Approved: February 15, 2000
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on February 9, 2000 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Ann Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Secretary

Conferees appearing before the committee:
Bill Layes, Labor Market Information Services,
Department of Human Resources
A. J. Kotich, Chief Counsel, Department of Human Resources
Steve Rarrick, Deputy Attorney General

Others attending: See attached list

SB 265 - Increasing minimum wage to $5 an hour

The Chair announced distribution of the following:

Information requested by Senator Ranson from the Department of Human Resources listing exemptions from state minimum wages laws for minors and part-time employees, by state. (Attachment 1)

A letter from Ron Hein, Kansas Restaurant and Hospitality Association, containing information regarding minimum wage as it affects the restaurant, hospitality and lodging industry. (Attachment 2)

Options prepared by the Department of Human Resources at the request of the Chair concerning the minimum wage and treatment of tips and gratuities in the Kansas statutes. (Attachment 3)

The Committee discussed the various options. There was a strong feeling among members of the Committee that the market place should set wages; however, public perception should also be a consideration.

Senator Umbarger moved, seconded by Senator Steffes that SB 265 be amended on line 17 to strike the figure ~~$5~~ and insert in lieu thereof the figure "$5.15". The voice vote was in favor of the motion.

Senator Brownlee stated that she was voting "no" on the amendment and cited an article from Harvard University by Burton W. Folsom, Jr. (Attachment 4) and an article from *The Wall Street Journal*, (Attachment 5), which stated minimum wage legislation has made jobs disappear and harmed the most vulnerable workers, especially blacks, teenagers and women with limited skills. The 1996 hike in minimum wage to $5.15 an hour resulted in an increase in unemployment among black male teenagers from 37% to 41%.

Senator Gooch stated he did not know why a teenagers should be paid less than an adult when doing the same job.

Senator Jordan moved, seconded by Senator Ranson that SB 265 be further amended by striking line 19 as follows: "~~in an amount equal to not more than 40% of the minimum wage rate~~". The voice vote was in favor of the motion.

Senator Jordan explained that the base salary would be driven by the market. The restaurant employee would still report tips and gratuities. If there is a difference between the base salary plus tips and minimum wage, the employer would pay the difference. He also reminded the committee that national or multi-state restaurant chains are subject to federal minimum wage laws. A. J. Kotich, Chief Counsel, Department of Human Resources, stated the Federal law does not contain a percentage of tips allowed to off-set the base salary to comply with the minimum wage requirement, but the base wage is set at $2.13.

Senator Steffes moved that SB 520, a prohibition against local minimum wage laws, be amended into SB 265. Senator Donovan seconded the motion.

The motion was approved on a vote of: Yea - 6, No - 4. Senator Feleciano requested the record reflect that he voted no on this motion because he wanted to vote on the two bills separately.

Senator Brownlee moved, seconded by Senator Ranson that SB 520 be amended on line 14 by striking the words "~~jurisdiction-wide~~".

Bob Nugent, Revisor of Statutes explained the amendment proposed by Senator Brownlee would tighten the law and would prohibit the city or county from enacting any ordinance with respect to minimum wages, or entering into any contract with a business or contractor who is receiving tax abatements, revenue bonds or any other type of economic development incentives.

The motion was approved on a voice vote.

Senator Steffes moved, seconded by Senator Ranson, that a substitute for SB 265 be recommended favorably. The recorded vote was unanimous in favor of the motion.

SB 431- Addition of unwanted charges to telephone bills prohibited

Senator Barone asked Steve Rarrick, Deputy Attorney General, for information he had requested regarding the number of cramming complaints in Kansas.. Mr. Rarrick responded that of the 33 LECs in Kansas, twenty two responded that they had no cramming complaints against themselves, except that one company reported a few complaints that were quickly resolved. Southwestern Bell had no further information to provide.

Upon motion by Senator Donovan, seconded by Senator Jordan, the Minutes of the February 8, meeting were unanimously approved.

The meeting was adjourned at 9:00 a.m.

The next meeting is schedule for February 10, 2000.

SENATE COMMERCE COMMITTEE GUEST LIST

DATE: February 9, 2000

NAME	REPRESENTING
Jennifer Honas	Steve Montgomery
Teresa Salts	Attorney General's Office
Kristy Hiebert	" " "
Shelly Welch	"
Steve Rarrick	"
Mary Becker	Kansans Respond
Tawny Stottlemire	KS Asso of Community Action Progs (KACAP)
Dennis Carpenter	KS Rest & Hosp Assn
Ron Hein	KS ~~Rest~~ Rest & Hospitality Assoc
Bill Layes	KS Dept Human Res
Russ Vawter	" " "
[illegible]	" " " "
Glenn Griffeth	" " " "
Tom Gleason	Independent Telecom Group

STATE OF KANSAS

DEPARTMENT OF HUMAN RESOURCES

Bill Graves, Governor

Richard E. Beyer, Secretary

Anthony J. Kotich, Chief Counsel
LEGAL SERVICES
401 S.W. Topeka Boulevard, Topeka, Kansas 66603-3182
Phone: (785) 296-4902 or 296-5020
Fax: (785) 296-0196

WARNING - The following information is attorney work product reflecting the thought processes of counsel. This information is intended as privileged communication under the attorney / client privilege and is not intended as a legal opinion for dissemination, nor is it authorized to be communicated, published, or otherwise distributed to any person(s) other than those it is specifically directed to.

MEMORANDUM

Date: February 8, 2000

To: A. J. Kotich
Chief Counsel

From: Glenn Griffeth GG
Deputy Chief Counsel

Subject: Exemptions from State Minimum Wage

The following information is provided based upon the information available as to exemptions from state minimum wage laws for minors and part-time. Eventhough some statutes do not specifically limit certain exempt occupations to minors, I have included some occupations in which minors may be expected to be found. I have not listed agriculture/horticulture, but most states do have such an exemption;

Alaska: Workers under age 18 working less than 30 hours a week (USDOL as of Aug. 1996)

Colorado: May pay minors 15% below minimum wage.

Connecticut: Employees of camps and resorts open no more than 6 months of the year;
Babysitters;
Learners, beginners, and persons under the age of 18 may be paid not less than 85% of the minimum wage for the first 200 hours of employment, then an amount equal to the minimum wage.

Georgia: High school and college students;
Newspaper carriers.

Hawaii: Part time employees who are full time students at other than colleges, universities, business schools or technical schools;

Senate Commerce Committee
Date: 2-09-00

Idaho: Under 16 working part time or at odd jobs not exceeding

Attachment # 1-1 thru 1-5

with any 1 employer.

Indiana: Under 16;

Kansas: Part time (under 40 hours a week) under 19;
Students under 19, between terms regardless of hours worked per week.

Maine: Students under 19 who are counselors or junior counselors at certain qualifying summer camps.

Maryland: Under 16 employed no more than 20 hours per week. (USDOL as of Aug. 1996)

Michigan: Employees of summer camps for not more than 4 months.

New Hampshire: Employees of summer camps for minors;
Newsboys and golf caddies;
16 and under may be paid 75% of minimum wage;
Seasonal workers for certain recreational and amusement establishments.

New Mexico: Under 19 who are not high school graduates;
Under 20 if enrolled in high school, or college. (USDOL as of Aug. 1996)

Oklahoma: Under 18 who are not high school graduates;
Under 22 if enrolled in high school, or college. (USDOL as of Aug. 1996)

Rhode Island: Newspaper delivers on home delivery, shoe shiners, caddies, pin setters and ushers in theaters;
Employees of resort establishments between May 1 and October 1;
14 & 15 year olds working 24 hours or less in a week may be paid at 75 % of minimum wage.

Texas: Under 18 who are not high school graduates;
Under 20 if enrolled in high school, or college. (USDOL as of Aug. 1996)

Vermont: Persons making home deliveries of newspapers or advertising;
Students working all or any part of the school year or vacation periods.

Virginia: Newsboys, shoe-shine boys, caddies, babysitters, ushers, doormen, concession attendants and cashiers in theaters;
Employees of boys/girls summer camps;
Under 16;
Students under 18 working less than 20 hours a week.

Washington: Newspaper vendors and carriers.

West Virginia: Students employed part-time.(USDOL as of Aug. 1996)

Wyoming: Under 18;
All part-time workers (20 hours or less per week).

Minimum Wage Exemption Memorandum
February 8, 2000
Page 1

The following information is provided based upon the information available as to exemptions from state minimum wage laws for minors and part-time. Eventhough some statutes do not specifically limit certain exempt occupations to minors, I have included some occupations in which minors may be expected to be found. I have not listed agriculture/horticulture, but most states do have such an exemption;

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Babysitters;
Learners, beginners, and persons under the age of 18 may be paid not less than
85% of the minimum wage for the first 200 hours of employment, then an amount
equal to the minimum wage.

Georgia: High school and college students;
Newspaper carriers.

Hawaii: Part time employees who are full time students at other than colleges, universities, business schools or technical schools;

Idaho: Under 16 working part time or at odd jobs not exceeding a total of 4 hours per day with any 1 employer.

Indiana: Under 16;

Kansas: Part time (under 40 hours a week) under 19;
Students under 19, between terms regardless of hours worked per week.

Maine: Students under 19 who are counselors or junior counselors at certain qualifying summer camps.

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Under 22 if enrolled in high school, or college. (USDOL as of Aug. 1996)

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Employees of boys/girls summer camps;
Under 16;
Students under 18 working less than 20 hours a week.

Washington: Newspaper vendors and carriers.

West Virginia: Students employed part-time.(USDOL as of Aug. 1996)

Wyoming: Under 18;
All part-time workers (20 hours or less per week).

HEIN AND WEIR, CHARTERED

Attorneys-at-Law
5845 S.W. 29th Street, Topeka, KS 66614-2462
Telephone: (785) 273-1441
Telefax: (785) 273-9243

Ronald R. Hein
Email: rhein@hwchtd.com

Stephen P. Weir*
Email: sweir@hwchtd.com

*Admitted in Kansas & Texas

February 6, 2000

Sen. Alicia Salisbury
Chairman, Senate Commerce Committee
State Capitol Room 120-S
Topeka, KS 66612

RE: SB 265, Minimum Wage

Dear Sen. Salisbury:

When I testified with regards to SB 265, I was asked how many members of the Kansas Restaurant and Hospitality Association were not paying federal minimum wage. One of the tests for federal minimum wage payment is the "enterprise" test, which requires $500,000 annual revenue to be engaged in interstate commerce. The KRHA contacted 12 of its members with revenues below $500,000 to see if they paid federal minimum wage. All 12 did. We know that this is not a full survey of KRHA membership, but we did not have enough time to complete such a massive survey. We believe that the sample is a fair representation of the members, and supports our testimony that the vast majority of the restaurant, hospitality, and lodging industry already pay at or above the federal minimum wage.

Also, when I testified earlier, I presented a problem with SB 265 with regards to the handling of tips and gratuities. Under federal law, the minimum wage is $5.15 per hour, but only $2.13 of that minimum wage is required to be paid by the employer if the employee receives tips in a sufficient amount to exceed the $5.15 minimum wage. If the tips do not bring the total wage to the minimum wage level, then the employer must make up the difference in cash payment to meet that minimum wage. Under state law, the minimum wage is $2.65 per hour, but a maximum of 40% of such amount can be in tips. If the minimum wage is raised to $5.00, the employer must pay a cash wage of $3.00 per hour, since only 40% of the $5.00 ($2.00) could be counted in tips.

Attached are two balloon amendments which would eliminate one of our major concerns with SB 265 if the committee is going to approve SB 265. Our preference would be #1, because we wouldn't have to change periodically depending upon state and federal minimum wage rates. This would correct the problem we raised about current law making the state wage requirement higher than the federal. If the committee prefers to have some limit on what tips can be counted, we could live with #2.

Senate Commerce Committee
Date: 2-09-00
Attachment # 2-1 thru 2-4

Thank you for considering our views.

Sincerely,

Ronald R. Hein

RRH:djc
Enclosure
cc: Senate Commerce Committee members
Dennis Carpenter, CEO, KRHA

#1

SENATE BILL No. 265

By Senators Biggs, Downey, Gilstrap, Gooch, Hensley, Jones, Petty and Stephens

2-8

AN ACT concerning the minimum wage and maximum hours law; amending K.S.A. 44-1203 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 44-1203 is hereby amended to read as follows: 44-1203. (a) Except as otherwise provided in the minimum wage and maximum hours law, every employer shall pay to each employee wages at a rate of not less than ~~$2.65~~ *$5* an hour. In calculating such minimum wage rate, an employer may include tips and gratuities received by an employee ~~in an amount equal to not more than 40% of the minimum wage rate~~ if such tips and gratuities have customarily constituted part of the remuneration of the employee and if the employee concerned actually received and retained such tips and gratuities. The secretary shall require each employer desiring approval of an allowance for gratuities to provide substantial evidence of the amounts of such gratuities on account of which the employer has taken an allowance pursuant to this section.

(b) The provisions of this section shall not apply to any employers and employees who are covered under the provisions of section 6 of the fair labor standards act of 1938 as amended (29 U.S.C.A. § 206), and as amended by the fair labor standards amendments of 1974 and any other acts amendatory thereof or supplemental thereto.

Sec. 2. K.S.A. 44-1203 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

#2

SENATE BILL No. 265

By Senators Biggs, Downey, Gilstrap, Gooch, Hensley, Jones, Petty and Stephens

2-8

AN ACT concerning the minimum wage and maximum hours law; amending K.S.A. 44-1203 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 44-1203 is hereby amended to read as follows: 44-1203. (a) Except as otherwise provided in the minimum wage and maximum hours law, every employer shall pay to each employee wages at a rate of not less than ~~$2.65~~ *$5* an hour. In calculating such minimum wage rate, an employer may include tips and gratuities received by an employee in an amount equal to not more than ~~40%~~ of the minimum wage rate if such tips and gratuities have customarily constituted part of the remuneration of the employee and if the employee concerned actually received and retained such tips and gratuities. The secretary shall require each employer desiring approval of an allowance for gratuities to provide substantial evidence of the amounts of such gratuities on account of which the employer has taken an allowance pursuant to this section.

60%

(b) The provisions of this section shall not apply to any employers and employees who are covered under the provisions of section 6 of the fair labor standards act of 1938 as amended (29 U.S.C.A. § 206), and as amended by the fair labor standards amendments of 1974 and any other acts amendatory thereof or supplemental thereto.

Sec. 2. K.S.A. 44-1203 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL 265
KANSAS MINIMUM WAGE
February 9, 2000

Prepared by:

Kansas Department of Human Resources
Labor Market Information Services
401 SW Topeka Blvd.
Topeka, Kansas 66603-3182
Phone (785) 296-5058
Fax (785) 296-5286
Email http://laborstats.hr.state.ks.us

Senate Commerce Committee
Date: 2-09-00

Attachment # 3-1 thru 3-7

SUMMARY OF OPTIONS CONCERNING THE KANSAS MINIMUM WAGE

Option 1
This option would adopt the procedure for the Federal minimum wage and apply it to Kansas statute
An increase in the Federal minimum wage would be followed by an increase in the Kansas minimum wage

Option 2
This provides for $5.15 per hour minimum wage
It would raise allowable tips and gratuities from 40% to 60% and
re-index a change in the Kansas minimum wage to near the Federal minimum wage

Option 3
Raise the Kansas minimum wage to $5.15 per hour
Eliminate the 40% maximum for tips and gratuities
Index Kansas minimum wage to Federal minimum wage

Option 4
Raise the Kansas minimum wage from $2.65 to $5.15
Raise allowable tips and gratuities from 40% to 60%

Option 5
Raise the Kansas minimum wage to $5.15 per hour
Establish a base wage of $2.13 per hour and
eliminate the percentage reference to tips and gratuities

OPTION 1

KANSAS STATUTES
CHAPTER 44.--LABOR AND INDUSTRIES
ARTICLE 12.--MINIMUM WAGE AND MAXIMUM HOURS

44-1203. Same; minimum wage; computation; applicability of section.

(a) Except as otherwise provided in the minimum wage and maximum hours law, every employer shall pay to each employee wages at a rate of not less than ~~$2.65 an hour~~ *the federal minimum wage as set forth in the fair labor standards act of 1938 as amended (29 U.S.C.A. § 206), and as amended by the fair labor standards amendments of 1974 and any other acts amendatory thereof or supplemental thereto.* In calculating such minimum wage rate, an employer may include tips and gratuities received by an employee *provided said amount shall not be less than the difference between a base wage of $2.13 and the minimum wage set forth herein* ~~in an amount equal to not more than 40% of the minimum wage rate~~ if such tips and gratuities have customarily constituted part of the remuneration of the employee and if the employee concerned actually received and retained such tips and gratuities. The secretary shall require each employer desiring approval of an allowance for gratuities to provide substantial evidence of the amounts of such gratuities on account of which the employer has taken an allowance pursuant to this section.

(b) The provisions of this section shall not apply to any employers and employees who are covered under the provisions of section 6 of the fair labor standards act of 1938 as amended (29 U.S.C.A. § 206), and as amended by the fair labor standards amendments of 1974 and any other acts amendatory thereof or supplemental thereto.

History: L. 1977, ch. 179, § 5; L. 1988, ch. 175, § 2; July 1.

OPTION 2

OPTION 2 adopts the proposal of Ron Hein, Legislative Counsel for the Kansas Restaurant and Hospitality Association. Effective July 1, 2000, OPTION 2 would

- raise the state minimum wage from $2.65 to $5.15 per hour
- raise allowable tips and gratuities from 40% to 60%
- index changes in the state minimum wage to changes in the federal minimum wage

****

(a) Except as otherwise provided in the minimum wage and maximum hours law, ***and effective as of July 1, 2000***, every employer shall pay to each employee wages at a rate of not less than ~~$2.65~~ ***$5.15*** an hour. In calculating such minimum wage rate, an employer may include tips and gratuities received by an employee in an amount equal to not more than ~~40%~~ ***60%*** of the minimum wage rate if such tips and gratuities have customarily constituted part of the remuneration of the employee and if the employee concerned actually received and retained such tips and gratuities. The secretary shall require each employer desiring approval of an allowance for gratuities to provide substantial evidence of the amounts of such gratuities on account of which the employer has taken an allowance pursuant to this section.

(b) The provisions of this section shall not apply to any employers and employees who are covered under the provisions of section 6 of the fair labor standards act of 1938 as amended (29 U.S.C.A. 206), and as amended by the fair labor standards amendments of 1974 and any other acts amendatory thereof or supplemental thereto.

(c) The provisions of this section, beginning July 1, 2000 and thereafter, shall be indexed to changes in the federal minimum wage as outlined in the fair labor standards act of 1938 and amendments thereto. Any change in the federal minimum wage amount after this date shall trigger a change in the state minimum wage amount in an amount equal to that of the federal adjustment and shall become effective on the same date as the federal adjustment.

OPTION 3

OPTION 3 modifies the proposal of Ron Hein by deleting selected verbiage in Line 19 of SB 265. Effective July 1, 2000, OPTION 3 would

- raise the state minimum wage from $2.65 to $5.15 per hour
- eliminate the following verbiage in Line 19 of SB 265: "in an amount equal to not more than 40% of the minimum wage rate"
- index changes in the state minimum wage to changes in the federal minimum wage

****

(a) Except as otherwise provided in the minimum wage and maximum hours law, ***and effective as of July 1, 2000***, every employer shall pay to each employee wages at a rate of not less than ~~$2.65~~ ***$5.15*** an hour. In calculating such minimum wage rate, an employer may include tips and gratuities received by an employee ~~in an amount equal to not more than 40% of the minimum wage rate~~ if such tips and gratuities have customarily constituted part of the remuneration of the employee and if the employee concerned actually received and retained such tips and gratuities. The secretary shall require each employer desiring approval of an allowance for gratuities to provide substantial evidence of the amounts of such gratuities on account of which the employer has taken an allowance pursuant to this section.

(b) The provisions of this section shall not apply to any employers and employees who are covered under the provisions of section 6 of the fair labor standards act of 1938 as amended (29 U.S.C.A. 206), and as amended by the fair labor standards amendments of 1974 and any other acts amendatory thereof or supplemental thereto.

(c) The provisions of this section, beginning July 1, 2000 and thereafter, shall be indexed to changes in the federal minimum wage as outlined in the fair labor standards act of 1938 and amendments thereto. Any change in the federal minimum wage amount after this date shall trigger a change in the state minimum wage amount in an amount equal to that of the federal adjustment and shall become effective on the same date as the federal adjustment.

OPTION 4

OPTION 4 modifies the proposal of Ron Hein by removing the feature that would link changes in the state minimum wage to changes in the federal minimum wage. Effective July 1, 2000, OPTION 4 would

- raise the state minimum wage from $2.65 to $5.15 per hour
- raise allowable tips and gratuities from 40% to 60%

****

(a) Except as otherwise provided in the minimum wage and maximum hours law, ***and effective as of July 1, 2000***, every employer shall pay to each employee wages at a rate of not less than ~~$2.65~~ ***$5.15*** an hour. In calculating such minimum wage rate, an employer may include tips and gratuities received by an employee in an amount equal to not more than ~~40%~~ ***60%*** of the minimum wage rate if such tips and gratuities have customarily constituted part of the remuneration of the employee and if the employee concerned actually received and retained such tips and gratuities. The secretary shall require each employer desiring approval of an allowance for gratuities to provide substantial evidence of the amounts of such gratuities on account of which the employer has taken an allowance pursuant to this section.

(b) The provisions of this section shall not apply to any employers and employees who are covered under the provisions of section 6 of the fair labor standards act of 1938 as amended (29 U.S.C.A. 206), and as amended by the fair labor standards amendments of 1974 and any other acts amendatory thereof or supplemental thereto.

OPTION 5

OPTION 5 modifies OPTION 4 by specifying a base wage of \$2.13 per hour. Effective July 1, 2000, OPTION 5 would

- raise the state minimum wage from \$2.65 to \$5.15 per hour
- specify a base wage of \$2.13 per hour

****

(a) Except as otherwise provided in the minimum wage and maximum hours law, ***and effective as of July 1, 2000***, every employer shall pay to each employee wages at a rate of not less than ~~\$2.65~~ ***\$5.15*** an hour. In calculating such minimum wage rate, an employer may include tips and gratuities received by an employee ***provided said amount shall not be less than the difference between a base wage of \$2.13 and the minimum wage set forth herein*** if such tips and gratuities have customarily constituted part of the remuneration of the employee and if the employee concerned actually received and retained such tips and gratuities. The secretary shall require each employer desiring approval of an allowance for gratuities to provide substantial evidence of the amounts of such gratuities on account of which the employer has taken an allowance pursuant to this section.

(b) The provisions of this section shall not apply to any employers and employees who are covered under the provisions of section 6 of the fair labor standards act of 1938 as amended (29 U.S.C.A. 206), and as amended by the fair labor standards amendments of 1974 and any other acts amendatory thereof or supplemental thereto.

WSJ - 5/27/98

The Minimum Wage's Disreputable Origins

By Burton W. Folsom Jr.

Sen. Ted Kennedy is pushing for yet another increase in the minimum wage. If we are to evaluate his plan, we need to know why we have a minimum wage law and what its historical effects have been.

In June 1938 President Franklin Roosevelt signed into law America's first minimum wage: 25 cents an hour, rising to 40 cents an hour over the next seven years (almost $5.00 in today's dollars). The driving force behind the legislation was not the working poor, who were struggling to eke out a living, but the highly paid textile workers of New England, who were eager to protect their jobs.

During the 1920s and '30s, the American textile industry had begun to shift from New England to the South, where the cost of living was lower and where Southern workers produced a high quality product for lower wages. Politicians in Massachusetts, led by Republican Sen. Henry Cabot Lodge, Jr. and House Minority Leader Joseph Martin, battled in Congress for a law that would force Southern textile mills to raise wages and thereby lose their competitive edge. Democratic Gov. Charles Hurley demanded that Congress pass a law to hike Southern wages so that "Massachusetts [would] have equal competition with other sections of the country, thus affording labor and industry of Massachusetts some degree of assurance that our present industries will not move out of the state."

Southerners were well aware of what Massachusetts was doing and they scuttled all minimum wage laws before Congress during 1937 and well into 1938. In doing so, they handed President Roosevelt his first major defeat in Congress on any piece of New Deal legislation.

"Northern industries are trying to stop the progress of the South," Rep. Sam McReynolds (D., Tenn.) observed, "and they feel if they can pass this [minimum wage] bill it will really be a tariff against Southern goods."

Southern congressmen joined those economists who argued that Congress couldn't make a man worth a certain amount by making it illegal to pay him any less. They said that people whose skills and experience were worth less than whatever Congress decreed as the minimum wage would be priced out of the labor market. The Great Depression, they said, would get worse by Congress telling workers, in effect, "If you can't find a job that pays at least the minimum, then you're not allowed to work."

The desperate plight of unskilled workers trying to hold on to their jobs disturbed Rep. Carl Mapes (R., Mich.). "The enactment of this legislation," Mapes concluded, "will further increase unemployment, not reduce it. It is bound to increase unemployment unless all human experience is reversed."

Mapes predicted that the law would most harm workers who had limited skills and were desperately trying to secure a foothold on the first step of the job ladder. Mapes cited the case of a local minimum wage law passed in early 1938 in Washington, D. C. Immediately after its passage, the Washington Post lamented, scores of maids and unskilled workers were laid off by local hotels.

Mapes's prediction has been prophetic: Like magic, the steady hikes in the minimum wage have made jobs disappear. The most vulnerable workers, especially blacks, teenagers and women with limited skills, have often been the first to be fired and last to be hired because their labor is not yet worth what the law says they must be paid.

The particularly harmful impact of minimum wage laws on blacks has been conspicuous since 1956, when the minimum wage shot up from 75 cents to $1.00 an hour. During the next two years, nonwhite teenage unemployment spiraled from 14% to 24%. The 1996 hike in the minimum wage to $5.15 an hour had a similar effect: Unemployment among black male teenagers jumped from 37% to 41%.

Data from President Clinton's own labor department show that at least 20,000 jobs were eliminated by the 1996 hike. The Employment Policies Institute calculates that the real number was closer to 128,000.

Sen. Kennedy would have us believe that what has been good for Massachusetts is good for the nation. That was wrong in 1938 and it's still wrong 60 years later.

Mr. Folsom, a senior fellow with the Mackinac Center for Public Policy in Midland, Mich., is author of "Empire Builders" (Rhodes and Easton, 1998).

Karin Brownlee

Senate Commerce Committee
Date: 2-09-00
Attachment # 4

Job Stretching:
Raleigh, N.C., Shows
A Tight Labor Market
Can Spur Productivity

As U.S. Unemployment Rate
Falls, Inflation Stays Shy,
Businesses Learn to Cope

Reading Meters by Computer
By Yochi J. Dreazen and Jacob M. Schlesinger

02/07/2000
The Wall Street Journal
Page A1

How low can the jobless rate go?

January's drop to 4%, for the first time since 1970, has increased fears that low unemployment will spark inflation and crimp economic growth. Alan Greenspan is clearly worried, and Friday's report boosts the odds that the Federal Reserve chairman will push through more interest-rate increases in the months ahead.

But in spite of low unemployment, inflation shows few signs of heating up, and wage growth remains modest. Friday's unemployment report puts January's average hourly earnings at just 3.5% above a year earlier. That's less than the 4% increase in the preceding year. As a result, some analysts are arguing tight labor markets may not be such a problem after all.

Business leaders in Raleigh, N.C., aren't all that worried. And if anybody should be, they should. The Raleigh metropolitan area's jobless rate has been less than 2% since 1997. In December -- the most recent month for which regional data are available -- the jobless rate slipped to 1.3%.

Overall wage growth in the Raleigh area has been strong, but it hasn't been accelerating, according to data compiled by RFA Dismal Sciences, a West Chester, Pa., consulting firm specializing in regional economic trends. Over the past two years, wage and salary growth per employee has grown each quarter at an annual pace of 4% to 6%. Growth in 1999 was about the same pace as 1998, and was slower than in 1997.

And, skyrocketing house prices aside, local inflation doesn't seem out of line with the national rate. Since late 1995, Raleigh's cost-of-living index has fluctuated between 100% and 106% of the national average, according to a comparison index of metropolitan areas compiled by the American Chamber of Commerce.

There are some signs of strain. The local police force can't fill 10% of its jobs, city officials say. A shortage of building inspectors means the permit approval process takes seven days longer than it used to. And the city has delayed fixing some potholes and doing other minor roadwork for about a year.

Moreover, some workers grouse they are being pushed to the limit. Nancy Wawrousek works as many as 60 hours a week as a nurse at Duke Medical Center, nearly twice her assigned 36 hours. Her unit has nine vacancies that have remained open for months. "Being on your feet all day drains you physically, and with little kids, it just saps everything else out of you," says Ms. Wawrousek, a 12-year veteran of the hospital.

Yet, by and large, the city and its residents are thriving with relatively few of the strains, bottlenecks and cost pressures. With one of the tightest labor markets in the nation, many Raleigh employers are managing to find new efficiencies that let them keep production humming with fewer people.

Carolina Power & Light gets by with 2,000 fewer workers than it did a few years ago. As a result, its operating costs have been cut in half, despite higher wages, and the utility has still been able to expand its customer base. Rates charged to customers haven't gone up since 1989.

One helpful trick: Carolina Power has equipped service trucks with laptops and pc
dispatchers to route trucks to multiple locations on a given trip without the need to

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meters will be read remotely by computer, saving more staff time.

Of course, there is a limit to how far the Raleigh experience can be applied to the nation as a whole. With a number of top-notch universities and research labs, the Raleigh area has one of the best educated and most productive and employable work forces in the country.

"Looking at Raleigh and saying the country can go below 2% unemployment is like looking at Michael Jordan and saying, `Hey, maybe we can all be that kind of a basketball player,'" says Mark Zandi, chief economist of RFA Dismal Sciences.

Indeed, one reason that Raleigh can maintain such a low unemployment rate is that the rest of the country doesn't: The city is able to draw workers from all over the country to take the jobs that can't be filled locally. Through the 1990s, about 20,000 more people moved each year to the Raleigh area than left it.

Mr. Zandi, for one, thinks national unemployment at the current 4% is too low. Despite the tame wage figures reported Friday, there is other evidence, he says, that "labor costs have been accelerating, and that will become clearer" in the coming months. A figure closer to 5% is more sustainable, he says.

But some policy makers and economists say the number can go lower. "We can continue to absorb workers and see real growth," Labor Secretary Alexis Herman says in an interview. "We've got three million part-time workers . . . who say they want full-time jobs," she says. "We've got six million unemployed. No one said we could go this low, but we're writing new rules of the road."

Economist Robert Lerman of American University and the Urban Institute, both based in Washington, D.C., says the national rate could conceivably drop to 3.5% without sparking inflation. He bases his estimate in part on research he has done on a number of regions around the country with unemployment rates below 4% and found they "were not experiencing unusually high wage growth." Acknowledging the critics, Mr. Lerman agrees that "cities and states are not the country, and such evidence is not definitive." But, he argues, "it's relevant evidence."

In the fourth quarter of 1999, according to RFA Dismal Sciences, nearly 60% of all major metropolitan areas had unemployment rates below 4%, nearly 30% had jobless rates below 3% and just over 5% had rates below 2%. Those below 2% range from Madison, Wis., with a jobless rate of 1.4% to Columbia, Mo., at 1.1%, to Charlottesville, Va., with 1.3%.

But none has sustained an ultra- **tight labor market** for as long as the Raleigh area, part of the thriving Research Triangle along with neighboring Durham and Chapel Hill. It is one of the hottest hightechnology corridors in the country. Oldline firms like International Business Machines Corp. and blazing start-ups such as Red Hat Inc., which develops and distributes its own version of the Linux computer operating system, supercharge the economy of Raleigh-Durham, which has a population of just over a million.

Low unemployment has been a difficult challenge for many Raleigh employers. The city government itself has seen operating costs spike by 8.9% last year, largely because of the huge pay raises needed to keep employees, especially in the police and fire departments. The vacancy rate is still high, and the city had 14% of its workers leave its payroll last year, nearly double the 1996 turnover rate of 8.6%.

Tommy West runs a large trucking company in Raleigh and has had to raise wages by 7% each of the past two years to keep drivers -- and has passed on those higher costs to customers. He has six full-time recruiters who scour army bases, job fairs, and schools across the region. Still unable to find enough workers, he is turning away customers. And he is focusing his business on other areas where conditions aren't as tight.

But tight labor markets don't necessarily have to lead to shortages and wage inflation as employers compete for the limited number of existing skilled workers. Such conditions can also create what economists call a "high pressure economy," in which desperate employers try harder to train more lower-skilled workers and expand the pool of qualified employees.

In many ways, Raleigh is a good "high pressure economy" laboratory. "A much larger percentage of the jobs created in Raleigh are high-paying, desirable jobs," says First Union Corp. economist Mark Vitner, who studies the North Carolina economy. "The tight labor force has pulled more workers up into better jobs."

One modern food-processing factory with a high productivity rate has stayed fully staffed and has kept its wage increases below 3% for the past few years. How? "Our entry-level rate is over $10.50 an hour, while other production facilities in the area are paying just $8 to $9 an hour," says Chris Tester, assistant manager of human relations for the company.

Selvin Intariano used to be a construction worker in Oregon, where he rarely made $8 an hour. In Raleigh, the 30-year-old Honduran immigrant gets $12 an hour as a crew manager, acting as a liaison between the English- and Spanish-speaking work crews at the gleaming new $160 million Entertainment and Sports Arena, home of the National Hockey League's Carolina Hurricanes and the North Carolina State Wolfpack college-basketball team.

The North Carolina unit of Sweden's Telefon AB L.M. Ericsson is stepping up its on-site training this year, helping employees broaden their engineering skills and develop management skills. "This expands the pool of people we can hire," says staffing manager Ken Dean. "It means we don't have to go out and hire managers -- we can develop our own managers." And, he adds, "people will hang around more when they feel opportunities for promotion."

And despite the fact that Raleigh's overall unemployment rate is so low, there still is a pool of unemployed workers available if employers want to try harder to develop their skills.

On a recent afternoon, about 20 people are sitting in a local government employment office, checking computerized job listings or waiting to talk with unemployment counselors. Many have been out of work for months.

"If you're a software engineer, this is a great time to live in Raleigh," says Leslie Sisell, who has been looking in vain for a marketing job for seven months. "Otherwise, you're looking at a glut of low-skill jobs that don't pay anything."

And Raleigh firms are finding more and more creative ways to lure and keep employees without big wage increases, or at least to prevent those wage raises from getting too big. Longistics Inc., a company that helps other firms with logistics such as shipping and warehouse management, is offering employees much more flexible working schedules. "We've been successful with part-timers calling us when they want to work," says Rachel Sparkman, vice president of operations and human resources. "We have moms who want to work just nine months a year."

SAS Institute Inc., a software firm long known for special employee perks, is augmenting them. The company, based in the Raleigh suburb of Cary, is adding two new child-care facilities, and last October opened an indoor swimming pool to supplement its 50,000-square-foot fitness center. Next month, it will open a third on-site dining facility -- a new cafeteria specializing in Southern cuisine.

Ganymede Software Inc. offers free soft drinks, snacks, a game room with a largescreen TV, DVD player and Sega game machine. During last year's Atlantic Coast Conference men's college-basketball tournament, the company rented out a movie theater and took all interested employees for the day to watch the games with free food and drinks.

Ganymede, like other local firms, has also started offering stock options -- to all workers, not just executives and programmers. And though the privately held company has no imminent plans to go public, that's a powerful lure, especially since nearby Red Hat's spectacular initial public offering last year created numerous local fortunes.

Even with those creative approaches, the wages many of those firms have to pay certain workers are rising. Longistics, for one, has to give its truck drivers and forklift drivers raises of at least 10% a year and has seen total payroll costs rise by about 15% a year.

Yet many of those companies paying higher wages aren't charging higher prices. "We can't pass our labor costs onto our clients," says Ms. Sparkman of Longistics. "We're locked into long-term contracts that don't make allowances for higher prices."

Longistics' profit margins have suffered a bit, but the company also keeps finding new ways to offset those costs. It used to devote specific trucks to specific clients. But now, after the vehicle has been used for 12 hours for one customer during the day, it is used for another for six hours in the night. The company has linked higher pay to cost-cutting, offering drivers bonuses, for example, if they can get a certain number of miles per gallon out of their trucks.

In the cell-phone business, where prices tumble every year, Ericsson similarly can't pass on higher labor costs. Raleigh employees have started getting bonuses for finishing projects ahead of schedule, thus linking pay to efficiency.

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"Mr. Greenspan," says the company's Mr. Dean, "would appreciate that."