

# An Act

## LEGISLATIVE ACT 33-06

### AN ACT ESTABLISHING A MINIMUM WAGE FOR EMPLOYEES OF THE CHEROKEE NATION AND IT'S CORPORATIONS AND ENTITIES

BE IT ENACTED BY THE CHEROKEE NATION:

#### SECTION 1. TITLE AND CODIFICATION

This Act shall be referred as "The Cherokee Nation Minimum Wage Act of 2006" and shall be codified under Title 40 Sections 70 et seq of the Cherokee Nation Code Annotated.

#### SECTION 2. PURPOSE

The purpose of this Act is to establish a minimum hourly wage for employees of the Cherokee Nation and it-s corporation and entities.

#### SECTION 3. LEGISLATIVE HISTORY

~~A.~~Article VI, Section 7 of the 1999 Cherokee Nation Constitution states: The Council shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation, which shall not be contrary to the provisions of this Constitution.

#### SECTION 4. DEFINITIONS

A. Cherokee Nation: means all three (3) branches of the government of the Cherokee Nation as established by the 1999 Constitution, the seat of which is located at Tahlequah, Oklahoma, and includes all departments, commissions, agencies, and instrumentalities thereof.

~~B.~~

B. Employ: means to suffer or permit to work.

C. Employee: means any individual employed by an employer but shall not include:

(1) An individual employed on a farm in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement or maintenance of such farm and its tools and equipment;

(2) Any individual working as a volunteer;

(3) Any employee of any carrier subject to regulation by Part I of the Interstate Commerce Act;

(4) Any employee employed in a bona fide executive, administrative or professional capacity, or in the capacity of outside salesman;

(5) Any person who is less than eighteen (18) years of age and is not a high school graduate or a graduate of a vocational training program, and any person who is less than twenty-two (22) years of age and who is a student regularly enrolled in a high school, college, university or vocational training program;

(6) Any person who is working with the Cherokee Nation as part of a training program, summer youth program, as an temporary intern, or to receive educational credit; or

(7) Any individual working as a reserve Marshal.

D. Employer: means the Cherokee Nation and any Government-Owned Company.

D.E. Government-Owned Company: means any entity which is wholly owned by the Cherokee Nation regardless of location of the entity, or any corporation or entity in which the Cherokee Nation owns a controlling interest and which is located within the Cherokee Nation's jurisdiction.

F. Wage: means compensation due to an employee by reason of his employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges or allowances as may be permitted by law.

## **SECTION 5. SUBSTANTIVE PROVISIONS**

New Title 40 Section, 70 shall read as follows:

### Minimum Wage.

1. Every employer shall pay to each of its Employees wages at the following rate: not less than \$7.50 per hour beginning with the first full pay period after enactment. Further, there shall be a wage increase beginning at \$1.00 for the wage rate of \$6.50 with the \$1.00 wage increase being reduced by \$.01 for every \$.02 above the \$6.50 wage rate which shall also be effective with the first full pay period after enactment [see Exhibit A].
2. Every employer shall pay to each of its Employees wages at the following rate: not less than \$8.25 per hour beginning with the first full pay period after October 1, 2007. Further, there shall be a wage increase beginning at \$.75 for the wage rate of \$7.50 with the \$.75 wage increase being reduced by \$.01 for every \$.02 above the \$7.50 wage rate which shall also be effective with the first full pay period after October 1, 2007 [see Exhibit B].
3. Every employer shall pay to each of its Employees wages at the following rate: not less than \$9.00 per hour beginning with the first full pay period after October 1, 2008. Further, there shall be a wage increase beginning at \$.75 for the wage rate of \$8.25 with the \$.75 wage increase being reduced by \$.01 for every \$.02 above the \$8.25 wage rate which shall also be effective with the first full pay period after October 1, 2008 [See Exhibit C].
4. The minimum wage provided for in Subsection 1 of this Section shall ~~Said hourly rate is to~~ be considered a minimum rate of pay.
5. To compute the minimum wage provided for in Subsection 1 of this Section, credit toward the minimum wage must be given for any tips or gratuities, meals or lodging received by the employee up to but not exceeding fifty percent (50%) of said wage.
6. Any Employer which furnishes uniforms to its Employees may take credit against the minimum wage in an amount equal to the reasonable cost of furnishing the uniforms.
7. Nothing in this Act shall be construed to prohibit the payment of an hourly rate in excess of \$7.50 per hour.

New Title 40, Section 71 shall read as follows:

### Exemptions.

All Employees who are deemed "exempt" from the minimum wage under Section 213 of the United States Fair Labor Standards Act (codified at Chapter 8 of Title 29 of the United States Code Annotated) and the rules and regulations promulgated pursuant thereto shall be deemed exempt from this Act.

## **SECTION 6. PROVISIONS AS CUMULATIVE**

The provisions of this Act shall be cumulative to existing law. Provisions of Legislative Acts inconsistent with this Act are hereby repealed.


**SECTION 7. SEVERABILITY**

The provisions of this Act are severable, and if any part or provision hereof shall be held void, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this Act.


**SECTION 8. EMERGENCY DECLARED**

It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this Act shall take effect and be in full force upon its approval and signatures.


Enacted by the Council of Cherokee Nation on the 13<sup>th</sup> day of November, 2006.

  
Meredith Frailey, Speaker  
Council of the Cherokee Nation


**ATTEST:**

  
Don Garvin, Secretary  
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 20th day of NOVEMBER, 2006.

  
Chadwick Smith, Principal Chief  
Cherokee Nation

**ATTEST:**

  
Melanie Knight, Secretary of State  
Cherokee Nation

**YEAS AND NAYS AS RECORDED:**

Audra Smoke-Conner	<u>YEA</u>	Meredith A. Frailey	<u>YEA</u>
Bill John Baker	<u>YEA</u>	John F. Keener	<u>YEA</u>
Joe Crittenden	<u>YEA</u>	Cara Cowan Watts	<u>YEA</u>
Jackie Bob Martin	<u>YEA</u>	Buel Anglen	<u>YEA</u>
Phyllis Yargee	<u>YEA</u>	William G. Johnson	<u>YEA</u>
David W. Thornton, Sr.	<u>YEA</u>	Charles "Chuck" Hoskin	<u>YEA</u>
Don Garvin	<u>YEA</u>	Taylor Keen	<u>YEA</u>
Linda Hughes-O'Leary	<u>YEA</u>	Jack D. Baker	<u>YEA</u>
Melvina Shotpouch	<u>YEA</u>		

Exhibit A

**Exhibit A**

**Table for Implementing  
Wage Increase Beginning at \$1.00  
for Fiscal Year 2007**

<u>Current</u> <u>Rate</u>	<u>Increase</u>	<u>New Rate</u>
6.50	1.00	7.50
6.51	1.00	7.51
6.52	0.99	7.51
6.53	0.99	7.52
6.54	0.98	7.52
6.55	0.98	7.53
6.56	0.97	7.53
6.57	0.97	7.54
6.58	0.96	7.54
6.59	0.96	7.55
6.60	0.95	7.55
6.61	0.95	7.56
6.62	0.94	7.56
6.63	0.94	7.57
6.64	0.93	7.57
6.65	0.93	7.58
6.66	0.92	7.58
6.67	0.92	7.59
6.68	0.91	7.59
6.69	0.91	7.60
6.70	0.90	7.60
6.71	0.90	7.61
6.72	0.89	7.61
6.73	0.89	7.62
6.74	0.88	7.62
6.75	0.88	7.63
6.76	0.87	7.63
6.77	0.87	7.64
6.78	0.86	7.64
6.79	0.86	7.65
6.80	0.85	7.65
6.81	0.85	7.66
6.82	0.84	7.66
6.83	0.84	7.67
6.84	0.83	7.67
6.85	0.83	7.68
6.86	0.82	7.68
6.87	0.82	7.69
6.88	0.81	7.69
6.89	0.81	7.70
6.90	0.80	7.70
6.91	0.80	7.71
6.92	0.79	7.71
6.93	0.79	7.72
6.94	0.78	7.72

Exhibit A

<u>Current</u> <u>Rate</u>	<u>Increase</u>	<u>New Rate</u>
6.95	0.78	7.73
6.96	0.77	7.73
6.97	0.77	7.74
6.98	0.76	7.74
6.99	0.76	7.75
7.00	0.75	7.75
7.01	0.75	7.76
7.02	0.74	7.76
7.03	0.74	7.77
7.04	0.73	7.77
7.05	0.73	7.78
7.06	0.72	7.78
7.07	0.72	7.79
7.08	0.71	7.79
7.09	0.71	7.80
7.10	0.70	7.80
7.11	0.70	7.81
7.12	0.69	7.81
7.13	0.69	7.82
7.14	0.68	7.82
7.15	0.68	7.83
7.16	0.67	7.83
7.17	0.67	7.84
7.18	0.66	7.84
7.19	0.66	7.85
7.20	0.65	7.85
7.21	0.65	7.86
7.22	0.64	7.86
7.23	0.64	7.87
7.24	0.63	7.87
7.25	0.63	7.88
7.26	0.62	7.88
7.27	0.62	7.89
7.28	0.61	7.89
7.29	0.61	7.90
7.30	0.60	7.90
7.31	0.60	7.91
7.32	0.59	7.91
7.33	0.59	7.92
7.34	0.58	7.92
7.35	0.58	7.93
7.36	0.57	7.93
7.37	0.57	7.94
7.38	0.56	7.94
7.39	0.56	7.95
7.40	0.55	7.95
7.41	0.55	7.96
7.42	0.54	7.96
7.43	0.54	7.97
7.44	0.53	7.97
7.45	0.53	7.98

Exhibit A

<u>Current</u> <u>Rate</u>	<u>Increase</u>	<u>New Rate</u>
7.46	0.52	7.98
7.47	0.52	7.99
7.48	0.51	7.99
7.49	0.51	8.00
7.50	0.50	8.00
7.51	0.50	8.01
7.52	0.49	8.01
7.53	0.49	8.02
7.54	0.48	8.02
7.55	0.48	8.03
7.56	0.47	8.03
7.57	0.47	8.04
7.58	0.46	8.04
7.59	0.46	8.05
7.60	0.45	8.05
7.61	0.45	8.06
7.62	0.44	8.06
7.63	0.44	8.07
7.64	0.43	8.07
7.65	0.43	8.08
7.66	0.42	8.08
7.67	0.42	8.09
7.68	0.41	8.09
7.69	0.41	8.10
7.70	0.40	8.10
7.71	0.40	8.11
7.72	0.39	8.11
7.73	0.39	8.12
7.74	0.38	8.12
7.75	0.38	8.13
7.76	0.37	8.13
7.77	0.37	8.14
7.78	0.36	8.14
7.79	0.36	8.15
7.80	0.35	8.15
7.81	0.35	8.16
7.82	0.34	8.16
7.83	0.34	8.17
7.84	0.33	8.17
7.85	0.33	8.18
7.86	0.32	8.18
7.87	0.32	8.19
7.88	0.31	8.19
7.89	0.31	8.20
7.90	0.30	8.20
7.91	0.30	8.21
7.92	0.29	8.21
7.93	0.29	8.22
7.94	0.28	8.22
7.95	0.28	8.23
7.96	0.27	8.23

Exhibit A

<u>Current</u> <u>Rate</u>	<u>Increase</u>	<u>New Rate</u>
7.97	0.27	8.24
7.98	0.26	8.24
7.99	0.26	8.25
8.00	0.25	8.25
8.01	0.25	8.26
8.02	0.24	8.26
8.03	0.24	8.27
8.04	0.23	8.27
8.05	0.23	8.28
8.06	0.22	8.28
8.07	0.22	8.29
8.08	0.21	8.29
8.09	0.21	8.30
8.10	0.20	8.30
8.11	0.20	8.31
8.12	0.19	8.31
8.13	0.19	8.32
8.14	0.18	8.32
8.15	0.18	8.33
8.16	0.17	8.33
8.17	0.17	8.34
8.18	0.16	8.34
8.19	0.16	8.35
8.20	0.15	8.35
8.21	0.15	8.36
8.22	0.14	8.36
8.23	0.14	8.37
8.24	0.13	8.37
8.25	0.13	8.38
8.26	0.12	8.38
8.27	0.12	8.39
8.28	0.11	8.39
8.29	0.11	8.40
8.30	0.10	8.40
8.31	0.10	8.41
8.32	0.09	8.41
8.33	0.09	8.42
8.34	0.08	8.42
8.35	0.08	8.43
8.36	0.07	8.43
8.37	0.07	8.44
8.38	0.06	8.44
8.39	0.06	8.45
8.40	0.05	8.45
8.41	0.05	8.46
8.42	0.04	8.46
8.43	0.04	8.47
8.44	0.03	8.47
8.45	0.03	8.48
8.46	0.02	8.48
8.47	0.02	8.49

Exhibit A

<u>Current</u> <u>Rate</u>	<u>Increase</u>	<u>New Rate</u>
8.48	0.01	8.49
8.49	0.01	8.50
8.50	0.00	8.50



## Exhibit B

### Table for Implementing Wage Increase Beginning at \$0.75 for Fiscal Year 2008

<u>Current</u> <u>Rate</u>	<u>Increase</u>	<u>New Rate</u>
7.50	0.75	8.25
7.51	0.75	8.26
7.52	0.74	8.26
7.53	0.74	8.27
7.54	0.73	8.27
7.55	0.73	8.28
7.56	0.72	8.28
7.57	0.72	8.29
7.58	0.71	8.29
7.59	0.71	8.30
7.60	0.70	8.30
7.61	0.70	8.31
7.62	0.69	8.31
7.63	0.69	8.32
7.64	0.68	8.32
7.65	0.68	8.33
7.66	0.67	8.33
7.67	0.67	8.34
7.68	0.66	8.34
7.69	0.66	8.35
7.70	0.65	8.35
7.71	0.65	8.36
7.72	0.64	8.36
7.73	0.64	8.37
7.74	0.63	8.37
7.75	0.63	8.38
7.76	0.62	8.38
7.77	0.62	8.39
7.78	0.61	8.39
7.79	0.61	8.40
7.80	0.60	8.40
7.81	0.60	8.41
7.82	0.59	8.41
7.83	0.59	8.42
7.84	0.58	8.42
7.85	0.58	8.43
7.86	0.57	8.43
7.87	0.57	8.44
7.88	0.56	8.44
7.89	0.56	8.45
7.90	0.55	8.45
7.91	0.55	8.46
7.92	0.54	8.46
7.93	0.54	8.47
7.94	0.53	8.47
7.95	0.53	8.48
7.96	0.52	8.48
7.97	0.52	8.49
7.98	0.51	8.49

### Exhibit B

<u>Current</u> <u>Rate</u>	<u>Increase</u>	<u>New Rate</u>
7.99	0.51	8.50
8.00	0.50	8.50
8.01	0.50	8.51
8.02	0.49	8.51
8.03	0.49	8.52
8.04	0.48	8.52
8.05	0.48	8.53
8.06	0.47	8.53
8.07	0.47	8.54
8.08	0.46	8.54
8.09	0.46	8.55
8.10	0.45	8.55
8.11	0.45	8.56
8.12	0.44	8.56
8.13	0.44	8.57
8.14	0.43	8.57
8.15	0.43	8.58
8.16	0.42	8.58
8.17	0.42	8.59
8.18	0.41	8.59
8.19	0.41	8.60
8.20	0.40	8.60
8.21	0.40	8.61
8.22	0.39	8.61
8.23	0.39	8.62
8.24	0.38	8.62
8.25	0.38	8.63
8.26	0.37	8.63
8.27	0.37	8.64
8.28	0.36	8.64
8.29	0.36	8.65
8.30	0.35	8.65
8.31	0.35	8.66
8.32	0.34	8.66
8.33	0.34	8.67
8.34	0.33	8.67
8.35	0.33	8.68
8.36	0.32	8.68
8.37	0.32	8.69
8.38	0.31	8.69
8.39	0.31	8.70
8.40	0.30	8.70
8.41	0.30	8.71
8.42	0.29	8.71
8.43	0.29	8.72
8.44	0.28	8.72
8.45	0.28	8.73
8.46	0.27	8.73
8.47	0.27	8.74
8.48	0.26	8.74
8.49	0.26	8.75
8.50	0.25	8.75
8.51	0.25	8.76

## Exhibit B

<u>Current</u> <u>Rate</u>	<u>Increase</u>	<u>New Rate</u>
8.52	0.24	8.76
8.53	0.24	8.77
8.54	0.23	8.77
8.55	0.23	8.78
8.56	0.22	8.78
8.57	0.22	8.79
8.58	0.21	8.79
8.59	0.21	8.80
8.60	0.20	8.80
8.61	0.20	8.81
8.62	0.19	8.81
8.63	0.19	8.82
8.64	0.18	8.82
8.65	0.18	8.83
8.66	0.17	8.83
8.67	0.17	8.84
8.68	0.16	8.84
8.69	0.16	8.85
8.70	0.15	8.85
8.71	0.15	8.86
8.72	0.14	8.86
8.73	0.14	8.87
8.74	0.13	8.87
8.75	0.13	8.88
8.76	0.12	8.88
8.77	0.12	8.89
8.78	0.11	8.89
8.79	0.11	8.90
8.80	0.10	8.90
8.81	0.10	8.91
8.82	0.09	8.91
8.83	0.09	8.92
8.84	0.08	8.92
8.85	0.08	8.93
8.86	0.07	8.93
8.87	0.07	8.94
8.88	0.06	8.94
8.89	0.06	8.95
8.90	0.05	8.95
8.91	0.05	8.96
8.92	0.04	8.96
8.93	0.04	8.97
8.94	0.03	8.97
8.95	0.03	8.98
8.96	0.02	8.98
8.97	0.02	8.99
8.98	0.01	8.99
8.99	0.01	9.00
9.00	0.00	9.00

## Exhibit C

### Table for Implementing Wage Increase Beginning at \$0.75 for Fiscal Year 2009

<u>Current</u> <u>Rate</u>	<u>Increase</u>	<u>New Rate</u>
8.25	0.75	9.00
8.26	0.75	9.01
8.27	0.74	9.01
8.28	0.74	9.02
8.29	0.73	9.02
8.30	0.73	9.03
8.31	0.72	9.03
8.32	0.72	9.04
8.33	0.71	9.04
8.34	0.71	9.05
8.35	0.70	9.05
8.36	0.70	9.06
8.37	0.69	9.06
8.38	0.69	9.07
8.39	0.68	9.07
8.40	0.68	9.08
8.41	0.67	9.08
8.42	0.67	9.09
8.43	0.66	9.09
8.44	0.66	9.10
8.45	0.65	9.10
8.46	0.65	9.11
8.47	0.64	9.11
8.48	0.64	9.12
8.49	0.63	9.12
8.50	0.63	9.13
8.51	0.62	9.13
8.52	0.62	9.14
8.53	0.61	9.14
8.54	0.61	9.15
8.55	0.60	9.15
8.56	0.60	9.16
8.57	0.59	9.16
8.58	0.59	9.17
8.59	0.58	9.17
8.60	0.58	9.18
8.61	0.57	9.18
8.62	0.57	9.19
8.63	0.56	9.19
8.64	0.56	9.20
8.65	0.55	9.20
8.66	0.55	9.21
8.67	0.54	9.21
8.68	0.54	9.22
8.69	0.53	9.22
8.70	0.53	9.23
8.71	0.52	9.23
8.72	0.52	9.24
8.73	0.51	9.24

### Exhibit C

<u>Current</u> <u>Rate</u>	<u>Increase</u>	<u>New Rate</u>
8.74	0.51	9.25
8.75	0.50	9.25
8.76	0.50	9.26
8.77	0.49	9.26
8.78	0.49	9.27
8.79	0.48	9.27
8.80	0.48	9.28
8.81	0.47	9.28
8.82	0.47	9.29
8.83	0.46	9.29
8.84	0.46	9.30
8.85	0.45	9.30
8.86	0.45	9.31
8.87	0.44	9.31
8.88	0.44	9.32
8.89	0.43	9.32
8.90	0.43	9.33
8.91	0.42	9.33
8.92	0.42	9.34
8.93	0.41	9.34
8.94	0.41	9.35
8.95	0.40	9.35
8.96	0.40	9.36
8.97	0.39	9.36
8.98	0.39	9.37
8.99	0.38	9.37
9.00	0.38	9.38
9.01	0.37	9.38
9.02	0.37	9.39
9.03	0.36	9.39
9.04	0.36	9.40
9.05	0.35	9.40
9.06	0.35	9.41
9.07	0.34	9.41
9.08	0.34	9.42
9.09	0.33	9.42
9.10	0.33	9.43
9.11	0.32	9.43
9.12	0.32	9.44
9.13	0.31	9.44
9.14	0.31	9.45
9.15	0.30	9.45
9.16	0.30	9.46
9.17	0.29	9.46
9.18	0.29	9.47
9.19	0.28	9.47
9.20	0.28	9.48
9.21	0.27	9.48
9.22	0.27	9.49
9.23	0.26	9.49
9.24	0.26	9.50
9.25	0.25	9.50
9.26	0.25	9.51

### Exhibit C

<u>Current</u> <u>Rate</u>	<u>Increase</u>	<u>New Rate</u>
9.27	0.24	9.51
9.28	0.24	9.52
9.29	0.23	9.52
9.30	0.23	9.53
9.31	0.22	9.53
9.32	0.22	9.54
9.33	0.21	9.54
9.34	0.21	9.55
9.35	0.20	9.55
9.36	0.20	9.56
9.37	0.19	9.56
9.38	0.19	9.57
9.39	0.18	9.57
9.40	0.18	9.58
9.41	0.17	9.58
9.42	0.17	9.59
9.43	0.16	9.59
9.44	0.16	9.60
9.45	0.15	9.60
9.46	0.15	9.61
9.47	0.14	9.61
9.48	0.14	9.62
9.49	0.13	9.62
9.50	0.13	9.63
9.51	0.12	9.63
9.52	0.12	9.64
9.53	0.11	9.64
9.54	0.11	9.65
9.55	0.10	9.65
9.56	0.10	9.66
9.57	0.09	9.66
9.58	0.09	9.67
9.59	0.08	9.67
9.60	0.08	9.68
9.61	0.07	9.68
9.62	0.07	9.69
9.63	0.06	9.69
9.64	0.06	9.70
9.65	0.05	9.70
9.66	0.05	9.71
9.67	0.04	9.71
9.68	0.04	9.72
9.69	0.03	9.72
9.70	0.03	9.73
9.71	0.02	9.73
9.72	0.02	9.74
9.73	0.01	9.74
9.74	0.01	9.75
9.75	0.00	9.75