of the 10, six adopted indexing in 2006. The first state to index its minimum wage was Washington, in 1998.

STATE MINIMUM WAGE INDEXING

	STATE MIN. WAGE 7/1/07	PROJECTED WAGE			DATE INDEXING BEGAN IN STATE
		2008	2009	2010	
Arizona	\$6.75	\$6.90	\$7.05	\$7.20	January 1, 2008
Colorado	6.85	6.98	7.14	7.30	January 1, 2008
Florida	6.67	6.80	6.95	7.11	January 1, 2005
Missouri	6.50	6.62	6.78	6.92	January 1, 2008
Montana	6.15	6.25	6.40	6.55	January 1, 2008
Nevada	6.33	6.45 (7/1)	6.60 (7/1)	6.75 (7/1)	July 1, 2007
Ohio	6.85	7.00	7.15	7.30	January 1, 2008
Oregon	7.80	7.95	8.15	8.35	January 1, 2004
Vermont	7.53	7.67	7.85	8.02	January 1, 2007
Washington	7.93	8.08	8.27	8.45	January 1, 2001

SOURCE: State Departments of Labor

All 10 of the states that now index, or soon will, use the Consumer Price Index produced by the Federal Bureau of Labor Statistics. The CPI also is commonly used to index many federal and state benefit programs, tax-exemption levels and government pension benefits—as well as by the private sector.

The other indexing method—linking the minimum wage to average wages—will connect the pay of low-wage workers more closely both to what employers can afford and also to rising living standards in a growing economy. For one thing, if productivity gains in the economy translate into rising average wages, minimum wage workers will be assured of sharing in this growth. And, indexing the minimum wage to the CPI makes minimum wage workers the only group of workers whose wages depend on that measure.

States that have enacted indexed minimum wages did so over the objections of opponents who expressed concern that the wage would grow so high as to threaten economic growth, and others who argued it would lock in a minimum wage at too a low a level. An analysis by the Economic Policy Institute strongly suggests that neither fear is likely to be realized. Indexing doesn't result in excessive increases in the minimum wage; it simply

causes the minimum wage to rise at the same pace as other wages or prices in the economy.

While indexing the minimum wage has the potential to safeguard workers' economic well-being better than the current system in states that do not index, there is an important reason why New Jersey should not immediately index its minimum wage to the CPI: the wage as it now stands is too low. Increasing the state minimum wage at the pace of the cost of living without first raising the minimum wage to a meaningful level would leave minimum wage workers and their families perpetually behind.

There is a way to meet these concerns, based on the concept that minimum wages are often set with the wage levels of other workers in mind. This approach reflects the principle that minimum-wage workers should share in economic gains and should not fall too far behind other workers. During the 1950's and 1960's the minimum wage was at least half of the hourly earnings for non-supervisory and production workers in the non-farm private sector. If it were back to the historical level of half the average wage today, New Jersey's minimum wage would be \$8.50 an hour. Instead, the eroded \$7.15 minimum wage stands at just over 40% of the average wage.

A two-step approach to this problem makes sense:

1. Bring New Jersey's minimum wage to half of average wages. This year, that would mean a minimum wage of \$8.50 an hour. If the increase comes later or is phased in over more than one year, the minimum wage would be more than \$8.50.

2. Annually adjust the state minimum wage so that it is half the average wage, ensuring that the value of the minimum wage is not eroded as the cost of living increases.

Together, these two steps would stem the decline in purchasing power New Jersey minimum wage workers have endured in the past, and at the same time avoid the sudden increases that trouble employers.

Minimum wage workers perform essential tasks in New Jersey's economy, including caring for our children and seniors. These working men and women should be paid at a rate that allows them to be full participants in the economy of the state and the nation. Raising New Jersey's minimum wage to half of average wages and then indexing annually to average wages would bring many working people up to a level that could support their families, and would ensure that future inflation does not erode the value of low-wage workers' paychecks.

In addition to increasing and indexing New Jersey's basic minimum wage, a fix to the current statute is needed to ensure adequate compensation and protection for tipped employees.

Protections for Tipped Employees

New Jersey's minimum wage is one of the nation's weakest in protecting employees for whom tips are a major source of income, such as waiters and waitresses, delivery drivers, car wash and parking attendants and grocery baggers.

Under most states' minimum wage laws, employees who receive tips are allowed to be paid a somewhat lower base cash wage so long as they earn at least the full minimum wage once tips are included. In many states this base cash wage for tipped workers is set as a percentage of the full minimum wage. For example, New York's base cash wage for tipped workers is 64% of the minimum wage for restaurant servers, 78% for workers in most other industries and 85% for hotel maids.ⁱ Connecticut's base cash wage is 70.7% of the minimum wage.

New Jersey is one of only two states—the other is Virginia—with no base cash wage protection for tipped workers. This is because New Jersey defines “wages” as including all gratuities received without limitation.ⁱⁱ

This means an employer in New Jersey could pay tipped employees no cash wages at all and force them to work exclusively for tips. Federal law does not allow employers to go quite that far; under the federal minimum wage law, which applies to most New Jersey businesses, employers must pay tipped workers a base cash wage. But the federal base cash wage protection, just \$2.13 per hour, is very low—far below the standard in many other states. Unfortunately, the long overdue federal minimum wage increase pending in Congress does nothing to fix this significant hole in federal wage protections. This makes it more important than ever that New Jersey follow the lead of other states and establish strong wage protections for tipped workers.

The restaurant industry sometimes argues that most tipped workers earn high wages and so do not need the protection of a base cash wage. But federal wage data show that for the majority of such workers this is not true. New Jersey's 54,000 waiters and waitresses make up one of the largest categories of tipped employees in the state. Their median wage is just \$8 per hour even after tips are included. While this is slightly more than the minimum wage, it is not nearly enough for a working person to support him or herself in New Jersey, as the self-sufficiency data detailed earlier show.

BASE WAGE FOR TIPPED WORKERS

STATE	TIPPED WORKER MIN WAGE BASE	% OF FULL MINIMUM WAGE
Arizona (1)	\$3.75	56%
Alaska (2)	\$7.15	100%
Arkansas	\$2.62	42%
California (2)	\$7.50	100%
Colorado (1)	\$3.83	56%
Connecticut	\$5.41	71%
Delaware	\$2.23	34%
Florida (1)	\$3.65	55%
Hawaii	\$7.00	97%
Idaho	\$3.35	65%
Illinois	\$3.90	60%
Indiana	\$2.13	41%
Iowa	\$3.09	60%
Kansas	\$1.59	60%
Kentucky	\$2.13	41%
Maine	\$3.38	50%
Maryland	\$3.075	50%
Massachusetts	\$2.63	35%
Michigan	\$2.65	38%
Minnesota (2)	\$6.15	100%
Missouri	\$3.25	50%
Montana (2)	\$6.15	100%
Nebraska	\$2.13	41%
New Hampshire	\$2.93*	45%
New Jersey	None	0%
New York	\$4.60	64-85%
Nevada (2)	\$6.15	100%
North Carolina	\$3.13	51%
North Dakota	\$3.45	67%
Ohio	\$3.43	50%
Oklahoma	\$2.58	50%
Oregon (2)	\$7.80	100%
Pennsylvania	\$2.83	45%
Rhode Island	\$2.89	39%
South Dakota	\$2.13	41%
Texas	\$2.13	41%
Utah	\$2.13	41%
Vermont	\$3.65	48%
Virginia	None	0%
Washington (2)	\$7.93	100%
Wisconsin	\$2.33	36%

(1) These states set the tipped worker base cash wage at a specified amount (e.g., \$2.00) below the full minimum wage. This means that in the future, the base cash wage will increase as a percentage of the full minimum wage.

(2) These states require tipped employees to be paid the full state minimum wage.

*Effective Sept. 1, 2007.

SOURCE: U.S. Dept of Labor and Brennan Center for Justice.

To protect New Jersey’s tipped workers, we recommend the following:

1. Establish a base cash wage requirement for tipped employees and set it as a percentage of the full minimum wage rather than as a dollar figure, so it increases automatically when the regular minimum wage is increased. The level should be comparable to New York’s, 64% to 85% of the full minimum wage.

2. Establish procedural protections like those under federal law and the laws of other states to guard against abusive tipped worker arrangements. These include notice requirements to employees, prohibitions against tip skimming by employers and requirements for notice to customers where tips are in fact service charges that are kept by the employer.

It is possible that some or all of these changes could be implemented by the state Commissioner of Labor and Workforce Development by regulation under existing authority and would not require statutory changes.

We’re very grateful for technical assistance for this paper provided by the Economic Policy Institute.

ⁱ New York’s base cash wage requirements are currently established as fixed dollar amounts, not percentages of the full minimum wage. However, we provide the corresponding percentage to provide a basis for comparison to other states. The New York base cash wage requirements are also subject to other rules and limitations depending on the amount of tips received by the employee. *See* <http://www.dol.gov/esa/programs/whd/state/tipped.htm#NewYork>.

ⁱⁱ The New Jersey wage law’s definition is as follows:
(d) “Wages” means any moneys due an employee from an employer for services rendered or made available by the employee to the employer as a result of their employment relationship including commissions, bonus and piecework compensation and including any gratuities received by an employee for services rendered for an employer or a customer of an employer and the fair value of any food or lodgings supplied by an employer to an employee. . . .
N.J.S.A. 34:11-56a1(d) (emphasis added).