

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 a.m. on February 4, 2004 in Room 241-N of the Capitol.

All members were present except:

Representative Rob Boyer- excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department

Norm Furse, Revisor of Statutes

Renae Jefferies, Revisor of Statutes

June Evans, Committee Secretary

Conferees appearing before the committee:

Representative Ted Powers

Wil Leiker, Executive Vice President, AFL/CIO

Shannon Jones, Statewide Independent Living Council of Kansas (SILCK)

Carla James, Kansas Action Network

Terry Leatherman, Vice President of Public Affairs, The Kansas Chamber of Commerce and Industry

Ron Hein, Legislative Counsel, Kansas Restaurant and Hospitality Association

Others attending:

See Attached List.

The Chairman opened the meeting and stated this was the last day for non-exempt committees to request bill introductions and asked if anyone wished to introduce a bill.

Representative Ruff requested a committee bill that would change the percentage of earnings from workers compensation.

Representative Ward requested a committee bill making an employer liable if there was an injury in his workplace related to an employer's drug or alcohol use. This would be the same for the employer as for the employee, making it a level playing field.

Staff gave a briefing on the following bills:

**I. HB 2537 Concerning the Workers Compensation Advisory Council.** A balloon clarifies that the Council is to meet on or before February 1 and quarterly thereafter. The bill came from the summer joint interim committee.

**II. HB 2479 Relating to Employment of Illegal Aliens.** This bill prohibits the award of a public works contract to a bidder convicted of violating laws against employing undocumented aliens. No state agency or department, as defined in Section 10357, that is subject to this code, shall award a public works or purchase contract to a bidder or contractor, nor shall a bidder or contractor be eligible to bid for or receive a public works or purchase contract, who has, in the preceding five years, been convicted of violating a state or federal law respecting the employment of undocumented aliens.

**III. HB 2435 Transferring Certain Committees and Commissions to the Governor's Office.** During the hearing on this bill a conferee proposed establishing the state-wide independent living council by statute and provided language to the committee on this matter. The proposal would also have abolished the current commission on disability concerns. **HB 2067**, which is currently in conference, also proposes to establishing the state-wide independent living council with similar language. **HB 2067** does not abolish the commission on disability concerns (Attachment 1).

Staff gave a briefing on the minimum wage. The Kansas minimum wage law covers all employees except

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those individuals: (1) employed in agricultures; (2) employed in domestic service in or about a private home; (3) who are bona fide executive, administrative or professional employees; (4) employed as an outside salesperson on commission; (5) employed by the federal government; (6) who render voluntary service to a nonprofit organization; (7) 18 years of age or younger, who are employed on a part-time basis; (8) school district employees working in an executive, administrative or professional capacity during 50 percent or more of their working time; (9) whose employer is covered by the federal Fair Labor Standards Act; or (10) who are employed by the United States.

The Kansas minimum wage rate was established by way of 1977 **HB 2549**. The legislation became effective on January 1, 1978. At that time, the minimum wage was established at \$1.60 per hour with overtime, at one and one-half the hourly wage, for hours worked in excess of 46 hours per week. In 1988, **HB 2960** raised the minimum wage from the former \$1.60 per hour to the current \$2.65 per hour (Attachment 2).

The Chairman opened the hearing on **HB 2526 - State minimum wage increase**.

Staff gave a briefing on **HB 2526**. Every employer shall pay to each employee wages at a rate of not less than \$2.65 an hour prior to January 1, 2005; at a rate of not less than \$5.50 an hour during the period commencing on January 1, 2005 and ending on December 31, 2005; at a rate of \$6.50 an hour during the period commencing on January 1, 2006 and ending on December 31, 2006; and at a rate of \$7.50 an hour on and after January 1, 2007.

Representative Ted Powers, sponsor of **HB 2526**, stated the minimum wage law needed to be raised from the current \$2.65 to \$7.50 per hour over a 3-year period. Representative Powers was inspired last summer to introduce this legislation when Illinois made a proposal to raise the minimum wage. This has an impact on where we come from. Twelve states pay more than federal minimum wage, twenty states pay the minimum wage (\$5.15) and seven states do not have a minimum wage law.

Representative Powers said his aim was for Kansas to be in the category that pays more than the federal minimum wage and certainly does not want to be a state with no minimum wage law. Kansas and Ohio are the only two states with the minimum wage rates lower than the federal minimum wage (Attachment 3).

Wil Leiker, Executive Vice President, AFL/CIO, testified as a proponent to **HB 2526**. Although the bill has three increments of raises, the AFL/CIO would suggest this committee consider a more moderate approach of an increase. An increase to the current federal level which is \$5.15 would be a more realistic goal. Forty percent of the Kansas Minimum Wage can be offset against tips and gratuities if they are part of the employees' wages and if the employees concerned actually received and retained such tips and gratuities (Attachment 4).

Shannon Jones, Executive Director, Statewide Independent Living Council, testified as a proponent to **HB 2526**. Employment is central to living independently and self esteem for all persons. The key to effectively moving people, both with and without disabilities, from state and federal assistance is to help them find employment that provides wages necessary for self-sufficiency (Attachment 5).

Carla James, Kansas Action Network, a grassroots coalition of twenty civic, church, labor, disability and peace and justice organizations concerned with economic fairness, workers' rights, and social justice, spoke as a proponent to **HB 2526** and stated the minimum wage is incredibly low. A Kansan who works 40 hours a week at this level makes the unbelievably low salary of about \$5,000 a year. Approximately 20,000 workers in Kansas earn less than the federal minimum wage. Who are they? They may be the person that packaged your sandwich from the vending machine, cleaned your bathroom, served your pre-schooler's lunch, parked your car, cared for your elderly mother at home, changed your tire, mopped your floor or washed the dishes you and your friends used at dinner (Attachment 6).

Terry Leatherman, an opponent to **HB 2526**, stated the Chamber respectfully suggests that this committee consider another possibility regarding the state's minimum wage. Kansas could improve the business

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climate in this state by becoming the eighth and next state in our country to have no minimum wage requirement (Attachment 7).

Ron Hein, legislative counsel, Kansas Restaurant and Hospitality Association, testified as an opponent to **HB 2526**. On the surface the minimum wage legislation sounds good in concept. It would appear to help insure a certain, arbitrarily picked wage to all workers. But, in practice, minimum wage legislation oftentimes works adversely to those very people that minimum wage legislation is intended to help.

Generally, the intent is to raise the wages of those people who are untrained, unskilled, probably but not always young, inexperienced, just entering the workforce, or, in many instances, are attempting to get work experience while going to school or otherwise. The result of such minimum wage legislation could force the employer to reconsider employing the least educated, least trained, least experienced worker for employment.

The impact of the minimum wage, both federal and state, is slightly different for the restaurant, lodging, and hospitality industry due to the fact that many employees of the industry receive tips. If tips do not bring the total wage to the minimum wage level, 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 the federal minimum wage, the employer must pay a cash wage of \$3.09 per hour, since only 40% of the \$5.15 (\$2.06) could be counted in tips. The Kansas Restaurant and Hospitality Association would prefer not having a minimum wage. There would be no objection to repealing the law. If the minimum wage would be raised, the Association would like to help with the tip language (Attachment 8).

The Chairman closed the hearing on **HB 2526**.

Ashley Sherard, Vice President, Lenexa Chamber of Commerce, presented written testimony opposing **HB 2526** (Attachment 9).

The Chairman announced the meeting on February 5<sup>th</sup> would start at 9:30 a.m.

The meeting adjourned at 10:30 a.m. The next meeting will be February 5th.



MEMORANDUM

TO: Committee on Commerce and Labor  
FROM: Norm Furse, Revisor of Statutes  
DATE: February 3, 2004  
RE: Follow-Up Information

This memorandum addresses several items which were placed before the committee last week.

- I. HB 2537 Concerning the Workers Compensation Advisory Council. A question arose concerning meetings of the council. I have attached a balloon to this memo which clarifies that the council would meet at least quarterly and more often as may be needed.
- II. HB 2479 Relating to Employment of Illegal Aliens. Reference was made to the California law prohibition on awarding public works contracts to bidders convicted of violating laws against employing undocumented aliens. I have attached a copy of the California law for your information.
- III. HB 2435 Transferring Certain Committees and Commissions to the Governor's Office. During the hearing on this bill a conferee proposed establishing the state-wide independent living council by statute and provided language to the committee on this matter. The proposal would also have abolished the current commission on disability concerns. 2003 HB 2067, which is currently in conference, also proposes to establishing the state-wide independent living council with similar language. HB 2067 does not abolish the commission on disability concerns. I have attached a copy of this bill for your information.

Comme Labor  
2-4-04  
Atch #1

[material within brackets would be deleted]

1 proposed amendments to the act and such other matters relating thereto  
2 that may be recommended by the secretary of human resources or the  
3 director of workers compensation and shall advise the secretary and the  
4 director thereon. The advisory council shall also review and report its  
5 recommendations on any legislative bill amending, supplementing or af-  
6 fecting the workers compensation act or rules and regulations adopted  
7 thereunder or affecting the administration of such act or rules and reg-  
8 ulations, which is introduced in the legislature and which is requested to  
9 be reviewed and reported on to a standing committee of either house of  
10 the legislature to which the bill is currently referred, upon the request of  
11 the chairperson of such committee.

12 (d) The advisory council shall organize annually by electing a chair-  
13 person and a vice-chairperson ~~and. The advisory council shall meet upon~~  
14 ~~the call of the chairperson on or before February 1 of each year and~~  
15 ~~quarterly for more often thereafter, if needed.~~ All actions of the advisory  
16 council adopting recommendations regarding the workers compensation  
17 act or any other matter referred to the advisory committee under sub-  
18 section (c) shall be by motion adopted by the affirmative vote in open  
19 meeting of ~~four~~ three of the five voting members who are appointed as  
20 representative of employers and ~~four~~ three of the five voting members  
21 who are appointed as representative of employees. All other actions of  
22 the advisory council shall be by motion adopted by the affirmative vote  
23 of at least six voting members in open meeting.

shall meet

thereafter and may meet more often

24 (e) The advisory council, in accordance with K.S.A. 74-4319 and  
25 amendments thereto, may recess for a closed or executive meeting of the  
26 members representing employers or of the members representing em-  
27 ployees, or of both such groups of members meeting separately, to sep-  
28 arately discuss the matters being studied by the advisory council, except  
29 that no binding action shall be taken during any such closed or executive  
30 meeting.

31 (f) The members of the advisory council shall serve without compen-  
32 sation, but, when attending meetings of the advisory commission, or sub-  
33 committee meetings thereof authorized by the advisory commission, shall  
34 be paid subsistence allowances, mileage and other expenses as provided  
35 in K.S.A. 75-3223 and amendments thereto.

36 (g) In addition to other matters for study prescribed pursuant to this  
37 section, the advisory council shall review the following:

- 38 (1) Competitive state workers compensation funds, including small
- 39 business competitive funds;
- 40 (2) effectiveness and cost of safety programs;
- 41 (3) safety-based insurance premium rate discounts;
- 42 (4) fees for attorneys representing all parties in workers compensa-
- 43 tion claims; and

**Collateral References:**

- Witkin Summary (9th ed) Contracts §§ 74 et seq.
- B-W Cal Civ Prac, Business Litigation §§ 39:10 et seq.
- Cal Digest of Official Reports 3d Series, Public Works and Contracts §§ 3 et seq.

**§ 6101. Prohibition against award of public works contract to bidder convicted of violating laws against employing undocumented aliens**

No state agency or department, as defined in Section 10357, that is subject to this code, shall award a public works or purchase contract to a bidder or contractor, nor shall a bidder or contractor be eligible to bid for or receive a public works or purchase contract, who has, in the preceding five years, been convicted of violating a state or federal law respecting the employment of undocumented aliens.

Added Stats 1994 ch 564 § 1 (AB 1025).

(Reprint)  
[As Amended by Senate on Final Action]

[As Amended by Senate Committee of the Whole]

As Amended by House Committee

Session of 2003

## HOUSE BILL No. 2067

By Committee on Appropriations

1-24

*In conference.*

AN ACT *[concerning persons with certain physical, mental or health conditions;]* concerning persons with disabilities; establishing the statewide independent living council of Kansas; membership; powers and duties; relating to funding of such council*[/; concerning state medical assistance and repayment thereof; amending K.S.A. 39-709 and repealing the existing section].*

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

Section 1. As used in this act, unless the context otherwise requires:

(a) "Center for independent living" means a private, nonprofit, non-residential organization in which at least 51% of the principal governing board, management and staff are individuals with disabilities and that:

(1) Is a community based organization designed and operated by individuals with disabilities;

(2) provides an array of independent living services and programs, including the five core services; and

(3) is cross disability.

(b) "Consumer control" means a condition under which power and authority are vested in individuals with disabilities. When applied to a center for independent living, means that at least 51% of the principal governing board, management and staff are individuals with disabilities and the recipients of services determine the scope, purpose, extent and type of services provided.

(c) "Council" means the statewide independent living council established by this act.

(d) "Designated state unit" means agencies designated to administer programs funded under the rehabilitation act of 1973, (29 U.S.C. 701 *et seq.*).

(e) "Disability" means with respect to an individual:

(1) A physical or mental impairment that substantially limits one or



- 1 more of the major life activities of the individual;  
2 (2) a record of such impairment; or  
3 (3) being regarded as having such an impairment.  
4 (f) "Independent living core services" means information and referral  
5 services, independent living skills training and services, peer counseling  
6 and support services, de-institutionalization and individual and systems  
7 advocacy. These services include but are not limited to:  
8 (1) services related to securing housing or shelter;  
9 (2) assistive technology;  
10 (3) interpreter and reader services;  
11 (4) personal assistance services, including attendant care and the  
12 training of personnel providing personal assistance services;  
13 (5) surveys, directories and other activities to identify appropriate  
14 housing, recreation opportunities, accessible transportation and other  
15 support services;  
16 (6) benefit counseling;  
17 (7) services and technical assistance related to the implementation of  
18 the Americans with disabilities act of 1990, (42 U.S.C. 12101 *et seq.*) as  
19 amended, and other related federal and state laws;  
20 (8) activities supporting, assisting or maintaining life in the  
21 community;  
22 (9) transportation, including referral for and assistance with  
23 transportation;  
24 (10) individual and group community integration activities;  
25 (11) training to develop skills which promote self-awareness and es-  
26 teem, develop advocacy and self-empowerment skills and explore career  
27 options;  
28 (12) appropriate preventive services to decrease the needs of individ-  
29 uals assisted under this act for services in the future;  
30 (13) community awareness programs to enhance the understanding  
31 and integration into society of individuals with disabilities;  
32 (14) communicating the programmatic needs and civil rights of per-  
33 sons with disabilities to state and local planners responsible for commu-  
34 nity services; and  
35 (15) such other services, not inconsistent with the provisions of this  
36 act, as may be necessary.  
37 (g) "Rehabilitation act of 1973" means 29 U.S.C. 701 *et seq.*  
38 (h) "Major life activities" means the term includes but is not limited  
39 to communication, learning, seeing, hearing, self-care, mobility, employ-  
40 ment, parenting and self-direction.  
41 Sec. 2. (a) There shall be established the statewide independent liv-  
42 ing council, which shall be the same council established under Title VII  
43 of the rehabilitation act of 1973, as amended. The council shall:

- 1 (1) Be independent of any state agency;  
2 (2) be incorporated as a nonprofit organization under section 501  
3 (c)(3) of the federal internal revenue code **of 1986**;  
4 (3) adopt bylaws and policies governing its operation;  
5 (4) meet at least quarterly; and  
6 (5) conduct quarterly meetings and additional meetings deemed  
7 necessary.
- 8 (b) Members of the council shall be appointed by the governor, shall  
9 serve at the pleasure of the governor and may be removed for cause. The  
10 governor shall make appropriate provisions for the rotation of member-  
11 ship on the council. The council shall be composed of members who  
12 provide statewide representation, represent a broad range of disabilities  
13 and are knowledgeable about centers for independent living, independent  
14 living philosophy and independent living services and programs.
- 15 (c) At least 51% of the membership of the council shall consist of  
16 persons who are individuals with disabilities who are not employed by  
17 any state agency or center for independent living:
- 18 (1) At least one member shall be a director of a center for independ-  
19 ent living within Kansas, chosen by the directors of centers for inde-  
20 pendent living in Kansas; and
- 21 (2) ex officio, nonvoting members shall consist of a representative  
22 from the designated state units and representatives from other state agen-  
23 cies that provide services for individuals with disabilities and at least ~~on~~  
24 **one** director of a Kansas Native American Indian vocational rehabilitation  
25 program.
- 26 (d) In addition to the members provided for in subsections (a) and  
27 (b), the governor may appoint additional members who are:
- 28 (1) Other representatives from centers for independent living;  
29 (2) parents and guardians of individuals with disabilities;  
30 (3) representatives of advocacy organizations;  
31 (4) representatives from private enterprise;  
32 (5) representatives from organizations that provide services for indi-  
33 viduals with disabilities;  
34 (6) representatives of youth; and  
35 (7) other appropriate individuals.
- 36 (e) The council shall select annually a chairperson from among the  
37 membership of the council.
- 38 Sec. 3. The council shall:
- 39 (1) Assess the need for services for Kansans with disabilities and ad-  
40 vocate with decision makers.  
41 (2) Jointly develop and submit, in conjunction with the designated  
42 state units, the state plan for independent living (SPIL).  
43 (3) Monitor, review and evaluate implementation of the state plan.

1 (4) Supervise and evaluate such staff and other personnel as may be  
2 necessary to carry out the functions of the council.

3 (5) Coordinate activities with other state advisory and policy making  
4 entities that address the needs of specific disability populations and re-  
5 lated issued under federal and state laws.

6 (6) Ensure that all regularly scheduled meetings of the council are  
7 open to the public and that sufficient advance notice of meetings is  
8 provided.

9 (7) Prepare reports and make recommendations, as necessary.

10 Sec. 4. (a) The council and the designated state units shall jointly  
11 develop a state plan.

12 (b) The plan shall provide for review and revision of the plan, not less  
13 than once every three years, to ensure the existence of appropriate plan-  
14 ning, financial support and coordination and other assistance to appro-  
15 priately address on a statewide and comprehensive basis the needs of the  
16 state for the following:

17 (1) Development and support of a statewide network of centers for  
18 independent living.

19 (2) Establishment of working relationships among the following:

20 (A) Programs providing independent living services and centers for  
21 independent living; and

22 (B) the vocational rehabilitation program established under Title I of  
23 the rehabilitation act of 1973 and other programs providing services to  
24 individuals with disabilities.

25 (c) The state plan shall:

26 (1) Specify the objectives to be achieved under the plan and establish  
27 timetables for the achievement of the objectives.

28 (2) Set forth a strategy for the expansion and enhancement of the  
29 statewide network of centers for independent living.

30 (3) Describe the purpose, extent and scope of independent living  
31 services and programs.

32 (d) The plan shall establish a method for the periodic evaluation of  
33 the effectiveness of the plan in meeting the objectives established, in-  
34 cluding evaluation of satisfaction by individuals with disabilities.

35 Sec. 5. (a) Within the limits of appropriations therefor each fiscal  
36 year, the designated state agencies shall allocate to the state independent  
37 living council, Title VII, part B funds to support the council's activities,  
38 including personnel, operating, capital outlay and, as outlined under the  
39 state plan, funds for the following purposes:

40 (1) Demonstrate ways to expand and improve independent living  
41 services.

42 (2) Support the operation of centers for independent living.

43 (3) Support activities to increase the capacities of centers for inde-

1 pendent living to develop comprehensive approaches or systems for pro-  
2 viding independent living services.

3 (4) Conduct studies and analyses, gather information, develop model  
4 policies and procedures and present information, approaches, strategies,  
5 findings, conclusions and recommendations to local, state and national  
6 policy makers in order to enhance independent living services for indi-  
7 viduals with disabilities.

8 (5) Train individuals with disabilities and individuals providing serv-  
9 ices to individuals with disabilities and other persons regarding the phi-  
10 losophy of independent living.

11 (6) Provide outreach to populations that are unserved or underserved  
12 by programs under this act, including minority groups and urban and rural  
13 populations.

14 (b) The state independent living council shall be solely responsible  
15 for its budget and for the approval of expenditures.

16 Sec. 6. (a) Under applicable provisions of the state plan, the council  
17 shall designate centers for independent living within this state eligible to  
18 receive funds allotted by the state independent living council and the  
19 legislature for the operation and establishment of centers for independent  
20 living.

21 (b) The council may make a grant under this section to any designated  
22 eligible organization that:

23 (1) Has the power and authority to carry out the purposes of this act;

24 (2) meets the definition of a center for independent living; and

25 (3) submits an application to the council at a time and in such manner  
26 and containing such information as the council may require.

27 **[Sec. 7. K.S.A. 39-709 is hereby amended to read as follows: 39-**  
28 **709. (a) General eligibility requirements for assistance for which federal**  
29 **moneys are expended. Subject to the additional requirements below,**  
30 **assistance in accordance with plans under which federal moneys**  
31 **are expended may be granted to any needy person who:**

32 **[(1) Has insufficient income or resources to provide a reasona-**  
33 **ble subsistence compatible with decency and health. Where a hus-**  
34 **band and wife are living together, the combined income or resources**  
35 **of both shall be considered in determining the eligibility of either**  
36 **or both for such assistance unless otherwise prohibited by law. The**  
37 **secretary, in determining need of any applicant for or recipient of**  
38 **assistance shall not take into account the financial responsibility of**  
39 **any individual for any applicant or recipient of assistance unless**  
40 **such applicant or recipient is such individual's spouse or such in-**  
41 **dividual's minor child or minor stepchild if the stepchild is living**  
42 **with such individual. The secretary in determining need of an in-**  
43 **dividual may provide such income and resource exemptions as may**

1 *be permitted by federal law. For purposes of eligibility for aid for*  
2 *families with dependent children, for food stamp assistance and for*  
3 *any other assistance provided through the department of social and*  
4 *rehabilitation services under which federal moneys are expended,*  
5 *the secretary of social and rehabilitation services shall consider one*  
6 *motor vehicle owned by the applicant for assistance, regardless of*  
7 *the value of such vehicle, as exempt personal property and shall*  
8 *consider any equity in any additional motor vehicle owned by the*  
9 *applicant for assistance to be a nonexempt resource of the applicant*  
10 *for assistance.*

11 *[(2) Is a citizen of the United States or is an alien lawfully ad-*  
12 *mitted to the United States and who is residing in the state of*  
13 *Kansas.*

14 *[(b) Assistance to families with dependent children. Assistance may*  
15 *be granted under this act to any dependent child, or relative, subject*  
16 *to the general eligibility requirements as set out in subsection (a),*  
17 *who resides in the state of Kansas or whose parent or other relative*  
18 *with whom the child is living resides in the state of Kansas. Such*  
19 *assistance shall be known as aid to families with dependent chil-*  
20 *dren. Where husband and wife are living together both shall register*  
21 *for work under the program requirements for aid to families with*  
22 *dependent children in accordance with criteria and guidelines pre-*  
23 *scribed by rules and regulations of the secretary.*

24 *[(c) Aid to families with dependent children; assignment of support*  
25 *rights and limited power of attorney. By applying for or receiving aid*  
26 *to families with dependent children such applicant or recipient shall*  
27 *be deemed to have assigned to the secretary on behalf of the state*  
28 *any accrued, present or future rights to support from any other*  
29 *person such applicant may have in such person's own behalf or in*  
30 *behalf of any other family member for whom the applicant is ap-*  
31 *plying for or receiving aid. In any case in which an order for child*  
32 *support has been established and the legal custodian and obligee*  
33 *under the order surrenders physical custody of the child to a care-*  
34 *taker relative without obtaining a modification of legal custody and*  
35 *support rights on behalf of the child are assigned pursuant to this*  
36 *section, the surrender of physical custody and the assignment shall*  
37 *transfer, by operation of law, the child's support rights under the*  
38 *order to the secretary on behalf of the state. Such assignment shall*  
39 *be of all accrued, present or future rights to support of the child*  
40 *surrendered to the caretaker relative. The assignment of support*  
41 *rights shall automatically become effective upon the date of ap-*  
42 *proval for or receipt of such aid without the requirement that any*  
43 *document be signed by the applicant, recipient or obligee. By ap-*

1 *plying for or receiving aid to families with dependent children, or*  
2 *by surrendering physical custody of a child to a caretaker relative*  
3 *who is an applicant or recipient of such assistance on the child's*  
4 *behalf, the applicant, recipient or obligee is also deemed to have*  
5 *appointed the secretary, or the secretary's designee, as an attorney*  
6 *in fact to perform the specific act of negotiating and endorsing all*  
7 *drafts, checks, money orders or other negotiable instruments rep-*  
8 *resenting support payments received by the secretary in behalf of*  
9 *any person applying for, receiving or having received such assis-*  
10 *tance. This limited power of attorney shall be effective from the date*  
11 *the secretary approves the application for aid and shall remain in*  
12 *effect until the assignment of support rights has been terminated in*  
13 *full.*

14 *[(d) Eligibility requirements for general assistance, the cost of which*  
15 *is not shared by the federal government. (1) General assistance may be*  
16 *granted to eligible persons who do not qualify for financial assis-*  
17 *tance in a program in which the federal government participates*  
18 *and who satisfy the additional requirements prescribed by or under*  
19 *this subsection (d).*

20 *[(A) To qualify for general assistance in any form a needy per-*  
21 *son must have insufficient income or resources to provide a reason-*  
22 *able subsistence compatible with decency and health and, except as*  
23 *provided for transitional assistance, be a member of a family in*  
24 *which a minor child or a pregnant woman resides or be unable to*  
25 *engage in employment. The secretary shall adopt rules and regu-*  
26 *lations prescribing criteria for establishing when a minor child may*  
27 *be considered to be living with a family and whether a person is*  
28 *able to engage in employment, including such factors as age or phys-*  
29 *ical or mental condition. Eligibility for general assistance, other*  
30 *than transitional assistance, is limited to families in which a minor*  
31 *child or a pregnant woman resides or to an adult or family in which*  
32 *all legally responsible family members are unable to engage in em-*  
33 *ployment. Where a husband and wife are living together the com-*  
34 *combined income or resources of both shall be considered in determin-*  
35 *ing the eligibility of either or both for such assistance unless*  
36 *otherwise prohibited by law. The secretary in determining need of*  
37 *any applicant for or recipient of general assistance shall not take*  
38 *into account the financial responsibility of any individual for any*  
39 *applicant or recipient of general assistance unless such applicant*  
40 *or recipient is such individual's spouse or such individual's minor*  
41 *child or a minor stepchild if the stepchild is living with such indi-*  
42 *vidual. In determining the need of an individual, the secretary may*  
43 *provide for income and resource exemptions.*

1 [(B) To qualify for general assistance in any form a needy per-  
2 son must be a citizen of the United States or an alien lawfully ad-  
3 mitted to the United States and must be residing in the state of  
4 Kansas.

5 [(2) General assistance in the form of transitional assistance  
6 may be granted to eligible persons who do not qualify for financial  
7 assistance in a program in which the federal government partici-  
8 pates and who satisfy the additional requirements prescribed by or  
9 under this subsection (d), but who do not meet the criteria pre-  
10 scribed by rules and regulations of the secretary relating to inabil-  
11 ity to engage in employment or are not a member of a family in  
12 which a minor or a pregnant woman resides.

13 [(3) In addition to the other requirements prescribed under this  
14 subsection (d), the secretary shall adopt rules and regulations  
15 which establish community work experience program requirements  
16 for eligibility for the receipt of general assistance in any form and  
17 which establish penalties to be imposed when a work assignment  
18 under a community work experience program requirement is not  
19 completed without good cause. The secretary may adopt rules and  
20 regulations establishing exemptions from any such community work  
21 experience program requirements. A first time failure to complete  
22 such a work assignment requirement shall result in ineligibility to  
23 receive general assistance for a period fixed by such rules and reg-  
24 ulations of not more than three calendar months. A subsequent fail-  
25 ure to complete such a work assignment requirement shall result in  
26 a period fixed by such rules and regulations of ineligibility of not  
27 more than six calendar months.

28 [(4) If any person is found guilty of the crime of theft under the  
29 provisions of K.S.A. 39-720, and amendments thereto, such person  
30 shall thereby become forever ineligible to receive any form of gen-  
31 eral assistance under the provisions of this subsection (d) unless the  
32 conviction is the person's first conviction under the provisions of  
33 K.S.A. 39-720, and amendments thereto, or the law of any other  
34 state concerning welfare fraud. First time offenders convicted of a  
35 misdemeanor under the provisions of such statute shall become in-  
36 eligible to receive any form of general assistance for a period of 12  
37 calendar months from the date of conviction. First time offenders  
38 convicted of a felony under the provisions of such statute shall be-  
39 come ineligible to receive any form of general assistance for a pe-  
40 riod of 60 calendar months from the date of conviction. If any per-  
41 son is found guilty by a court of competent jurisdiction of any state  
42 other than the state of Kansas of a crime involving welfare fraud,  
43 such person shall thereby become forever ineligible to receive any

11

1 form of general assistance under the provisions of this subsection  
2 (d) unless the conviction is the person's first conviction under the  
3 law of any other state concerning welfare fraud. First time offenders  
4 convicted of a misdemeanor under the law of any other state con-  
5 cerning welfare fraud shall become ineligible to receive any form  
6 of general assistance for a period of 12 calendar months from the  
7 date of conviction. First time offenders convicted of a felony under  
8 the law of any other state concerning welfare fraud shall become  
9 ineligible to receive any form of general assistance for a period of  
10 60 calendar months from the date of conviction.

11 [(e) Requirements for medical assistance for which federal moneys or  
12 state moneys or both are expended. (1) When the secretary has adopted  
13 a medical care plan under which federal moneys or state moneys or  
14 both are expended, medical assistance in accordance with such plan  
15 shall be granted to any person who is a citizen of the United States  
16 or who is an alien lawfully admitted to the United States and who  
17 is residing in the state of Kansas, whose resources and income do  
18 not exceed the levels prescribed by the secretary. In determining  
19 the need of an individual, the secretary may provide for income and  
20 resource exemptions and protected income and resource levels. Re-  
21 sources from inheritance shall be counted. A disclaimer of an in-  
22 heritance pursuant to K.S.A. 59-2291, and amendments thereto,  
23 shall constitute a transfer of resources. The secretary shall exempt  
24 principal and interest held in irrevocable trust pursuant to subsec-  
25 tion (c) of K.S.A. 16-303, and amendments thereto, from the eligi-  
26 bility requirements of applicants for and recipients of medical as-  
27 sistance. Such assistance shall be known as medical assistance.

28 [(2) For the purposes of medical assistance eligibility determinations  
29 on or after July 1, 2003, if an applicant or recipient owns property in  
30 joint tenancy with some other party and the applicant or recipient of  
31 medical assistance has restricted or conditioned their interest in such  
32 property to a specific and discrete property interest less than 100%, then  
33 such designation will cause the full value of the property to be considered  
34 an available resource to the applicant or recipient.

35 [(3) Resources from trusts shall be considered when determining el-  
36 igibility of a trust beneficiary for medical assistance. Medical assistance  
37 is to be secondary to all resources, including trusts, that may be available  
38 to an applicant or recipient of medical assistance. If a trust has discre-  
39 tionary language, the trust shall be considered to be an available resource  
40 to the extent, using the full extent of discretion, the trustee may make any  
41 of the income or principal available to the applicant or recipient of medical  
42 assistance. Any such discretionary trust shall be considered an available  
43 resource unless: (1) The trust is funded exclusively from resources of a



1 person who, at the time of creation of the trust, owed no duty of support  
2 to the applicant or recipient; and (2) the trust contains specific contem-  
3 poraneous language that states an intent that the trust be supplemental  
4 to public assistance and the trust makes specific reference to medicaid,  
5 medical assistance or title XIX of the social security act.

6 [(4) (A) When an applicant or recipient of medical assistance is a  
7 party to a contract, agreement or accord for personal services being pro-  
8 vided by a nonlicensed individual or provider and such contract, agree-  
9 ment or accord involves health and welfare monitoring, pharmacy assis-  
10 tance, case management, communication with medical, health or other  
11 professionals, or other activities related to home health care, long term  
12 care, medical assistance benefits, or other related issues, any moneys paid  
13 under such contract, agreement or accord shall be considered to be an  
14 available resource unless the following restrictions are met: (i) The con-  
15 tract, agreement or accord must be in writing and executed prior to any  
16 services being provided; (ii) the moneys paid are in direct relationship  
17 with the fair market value of such services being provided by similarly  
18 situated and trained nonlicensed individuals; (iii) if no similarly situated  
19 nonlicensed individuals or situations can be found, the value of services  
20 will be based on federal hourly minimum wage standards; (iv) such in-  
21 dividual providing the services will report all receipts of moneys as income  
22 to the appropriate state and federal governmental revenue agencies; (v)  
23 any amounts due under such contract, agreement or accord shall be paid  
24 after the services are rendered; (vi) the applicant or recipient shall have  
25 the power to revoke the contract, agreement or accord; and (vii) upon the  
26 death of the applicant or recipient, the contract, agreement or accord  
27 ceases.

28 [(B) When an applicant or recipient of medical assistance is a party  
29 to a written contract for personal services being provided by a licensed  
30 health professional or facility and such contract involves health and wel-  
31 fare monitoring, pharmacy assistance, case management, communication  
32 with medical, health or other professionals, or other activities related to  
33 home health care, long term care, medical assistance benefits or other  
34 related issues, any moneys paid in advance of receipt of services for such  
35 contracts shall be considered to be an available resource.

36 [(f) Eligibility for medical assistance of resident receiving medical  
37 care outside state. **A person who is receiving medical care including**  
38 **long-term care outside of Kansas whose health would be endangered**  
39 **by the postponement of medical care until return to the state or by**  
40 **travel to return to Kansas, may be determined eligible for medical**  
41 **assistance if such individual is a resident of Kansas and all other**  
42 **eligibility factors are met. Persons who are receiving medical care**  
43 **on an ongoing basis in a long-term medical care facility in a state**

1 *other than Kansas and who do not return to a care facility in Kansas*  
2 *when they are able to do so, shall no longer be eligible to receive*  
3 *assistance in Kansas unless such medical care is not available in a*  
4 *comparable facility or program providing such medical care in Kan-*  
5 *sas. For persons who are minors or who are under guardianship,*  
6 *the actions of the parent or guardian shall be deemed to be the*  
7 *actions of the child or ward in determining whether or not the per-*  
8 *son is remaining outside the state voluntarily.*

9 *[(g) Medical assistance; assignment of rights to medical support and*  
10 *limited power of attorney; recovery from estates of deceased recipients.*

11 *(1) Except as otherwise provided in K.S.A. 39-786 and 39-787, and*  
12 *amendments thereto, or as otherwise authorized on and after Sep-*  
13 *tember 30, 1989, under section 303 and amendments thereto of the*  
14 *federal medicare catastrophic coverage act of 1988, whichever is*  
15 *applicable, by applying for or receiving medical assistance under a*  
16 *medical care plan in which federal funds are expended, any ac-*  
17 *crued, present or future rights to support and any rights to payment*  
18 *for medical care from a third party of an applicant or recipient and*  
19 *any other family member for whom the applicant is applying shall*  
20 *be deemed to have been assigned to the secretary on behalf of the*  
21 *state. The assignment shall automatically become effective upon the*  
22 *date of approval for such assistance without the requirement that*  
23 *any document be signed by the applicant or recipient. By applying*  
24 *for or receiving medical assistance the applicant or recipient is also*  
25 *deemed to have appointed the secretary, or the secretary's designee,*  
26 *as an attorney in fact to perform the specific act of negotiating and*  
27 *endorsing all drafts, checks, money orders or other negotiable in-*  
28 *struments, representing payments received by the secretary in be-*  
29 *half of any person applying for, receiving or having received such*  
30 *assistance. This limited power of attorney shall be effective from*  
31 *the date the secretary approves the application for assistance and*  
32 *shall remain in effect until the assignment has been terminated in*  
33 *full. The assignment of any rights to payment for medical care from*  
34 *a third party under this subsection shall not prohibit a health care*  
35 *provider from directly billing an insurance carrier for services ren-*  
36 *dered if the provider has not submitted a claim covering such serv-*  
37 *ices to the secretary for payment. Support amounts collected on*  
38 *behalf of persons whose rights to support are assigned to the sec-*  
39 *retary only under this subsection and no other shall be distributed*  
40 *pursuant to subsection (d) of K.S.A. 39-756, and amendments*  
41 *thereto, except that any amounts designated as medical support*  
42 *shall be retained by the secretary for repayment of the unreim-*  
43 *bursed portion of assistance. Amounts collected pursuant to the as-*

1 signment of rights to payment for medical care from a third party  
2 shall also be retained by the secretary for repayment of the unreim-  
3 bursed portion of assistance.

4 [(2) The amount of any medical assistance paid after June 30,  
5 1992, under the provisions of subsection (e) is (A) a claim against  
6 the property or any interest therein belonging to and a part of the  
7 estate of any deceased recipient or, if there is no estate, the estate  
8 of the surviving spouse, if any, shall be charged for such medical  
9 assistance paid to either or both, and (B) a claim against any funds  
10 of such recipient or spouse in any account under K.S.A. 9-1215, 9-  
11 1216, 17-2263, 17-2264, 17-5828 or 17-5829, and amendments  
12 thereto. There shall be no recovery of medical assistance correctly  
13 paid to or on behalf of an individual under subsection (e) except  
14 after the death of the surviving spouse of the individual, if any, and  
15 only at a time when the individual has no surviving child who is  
16 under 21 years of age or is blind or permanently and totally disa-  
17 bled. Transfers of real or personal property by recipients of medical  
18 assistance without adequate consideration are voidable and may be  
19 set aside. Except where there is a surviving spouse, or a surviving  
20 child who is under 21 years of age or is blind or permanently and  
21 totally disabled, the amount of any medical assistance paid under  
22 subsection (e) is a claim against the estate in any guardianship or  
23 conservatorship proceeding. The monetary value of any benefits re-  
24 ceived by the recipient of such medical assistance under long-term  
25 care insurance, as defined by K.S.A. 40-2227, and amendments  
26 thereto, shall be a credit against the amount of the claim provided  
27 for such medical assistance under this subsection (g). The secretary  
28 is authorized to enforce each claim provided for under this subsec-  
29 tion (g). The secretary shall not be required to pursue every claim,  
30 but is granted discretion to determine which claims to pursue. All  
31 moneys received by the secretary from claims under this subsection  
32 (g) shall be deposited in the social welfare fund. The secretary may  
33 adopt rules and regulations for the implementation and administra-  
34 tion of the medical assistance recovery program under this subsec-  
35 tion (g).

36 [(3) By applying for or receiving medical assistance under the pro-  
37 visions of article 7 of chapter 39 of the Kansas Statutes Annotated, such  
38 individual or such individual's agent, fiduciary, guardian conservator,  
39 representative payee or other person acting on behalf of the individual  
40 consents to the following definitions of estate and the results therefrom:

41 [(A) If an individual receives any medical assistance before July 1,  
42 2003, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
43 which forms the basis for a claim under subsection (g)(2), such claim is

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1 limited to the individual's probatable estate as defined by applicable law;  
2 and

3 [(B) if an individual receives any medical assistance on or after July  
4 1, 2003, pursuant to article 7 of chapter 39 of the Kansas Statutes An-  
5 notated, which forms the basis for a claim under subsection (g)(2), such  
6 claim shall apply to the individual's medical assistance estate. The medical  
7 assistance estate is defined as including all real and personal property and  
8 other assets in which the deceased individual had any legal title or interest  
9 at the time of death including assets conveyed to a survivor, heir or assign  
10 of the deceased individual through joint tenancy, tenancy in common,  
11 survivorship, transfer-on-death deed, payable-on-death contract, life es-  
12 tate, trust, annuities or similar arrangement.

13 [(4) The secretary of social and rehabilitation services or the secre-  
14 tary's designee is authorized to file and enforce a lien against the real  
15 property of a recipient of medical assistance in certain situations, subject  
16 to all prior liens of record. The lien must be filed in the office of the register  
17 of deeds of the county where the real property is located and must contain  
18 the legal description of all real property in the county subject to the lien.  
19 This lien is for payments of medical assistance made by the department  
20 of social and rehabilitation services to the recipient who is an inpatient  
21 in a nursing home or other medical institution. **[Such lien may be filed  
22 only when the community spouse of the spouse receiving medical  
23 assistance has vacated the home and the home is not being used as  
24 the permanent residence of the community spouse.]** Such lien may  
25 be filed only after notice and an opportunity for a hearing has been given.  
26 Such lien may be enforced only upon competent medical testimony that  
27 the recipient cannot reasonably be expected to be discharged and returned  
28 home. A six-month period of compensated inpatient care at a nursing  
29 home, nursing homes or other medical institution shall constitute a de-  
30 termination by the department of social and rehabilitation services that  
31 the recipient cannot reasonably be expected to be discharged and returned  
32 home. To return home means the recipient leaves the nursing or medical  
33 facility and resides in the home on which the lien has been placed for a  
34 period of at least 90 days without being readmitted as an inpatient to a  
35 nursing or medical facility. The amount of the lien shall be for the amount  
36 of assistance paid by the department of social and rehabilitation services  
37 after the expiration of six months from the date the recipient became  
38 eligible for compensated inpatient care at a nursing home, nursing homes  
39 or other medical institution until the time of the filing of the lien and for  
40 any amount paid thereafter for such medical assistance to the recipient.

41 [(5) The lien filed by the secretary or the secretary's designee for  
42 medical assistance correctly received may be enforced before or after the  
43 death of the recipient by the filing of an action to foreclose such lien in

1 the Kansas district court or through an estate probate court action in the  
2 county where the real property of the recipient is located. However, it  
3 may be enforced only:

4 [(A) After the death of the surviving spouse of the recipient;

5 [(B) when there is no child of the recipient, natural or adopted, who  
6 is 20 years of age or less residing in the home;

7 [(C) when there is no adult child of the recipient, natural or adopted,  
8 who is blind or disabled residing in the home; or

9 [(D) when no brother or sister of the recipient is lawfully residing in  
10 the home, who has resided there for at least one year immediately before  
11 the date of the recipient's admission to the nursing or medical facility,  
12 and has resided there on a continuous basis since that time.

13 [(6) The lien remains on the property even after a transfer of the title  
14 by conveyance, sale, succession, inheritance or will unless one of the fol-  
15 lowing events occur:

16 [(A) The lien is satisfied. The recipient, the heirs, personal represen-  
17 tative or assigns of the recipient may discharge such lien at any time by  
18 paying the amount of the lien to the secretary or the secretary's designee;

19 [(B) The lien is terminated by foreclosure of prior lien of record [**or**  
20 **by settlement action taken in lieu of foreclosure**];

21 [(C) the value of the real property is consumed by the lien, at which  
22 time the secretary or the secretary's designee may force the sale for the  
23 real property to satisfy the lien; or

24 [(D) after a lien is filed against the real property, it will be dissolved  
25 if the recipient leaves the nursing or medical facility and resides in the  
26 property to which the lien is attached for a period of more than 90 days  
27 without being readmitted as an inpatient to a nursing or medical facility,  
28 even though there may have been no reasonable expectation that this  
29 would occur. If the recipient is readmitted to a nursing or medical facility  
30 during this period, and does return home after being released, another  
31 90 days must be completed before the lien can be dissolved.

32 [(7) If the secretary of social and rehabilitation services or the sec-  
33 retary's designee has not filed an action to foreclose the lien in the Kansas  
34 district court in the county where the real property is located within 10  
35 years from the date of the filing of the lien, then the lien shall become  
36 dormant, and shall cease to operate as a lien on the real estate of the  
37 recipient. Such dormant lien may be revived in the same manner as a  
38 dormant judgment lien is revived under K.S.A. 60-2403 et seq.

39 [(h) Placement under code for care of children or juvenile offenders  
40 code; assignment of support rights and limited power of attorney. **In any**  
41 **case in which the secretary of social and rehabilitation services pays**  
42 **for the expenses of care and custody of a child pursuant to K.S.A.**  
43 **38-1501 et seq. or 38-1601 et seq., and amendments thereto, includ-**

1 *ing the expenses of any foster care placement, an assignment of all*  
2 *past, present and future support rights of the child in custody pos-*  
3 *essed by either parent or other person entitled to receive support*  
4 *payments for the child is, by operation of law, conveyed to the sec-*  
5 *retary. Such assignment shall become effective upon placement of*  
6 *a child in the custody of the secretary or upon payment of the ex-*  
7 *penses of care and custody of a child by the secretary without the*  
8 *requirement that any document be signed by the parent or other*  
9 *person entitled to receive support payments for the child. When the*  
10 *secretary pays for the expenses of care and custody of a child or a*  
11 *child is placed in the custody of the secretary, the parent or other*  
12 *person entitled to receive support payments for the child is also*  
13 *deemed to have appointed the secretary, or the secretary's designee,*  
14 *as attorney in fact to perform the specific act of negotiating and*  
15 *endorsing all drafts, checks, money orders or other negotiable in-*  
16 *struments representing support payments received by the secretary*  
17 *on behalf of the child. This limited power of attorney shall be ef-*  
18 *fective from the date the assignment to support rights becomes ef-*  
19 *fective and shall remain in effect until the assignment of support*  
20 *rights has been terminated in full.*

21 *[(i) No person who voluntarily quits employment or who is fired*  
22 *from employment due to gross misconduct as defined by rules and*  
23 *regulations of the secretary or who is a fugitive from justice by*  
24 *reason of a felony conviction or charge shall be eligible to receive*  
25 *public assistance benefits in this state. Any recipient of public as-*  
26 *sistance who fails to timely comply with monthly reporting require-*  
27 *ments under criteria and guidelines prescribed by rules and regu-*  
28 *lations of the secretary shall be subject to a penalty established by*  
29 *the secretary by rules and regulations.*

30 *[(j) If the applicant or recipient of aid to families with depend-*  
31 *ent children is a mother of the dependent child, as a condition of*  
32 *the mother's eligibility for aid to families with dependent children*  
33 *the mother shall identify by name and, if known, by current address*  
34 *the father of the dependent child except that the secretary may*  
35 *adopt by rules and regulations exceptions to this requirement in*  
36 *cases of undue hardship. Any recipient of aid to families with de-*  
37 *pendent children who fails to cooperate with requirements relating*  
38 *to child support enforcement under criteria and guidelines pre-*  
39 *scribed by rules and regulations of the secretary shall be subject to*  
40 *a penalty established by the secretary by rules and regulations*  
41 *which penalty shall progress to ineligibility for the family after*  
42 *three months of noncooperation.*

43 *[(k) By applying for or receiving child care benefits or food*

1 stamps, the applicant or recipient shall be deemed to have assigned,  
2 pursuant to K.S.A. 39-756 and amendments thereto, to the secretary  
3 on behalf of the state only accrued, present or future rights to sup-  
4 port from any other person such applicant may have in such per-  
5 son's own behalf or in behalf of any other family member for whom  
6 the applicant is applying for or receiving aid. The assignment of  
7 support rights shall automatically become effective upon the date  
8 of approval for or receipt of such aid without the requirement that  
9 any document be signed by the applicant or recipient. By applying  
10 for or receiving child care benefits or food stamps, the applicant or  
11 recipient is also deemed to have appointed the secretary, or the  
12 secretary's designee, as an attorney in fact to perform the specific  
13 act of negotiating and endorsing all drafts, checks, money orders or  
14 other negotiable instruments representing support payments re-  
15 ceived by the secretary in behalf of any person applying for, re-  
16 ceiving or having received such assistance. This limited power of  
17 attorney shall be effective from the date the secretary approves the  
18 application for aid and shall remain in effect until the assignment  
19 of support rights has been terminated in full. An applicant or recip-  
20 ient who has assigned support rights to the secretary pursuant to  
21 this subsection shall cooperate in establishing and enforcing sup-  
22 port obligations to the same extent required of applicants for or  
23 recipients of aid to families with dependent children.

24 [New Sec. 8. On or before the first day of each regular session  
25 of the legislature, the secretary shall prepare and submit to the  
26 president of the senate and the speaker of the house of representa-  
27 tives a report of the total amount of moneys expended by the de-  
28 partment for medical assistance, the amount of moneys recovered  
29 pursuant to subsection (g) of K.S.A. 39-709, and amendments  
30 thereto, and any recommendations for legislation necessary to in-  
31 sure that the factors or methods used to determine eligibility for  
32 medical assistance more accurately represent the resources of an  
33 applicant for, or recipient of, medical assistance.

34 [Sec. 9. K.S.A. 39-709 is hereby repealed.]

35 Sec. 7 [10]. This act shall take effect and be in force from and after  
36 its publication in the statute book.  
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February 2, 2004

**To:** Committee on Commerce and Labor  
**From:** Jerry Ann Donaldson, Principal Analyst  
**Re:** Kansas Minimum Wage

## Kansas Minimum Wage

The Kansas minimum wage law covers all employees except those individuals: (1) employed in agriculture; (2) employed in domestic service in or about a private home; (3) who are a bona fide executive, administrative or professional employees; (4) employed as an outside salesperson on commission; (5) employed by the federal government; (6) who render voluntary service to a nonprofit organization; (7) 18 years of age or younger, who are employed on a part-time basis; (8) school district employees working in an executive, administrative or professional capacity during 50 percent or more of their working time; (9) whose employer is covered by the federal Fair Labor Standards Act; or (10) who are employed by the United States.

The hourly minimum wage in Kansas is \$2.65 per hour.

**KSA 44-1202. Minimum wage and maximum hours law; definitions.** As used in K.S.A. 44-1201 to 44-1213, inclusive, and amendments thereto, unless the context otherwise requires:

(a) "Secretary" means the secretary of human resources.

(b) "Wage" means compensation due to an employee by reason of the employee's 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 allowances as may be permitted by regulations of the secretary under K.S.A. 44-1207 and amendments thereto.

(c) "Employ" means to suffer or permit to work.

(d) "Employer" means any individual, partnership, association, corporation, business trust or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include any employer who is subject to the provisions of the fair labor standards act of 1938 (29 U.S.C.A. § 201 et seq.) and any other acts amendatory thereof or supplemental thereto.

(e) "Employee" means any individual employed by an employer, but shall not include: (1) Any individual employed in agriculture; (2) any individual employed in domestic service in or about a private home; (3) any individual employed in a bona fide executive, administrative or professional capacity or in the capacity of an outside commission paid salesman, as such terms are defined and delimited by rules and regulations of the secretary; (4) any individual employed by the United States; (5) any individual who renders service gratuitously for a nonprofit organization as such terms are defined by rules and regulations of the secretary; (6) persons eighteen years of age or less employed for any purpose on an occasional or part-time basis; or (7) any individual employed by a

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unified school district in an executive, administrative or professional capacity, if the individual is engaged in such capacity 50% or more of the hours during which the individual is so employed.

(f) "Occupation" means employment in any service, trade, business, industry or other gainful employment.

(g) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron or customer for services rendered.

(h) "Occasional or part-time basis" means any employee working less than 40 hours per week and, for the purposes of this definition, students 18 years of age and under working between academic terms shall be considered part-time employees regardless of the number of hours worked.

History: L. 1977, ch. 179, § 4; L. 1979, ch. 162, § 2; L. 1988, ch. 175, § 1; July 1.

**KSA 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. 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.

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

**KSA 44-1204. Same; overtime compensation; exceptions.** (a) On and after January 1, 1978, no employer shall employ any employee for a workweek longer than forty-six (46) hours, unless such employee receives compensation for employment in excess of forty-six (46) hours in a workweek at a rate of not less than one and one-half (1 1/2) times the hourly wage rate at which such employee is regularly employed.

(b) No employer shall be deemed to have violated subsection (a) with respect to the employment of any employee who is covered by this section, who is engaged in the public or private delivery of emergency medical services as a crash injury management technician, emergency medical technician or mobile intensive care technician, or who is engaged in fire protection or law enforcement activities, including any member of the security personnel in any correctional institution, and who is paid compensation at a rate of not less than one and one-half (1 1/2) times the regular rate at which such employee is employed:

(1) In any work period of twenty-eight (28) consecutive days in which such employee works for tours of duty which in the aggregate exceed two hundred fifty-eight (258) hours; or

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(2) in the case of any such employee to whom a work period of at least seven (7) but less than twenty-eight (28) days applies, in any such work period in which such employee works for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in such work period as two hundred fifty-eight (258) hours bears to twenty-eight (28) days.

(c) The provisions of this section shall not apply to the employment of:

(1) Any employee who is covered under the provisions of section 7 of the fair labor standards act of 1938 as amended (29 U.S.C.A. § 207), and as amended by the fair labor standards amendments of 1974 and any other acts amendatory thereof or supplemental thereto; or

(2) any employee who is primarily engaged in selling motor vehicles, as defined in subsection (b) of K.S.A. 8-126, for a nonmanufacturing employer primarily engaged in the business of selling such vehicles to ultimate purchasers;

(3) any person who is sentenced to the custody of the secretary of corrections and any person serving a sentence in a county jail.

(d) For the purposes of this section, the agreement or practice by employees engaged in fire protection or law enforcement activities of substituting for one another on regularly scheduled tours of duty, or a part thereof, shall be deemed to have no effect on hours of work if:

(1) The substituting is done voluntarily by the employees and not at the behest of the employer;

(2) The reason for substituting is due not to the employer's business practice but to the employee's desire or need to attend to a personal matter;

(3) A record is maintained by the employer of all time substituted by the employer's employees; and

(4) The period during which time is substituted and paid back does not exceed twelve (12) months.

History: L. 1977, ch. 179, § 6; L. 1979, ch. 162, § 1; April 26.

### **History of the Kansas Minimum Wage Law**

The Kansas minimum wage rate was established by way of 1977 HB 2549, but the legislation became effective on January 1, 1978. At that time, the minimum wage was established at \$1.60 per hour with overtime, at one and one-half the hourly wage, for hours worked in excess of 46 hours per week. In 1988, HB 2960 raised the minimum wage from the former \$1.60 per hour to the current \$2.65 per hour.

Efforts to increase the minimum wage by way of draft legislation has occurred on a regular basis. The illustrated chart reflects these efforts. A few of the bills have applied more specifically to establishing a prevailing wage on public projects.

### Prevailing Wage on Public Projects

Year	Senate Bill	House Bill
1989		HB 2128
1990		HB 2128
1991		HB 2278
1992	SB 715	
1993	SB 112	HB 2457
1994	SB 112	HB 2457; HB 2957
1995	SB 226	HB 2337
1996	SB 506	HB 2890; HB 2894
1997	SB 299	
1998	SB 299	
1999	SB 265	
2000	SB 265	
2001	SB 288	HB 2130; HB 2264; HB 2484
2002		HB 2264
2003	SB 114	

### Proponents and Opponents of Increasing the Kansas Minimum Wage

Historically, proponents of an increase in the state minimum wage usually cite, among other reasons, that an increase would allow businesses to attract and retain workers. In addition, an increase in the income for low-income workers who live in poverty would assist such workers and be the humane thing to do.

Generally, opponents of raising the state minimum wage have indicated that a raise interferes with the natural transaction that takes place in the marketplace. Another argument has been that a higher minimum wage costs jobs, and additionally, would cause a financial burden on small businesses and cause increased unemployment or a cutback in hours worked.

### Other State Legislation Regarding Minimum Wages

The attachment enclosed in the material indicates the minimum wage amounts in the various states.

2-4

STATE OF KANSAS

TED POWERS  
REPRESENTATIVE, 81ST DISTRICT  
HAYSVILLE • MULVANE  
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TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
Environment  
Ethics & Elections  
Taxation  
SPECIAL CLAIMS AGAINST THE STATE

TESTIMONY OF REPRESENTATIVE TED POWERS  
TO THE HOUSE COMMERCE & LABOR COMMITTEE  
FEBRUARY 4, 2004

Mr. Chairman:

Parity. 1. Equality as in amount or value. 2. A fixed relative value between two different kinds of currency. 3. A level for farm-product prices maintained by governmental support.

HB 2526 concerns raising the current minimum wage of \$2.65, to \$7.50 per hour over a 3-year period.

Climates  
Trends  
Bench Marks  
Illinois SB 600  
Tennessee Yellow Dog USA

Comm & Labor  
2-4-03  
Atch # 3



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### Minimum Wage

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#### **The current minimum wage of \$5.15 per hour leaves millions of Americans in poverty.**

A full-time job should be a bridge out of poverty, an opportunity to make a living from work. But for minimum wage earners, especially those with families, it is not. A wage earner working full-time at the minimum wage of \$5.15 per hour earns about \$10,700 a year—\$4,500 below the 2003 poverty line for a family of three, and \$7,700 below the poverty line for a family of four.

#### **Because of inflation coupled with inaction by the federal government, the value of the minimum wage has plummeted.**

The federal minimum wage is not adjusted for inflation, and it has not been increased since 1997. Each year the President and Congress neglect the minimum wage, low-wage workers fall further and further behind. If the minimum wage had just kept pace with inflation since 1979, when it was \$2.90 per hour, it would now be over \$7.65.<sup>1</sup> Without an increase, the real, inflation-adjusted value of the minimum wage in 2004 will be lower than in all but one year (1989) since 1955.<sup>2</sup>

#### **Only twelve states have a minimum wage greater than \$5.15 per hour.**

Twelve states (AK, CA, CT, DE, HI, IL, ME, MA, OR, RI, VT, WA) and the District of Columbia have a minimum wage greater than the federal, the highest being \$7.15 in Alaska and \$7.16 in Washington. Twenty-nine states (AR, CO, GA, ID, IN, IA, KY, MD, MI, MN, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK, PA, SD, TX, UT, VA, WV, WI, WY) match the federal minimum of \$5.15. Two states (KS, OH) have a minimum wage that is lower than the federal, and seven (AL, AZ, FL, LA, MS, SC, TN) have no state minimum wage at all.

#### **Increasing the minimum wage would help millions of working families escape poverty.**

If the minimum wage were increased by \$1.50, from \$5.15 to \$6.65, it would directly affect the wages of 5-10 percent of the workforce, depending on the state.<sup>3</sup> An additional 5-10 percent of workers, those who currently earn between \$6.65 and \$7.65 per hour, would see their wages increase because of the “spillover” effect of a rise in the minimum wage.

**Increasing the minimum wage would especially help women and people of color.**

Working women are the largest group that would benefit from a minimum wage increase. About 12.6 percent of working women—11 million Americans and their families—would be directly affected by a \$1 increase in the minimum wage. Similarly, 18.1 percent of African American workers and 14.4 percent of Hispanic workers would directly benefit from such an increase.<sup>4</sup>

**The current minimum wage strains state public assistance programs.**

When they are paid at or near the current minimum wage, workers and their families must rely on public assistance to survive. They need Medicaid, subsidized housing, childcare programs, and free school lunches. Raising the minimum wage requires employers to shoulder more of the responsibility for the basic needs of their employees. This lowers costs for the state.

**Raising the minimum wage does not cost jobs.**

A comprehensive study by the Economic Policy Institute found that the 1996 and 1997 federal minimum wage increases did not cause job losses. Even teen employment, which some argue is the most vulnerable to minimum wage increases, suffered no job losses.<sup>5</sup> Increases in the minimum wage do not harm businesses because costs are offset by the benefits of higher employee productivity, lower recruiting and training costs, decreased absenteeism, and increased worker morale.

**Three out of four Americans say the minimum wage should be increased by a dollar or more.**

A 2001 poll for the Christian Science Monitor found that 75 percent of Americans support an increase in the minimum wage.<sup>6</sup> That support is only increasing: a nationwide poll in 2002 found that 77 percent of likely voters support raising the minimum wage from \$5.15 to \$8 per hour, and 79 percent favor regular cost-of-living adjustments to the minimum wage.<sup>7</sup>

**Endnotes**

<sup>1</sup> Based on the Consumer Price Index for Urban Wage Earners and Clerical Workers computed by the U.S. Bureau of Labor Statistics.

<sup>2</sup> AFL-CIO, "Minimum Wage: Myths and Realities," 2003.

<sup>3</sup> Economic Policy Institute, "Step Up, Not Out: The Case for Raising the Federal Minimum Wage for Workers in Every State," 2001.

<sup>4</sup> Ibid.

<sup>5</sup> Economic Policy Institute, "The Impact of the 1996-97 Minimum Wage Increase," 1998.

<sup>6</sup> TechnoMetrica Market Intelligence Poll for *Investor's Business Daily/Christian Science Monitor*, November 2001.

<sup>7</sup> Lake Snell Perry and Associates for the Ms. Foundation, "Raise the Floor: Wages and Policies That Work For All Of Us," January 2002.



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## Real and current values of the minimum wage, 1960-2001

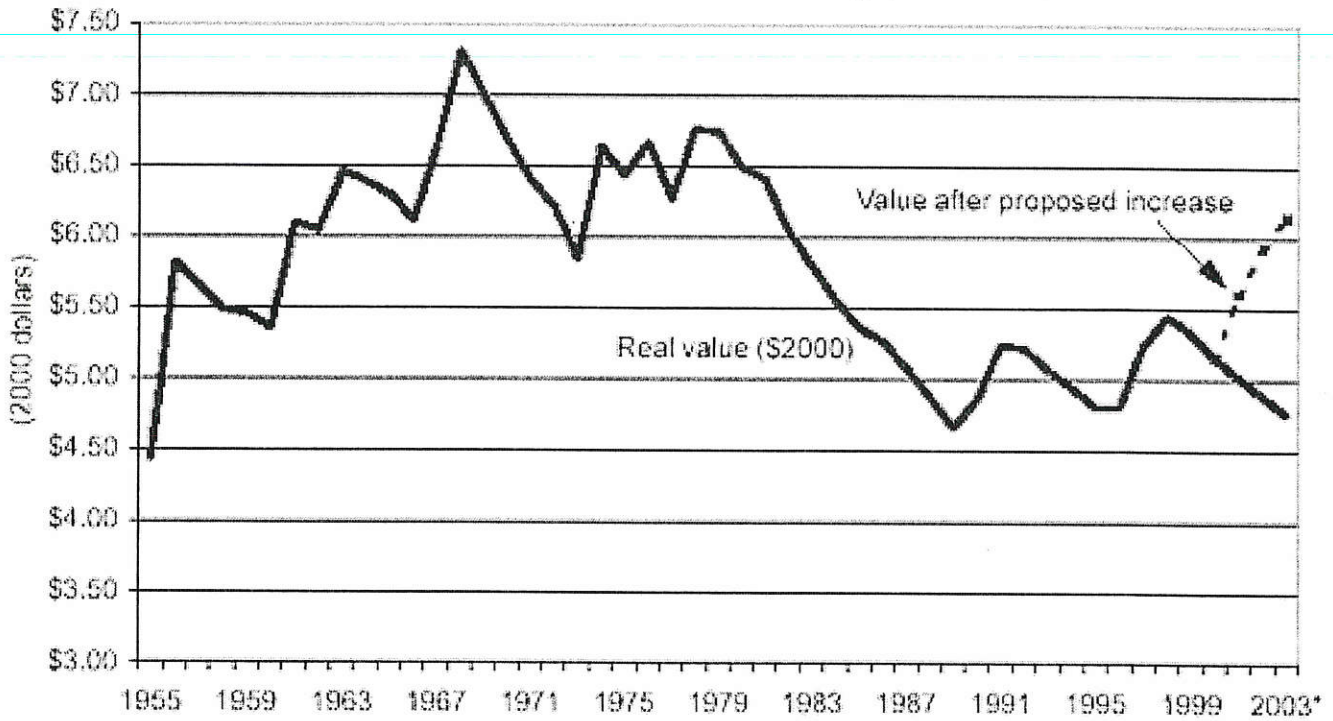
	Minimum wage current dollar	Minimum wage real \$1999
1960	\$1.00	\$5.18
1961	1.15	5.90
1962	1.15	5.84
1963	1.25	6.26
1964	1.25	6.18
1965	1.25	6.08
1966	1.25	5.91
1967	1.40	6.43
1968	1.60	7.07
1969	1.60	6.77
1970	1.60	6.45
1971	1.60	6.18
1972	1.60	6.00
1973	1.60	5.65
1974	2.00	6.42
1975	2.10	6.23
1976	2.30	6.45
1977	2.30	6.06
1978	2.65	6.54
1979	2.90	6.53
1980	3.10	6.28
1981	3.35	6.19
1982	3.35	5.84
1983	3.35	5.60
1984	3.35	5.37
1985	3.35	5.19
1986	3.35	5.09
1987	3.35	4.91
1988	3.35	4.72
1989	3.35	4.50
1990	3.80	4.84
1991	4.25	5.20
1992	4.25	5.03
1993	4.25	4.90
1994	4.25	4.78
1995	4.25	4.65
1996	4.75	5.04
1997	5.15	5.35
1998	5.15	5.26
1999	5.15	5.15
2000	5.15	5.00
2001	5.15	4.85

Source: Authors' analysis from *The State of Working America 2000-01*, figure 2T.



FIGURE 1

Real value of the federal minimum wage, 1956-2003



Source: Economic Policy Institute.

\* Inflation projections use CBO estimates for the CPI-U (calendar years) from *Economic and Budget Outlook for Fiscal Years 1999-2000*.

Source: Step up, not out: The case for raising the federal minimum wage for workers in every state (EPI Issue Brief #149)

► **minimum wage**



# U.S. Department of Labor Employment Standards Administration Wage and Hour Division



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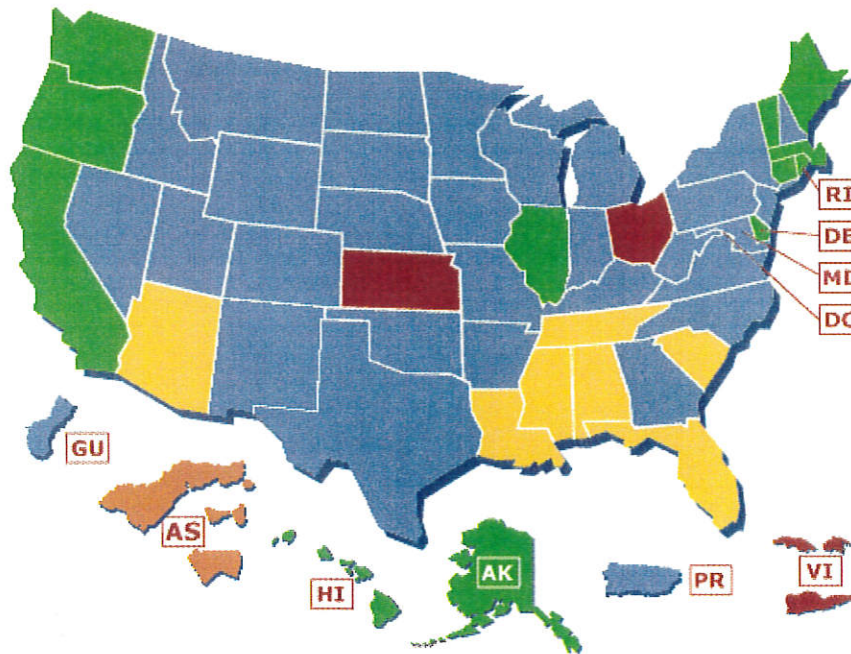
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## Minimum Wage Laws in the States

Click on any state or jurisdiction to find out about applicable minimum wage laws.

Note: Where Federal and state law have different minimum wage rates, the higher standard applies.



- States with minimum wage rates higher than the Federal
- States with minimum wage rates the same as the Federal
- American Samoa has [special minimum wage rates](#)
- States with no minimum wage law
- States with minimum wage rates lower than the Federal

**Minimum Wage and Overtime Premium Pay Standards Applicable to  
Nonsupervisory NONFARM *Private Sector* Employment  
Under State and Federal Laws  
January 1, 2004 <sup>1</sup>**

*Commy Labo.*  
1/30/2004 11:10 AM  
Atch # 3-7

Alabama Minimum Wage Rates

ALABAMA	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly

No state minimum wage law.

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Alaska Minimum Wage Rates

ALASKA	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
		\$7.15	8	40

Under a voluntary flexible work hour plan approved by the Alaska Department of Labor, a 10 hour day, 40 hour workweek may be instituted with premium pay after 10 hours a day instead of after 8 hours.

The premium overtime pay requirement on either a daily or weekly basis is not applicable to employers of fewer than 4 employees.

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AMERICAN SAMOA

American Samoa has [special minimum wage rates](#).

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Arizona Minimum Wage Rates

ARIZONA	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly

No state minimum wage law.

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Arkansas Minimum Wage Rates

ARKANSAS	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly

(Applicable to employers of 4 or more employees)

\$5.15

N/A

40

The State law excludes from coverage any employment that is subject to the Federal Fair Labor Standards Act.

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California Minimum Wage Rates

**CALIFORNIA**

**Future Effective Date**

**Basic Minimum Rate (per hour)**

**Premium Pay After Designated Hours <sup>2</sup>**

**Daily**

**Weekly**

\$6.75

8

40

Over 12 (double time)

7th day: First 8 hours (time and half)  
Over 8 hours (double time)

San Francisco Ordinance (Applicable to employees who work 2 or more hours a week. Rate will not apply to businesses with fewer than 10 employees or non-profits until January 1, 2005.)

02/23/04

\$8.50 Indexed rate

Overtime is due after 8 hours per day or 40 hours per week unless an alternative workweek of no more than 4 days of 10 hours was established prior to 7/1/99.

Premium pay on 7th day not required for employee whose total weekly work hours do not exceed 30 and whose total hours in any one work day thereof do not exceed 6, in specific wage and hour orders.

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Colorado Minimum Wage Rates

**COLORADO**

**Future Effective Date**

**Basic Minimum Rate (per hour)**

**Premium Pay After Designated Hours <sup>2</sup>**

**Daily**

**Weekly**

\$5.15

12

40

Minimum wage rate and overtime provisions applicable to retail and service, commercial support service, food and beverage, and health and medical industries.

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Connecticut Minimum Wage Rates

**CONNECTICUT**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly
	\$7.10		40

In restaurants and hotel restaurants, for the 7th consecutive day of work, premium pay is required at time and one half the minimum rate.

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

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Delaware Minimum Wage Rates

**DELAWARE**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly
	\$6.15		

The Delaware minimum wage is automatically replaced with the Federal minimum wage rate if it is higher than the State minimum.

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District of Columbia Minimum Wage Rates

**DISTRICT OF COLUMBIA**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly
	\$6.15		40

In the District of Columbia the rate is automatically set at \$1 above the Federal minimum wage rate.

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Florida Minimum Wage Rates

**FLORIDA**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly
<i>No state minimum wage law.</i>	N/A		N/A

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Georgia Minimum Wage Rates

**GEORGIA**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly

(Applicable to employers of 6 or more employees)

\$5.15

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

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Guam Minimum Wage Rates

**GUAM**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly

\$5.15

40

The Guam minimum wage law does not contain current dollar minimums. Instead it adopts the Federal minimum wage rate by reference.

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Hawaii Minimum Wage Rates

**HAWAII**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly

\$6.25

40

An employee earning a guaranteed monthly compensation of \$2,000 or more is exempt from the State minimum wage and overtime law.

The State law excludes from coverage any employment that is subject to the Federal Fair Labor Standards Act unless the State wage rate is higher than the Federal.

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Idaho Minimum Wage Rates

**IDAHO**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly

\$5.15

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Illinois Minimum Wage Rates

**ILLINOIS**

	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
			<i>(Applicable to employers of 4 or more employees, excluding family members)</i>	
		\$5.50		40
	1/1/05	\$6.50		

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Indiana Minimum Wage Rates

**INDIANA**

	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
			<i>(Applicable to employers of 2 or more employees)</i>	
		\$5.15		40

The State law excludes from coverage any employment that is subject to the Federal Fair Labor Standards Act.

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Iowa Minimum Wage Rates

**IOWA**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly
			\$5.15

The Iowa minimum wage is automatically replaced with the Federal minimum wage rate if it is higher than the State minimum.

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Kansas Minimum Wage Rates

**KANSAS**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly
			\$2.65

The State law excludes from coverage any employment that is subject to the Federal Fair Labor Standards Act.

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Kentucky Minimum Wage Rates

KENTUCKY	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
		\$5.15		40 7th day

The 7th day overtime law, which is separate from the minimum wage law differs in coverage from that in the minimum wage law and requires premium pay on the seventh day for those employees who work seven days in any one workweek.

The Kentucky state minimum wage law does not contain current dollar minimums. Instead the state adopts the Federal minimum wage rate by reference.

Compensating time in lieu of overtime is allowed upon written request by an employee of any county, charter county, consolidated local government, or urban-county government, including an employee of a county-elected official.

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Louisiana Minimum Wage Rates

LOUISIANA	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
		N/A		N/A

*There is no state minimum wage law.*

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Maine Minimum Wage Rates

MAINE	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
		\$6.25		40

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

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Maryland Minimum Wage Rates

MARYLAND	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
			State Law	\$5.15
<i>Baltimore City Ordinance (Applicable to employers of 2 or more)</i>	\$5.15		40	

Under the state minimum wage law, premium pay is required after 48 hours in bowling alleys and for residential employees of institutions (other than a hospital) primarily engaged in the care of the sick, aged, or mentally ill.

The Maryland state minimum wage law does not contain current dollar minimums. Instead the state adopts the Federal minimum wage rate by reference.

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Massachusetts Minimum Wage Rates

MASSACHUSETTS	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
				\$6.75

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

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Michigan Minimum Wage Rates

MICHIGAN	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
			<i>(Applicable to employers of 2 or more employees)</i>	\$5.15

The State law excludes from coverage any employment that is subject to the Federal Fair Labor Standards Act unless the State wage rate is higher than the Federal.

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Minnesota Minimum Wage Rates

MINNESOTA	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly

<i>Large employer (enterprise with annual receipts of \$500,000 or more)</i>	\$5.15	48
<i>Small employer (enterprise with annual receipts of less than \$500,000)</i>	\$4.90	

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Mississippi Minimum Wage Rates

MISSISSIPPI	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
<i>No state minimum wage law.</i>		N/A		N/A

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Missouri Minimum Wage Rates

MISSOURI	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
		\$5.15		40

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

Premium pay required after 52 hours in seasonal amusement or recreation businesses.

The Missouri state minimum wage law does not contain current dollar minimums. Instead the state adopts the Federal minimum wage rate by reference.

The State law excludes from coverage any employment that is subject to the Federal Fair Labor Standards Act.

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Montana Minimum Wage Rates

MONTANA	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
State Law		\$5.15		40
<i>Except businesses with gross annual sales of \$110,000 or less</i>		\$4.00		

The Montana state minimum wage law does not contain current dollar minimums. Instead the state adopts the Federal minimum wage rate by reference via administrative action.

3215

The State law excludes from coverage any employment that is subject to the Federal Fair Labor Standards Act unless the State wage rate is higher than the Federal.

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Nebraska Minimum Wage Rates

NEBRASKA	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly

(Applicable to employers of 4 or more employees)

\$5.15

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Nevada Minimum Wage Rates

NEVADA	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly

\$5.15

8

40

By mutual employer/employee agreement, a scheduled 10 hour day for 4 days a week may be worked without premium pay after 8 hours.

The premium overtime pay requirement on either a daily or weekly basis is not applicable to employees who are compensated at not less than one and one-half times the minimum rate or to employees of enterprises having a gross annual sales volume of less than \$250,000.

The Nevada state minimum wage law does not contain current dollar minimums. Instead the state adopts the Federal minimum wage rate by reference via administrative action.

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New Hampshire Minimum Wage Rates

NEW HAMPSHIRE	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly

\$5.15

40

The New Hampshire minimum wage is automatically replaced with the Federal minimum wage rate if it is higher than the State minimum.

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New Jersey Minimum Wage Rates

**NEW JERSEY**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly
	\$5.15		40

The New Jersey State minimum wage law does not contain current dollar minimums. Instead the State adopts the Federal minimum wage rate by reference.

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New Mexico Minimum Wage Rates

**NEW MEXICO**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly
	\$5.15		40
	\$8.50		
	\$9.50		
	\$10.50		
	Indexed rate		

Santa Fe Ordinance  
(Applicable to the city, business receiving economic development grants and employers of 25 or more)

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New York Minimum Wage Rates

**NEW YORK**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly
	\$5.15		40

The New York minimum wage is automatically replaced with the Federal minimum wage rate if it is higher than the State minimum.

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North Carolina Minimum Wage Rates

**NORTH CAROLINA**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly
	\$5.15		40

Premium pay is required after 45 hours a week in seasonal amusements or recreational establishments.

The State law excludes from coverage any employment that is subject to the Federal Fair Labor Standards Act.

The North Carolina State minimum wage law does not contain current dollar minimums. Instead the State adopts the Federal minimum wage rate by reference.

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North Dakota Minimum Wage Rates

NORTH DAKOTA	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
		\$5.15		

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Ohio Minimum Wage Rates

OHIO	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
			State Law	
<i>Except, employers with gross annual sales from \$150,000 to \$500,000</i>		\$3.35		
Except for employers with gross annual sales under \$150,000		\$2.80		

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Oklahoma Minimum Wage Rates

OKLAHOMA	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
			<i>Employers of ten or more full time employees at any one location and employers with annual gross sales over \$100,000 irrespective of number of full time employees.</i>	
All other employers.		\$2.00		

The Oklahoma state minimum wage law does not contain current dollar minimums. Instead the state adopts the Federal minimum wage rate by reference.

The State law excludes from coverage any employment that is subject to the Federal Fair Labor Standards Act.

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Oregon Minimum Wage Rates

OREGON	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
		\$7.05		40

Premium pay required after 10 hours a day in nonfarm canneries, driers, or packing plants and in mills, factories or manufacturing establishments (excluding sawmills, planning mills, shingle mills, and logging camps).

Beginning January 1, 2004, and annually thereafter, the rate will be adjusted for inflation by a calculation using the U.S. City Average Consumer Price Index for All Urban Consumers for All Items. The wage amount established will be rounded to the nearest five cents.

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Pennsylvania Minimum Wage Rates

PENNSYLVANIA	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
		\$5.15		40

The Pennsylvania state minimum wage law does not contain current dollar minimums. Instead the state adopts the Federal minimum wage rate by reference.

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Puerto Rico Minimum Wage Rates

PUERTO RICO	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
		\$3.61 to \$5.15	8 <i>And on statutory rest day (double time)</i>	40 <i>(double time)</i>

Employers covered by the Federal Fair Labor Standards Act (FLSA) are subject only to the Federal minimum wage and all applicable regulations. Employers not covered by the FLSA will be subject to a minimum wage that is at least 70 percent of the Federal minimum wage or the applicable mandatory decree rate, whichever is higher. The Secretary of Labor and Human Resources may authorize a rate based on a lower percentage for any employer who can show that implementation of the 70 percent rate would substantially curtail employment in that business.

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## Rhode Island Minimum Wage Rates

RHODE ISLAND	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
		\$6.75		40

Time and one-half premium pay for work on Sundays and holidays in retail and certain other businesses is required under two laws that are separate from the minimum wage law.

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## South Carolina Minimum Wage Rates

SOUTH CAROLINA	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
		N/A		N/A

*No state minimum wage law.*

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## South Dakota Minimum Wage Rates

SOUTH DAKOTA	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
		\$5.15		

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## Tennessee Minimum Wage Rates

TENNESSEE	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
		N/A		N/A

*No state minimum wage law.*

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Texas Minimum Wage Rates

TEXAS	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly

\$5.15

The State law excludes from coverage any employment that is subject to the Federal Fair Labor Standards Act.

The Texas State minimum wage law does not contain current dollar minimums. Instead the State adopts the Federal minimum wage rate by reference.

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Utah Minimum Wage Rates

UTAH	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly

\$5.15

The Utah state minimum wage law does not contain current dollar minimums. Instead the state law authorizes the adoption of the Federal minimum wage rate via administrative action.

The State law excludes from coverage any employment that is subject to the Federal Fair Labor Standards Act.

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Vermont Minimum Wage Rates

VERMONT	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly

*(Applicable to employers of two or more employees)*

1/1/05

\$6.75  
\$7.00

40

The State overtime pay provision has very limited application because it exempts numerous types of establishments, such as retail and service; seasonal amusement/recreation; hotels, motels, restaurants; and transportation employees to whom the Federal (FLSA) overtime provision does not apply.

The Vermont minimum wage is automatically replaced with the Federal minimum wage rate if it is higher than the State minimum.

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Virginia Minimum Wage Rates

VIRGINIA	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly



(Applicable to employers of 4 or more employees) \$5.15

The Virginia state minimum wage law does not contain current dollar minimums. Instead the state adopts the Federal minimum wage rate by reference.

The State law excludes from coverage any employment that is subject to the Federal Fair Labor Standards Act.

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Virgin Islands Minimum Wage Rates

VIRGIN ISLANDS	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
State law		\$4.65	8	40 On 6th and 7th consecutive days.
<i>Except businesses with gross annual receipts of less than \$150,000.</i>		\$4.30		

In practice, the Virgin Islands adopts the Federal \$5.15 per hour rate.

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Washington Minimum Wage Rates

WASHINGTON	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
		\$7.16		40

Premium pay not applicable to employees who request compensating time off in lieu of premium pay.

Beginning January 1, 2001, and annually thereafter, the rate will be adjusted for inflation by a calculation using the consumer price index for urban wage earners and clerical workers for the prior year.

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West Virginia Minimum Wage Rates

WEST VIRGINIA	Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
			Daily	Weekly
(Applicable to employers of 6 or more employees at one location)		\$5.15		40

The State law excludes from coverage any employment that is subject to the Federal Fair Labor Standards Act.

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Wisconsin Minimum Wage Rates

**WISCONSIN**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly
	\$5.15		40

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Wyoming Minimum Wage Rates

**WYOMING**

Future Effective Date	Basic Minimum Rate (per hour)	Premium Pay After Designated Hours <sup>2</sup>	
		Daily	Weekly
	\$5.15		

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<sup>1</sup> Like the Federal wage and hour law, State law often exempts particular occupations or industries from the minimum labor standard generally applied to covered employment. Particular exemptions are not identified in this table. Users are encouraged to consult the laws of particular States in determining whether the State's minimum wage applies to a particular employment. This information often may be found at the websites maintained by State labor departments. Links to these websites are available at [www.dol.gov/esa/contacts/state\\_of.htm](http://www.dol.gov/esa/contacts/state_of.htm).

<sup>2</sup> The overtime premium rate is one and one-half times the employee's regular rate, unless otherwise specified.

*This document was last revised in December, 2003; unless otherwise stated, the information reflects requirements that were in effect, or would take effect, as of January 1, 2004.*

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# Workers comp Falling down on the job

**W**hen Lisa Wurgler was 27, she earned about \$730 a week as a nurse at a hospital in Rugby, N.D. "I felt if my parents ever needed help, if they had to go into a nursing home, I would be in a position to take care of them," she says. Now, six years later, Wurgler says she gets \$200 a week from Social Security. Her parents take care of her.

In 1990, Jim Stotts, then 46, earned \$33,000 a year as foreman of a city utility plant in Lafayette, La. He owned his own home and had \$30,000 in retirement savings. Within 18 months, he had lost it all.

In 1995, Jim Sargeant, now 37, was excited about his new job as a sales rep and distributor for a janitorial-equipment company, where he'd make \$35,000 a year. He and his wife were expecting their third child. They had saved \$13,000 toward a house, and they owned a minivan and a car. Two years later, short of cash, they had to give up their apartment, their cars, and all their savings. "We filed for bankruptcy," says Sargeant, of Clarkston, Wash. "We lost everything."

What caused these people to fall from the security of a regular paycheck to near-destitution? All were injured on the job, and workers compensation—the program that is supposed to pay for their medical care and some lost income—failed to help.

Lisa Wurgler injured her back lifting patients. But the North Dakota Workers Compensation Bureau cut off her benefits when she refused to go to a pain clinic after two others did her no good (among the recommended therapies: anger-management classes). The bureau declined to comment.

Jim Stotts suffered dizziness, burning nasal passages, sky-high blood pressure, headaches, and swollen eyes after being exposed to toxic solvent fumes while on the job at the power plant. Doctors recommended by his employer diagnosed him with toxic encephalopathy, a form of brain damage. But the city of Lafayette did not accept the diagnosis; according to the city's risk

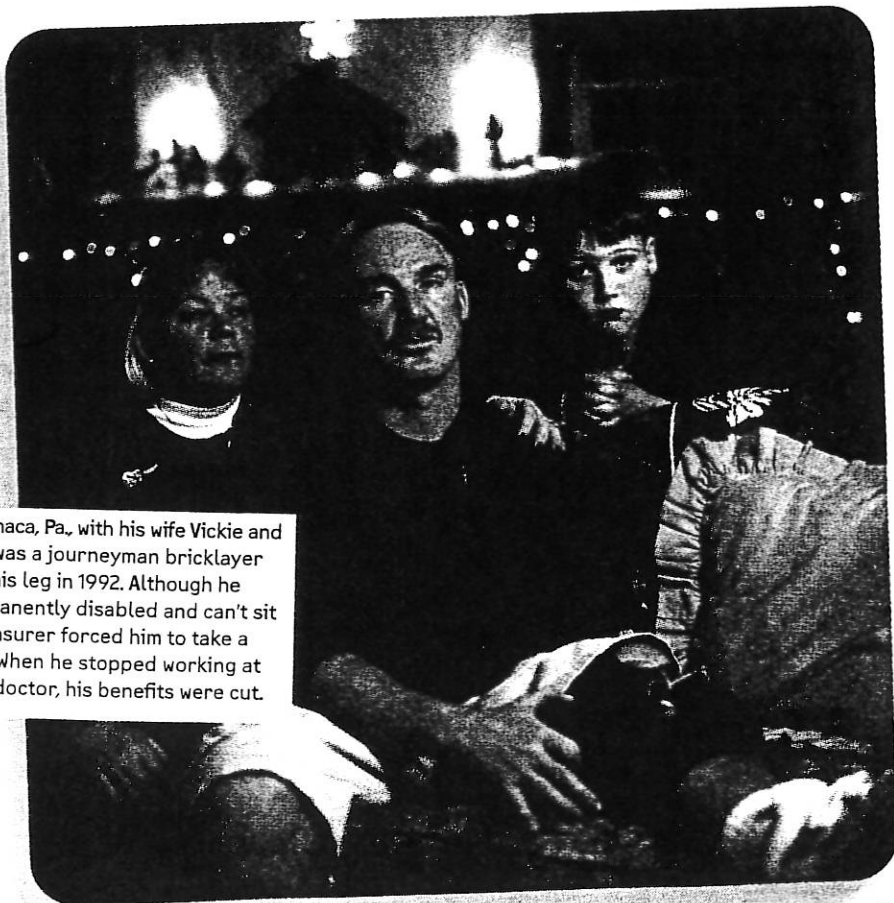
manager, tests showed no brain damage. It took five years to win his claim. And even then, the city did not pay Stotts' ongoing medical bills until a settlement was reached last year.

Jim Sargeant, who was diagnosed with herniated disks after handling a 55-gallon drum of industrial cleaner, qualified for permanent disability under Social Security. A state board awarded him workers-comp benefits, but then withdrew them periodically. State officials have not returned our phone calls.

Workers compensation, from which 1.8 million people collected cash benefits in 1998, was designed as a safety net for those who are injured or die on the job. And experts agree that the system can work, especially for people whose medical conditions clear up quickly. But for others, the system falls short.

In the early 1990s, state legislatures across the nation, at the behest of insurance carriers and the business community, passed reform laws designed to improve the system. They did—for insurers and businesses. Workers-comp insurance, once the money-loser of the industry, grew fat with profits. And businesses saw premiums drop substantially from 1992 to 1996, a development that public officials say stimulates job growth.

The old system needed changing, many agree. But instead of targeting insurance



**JOHN MCKAY** of Monaca, Pa., with his wife Vickie and his son Nathan, 8, was a journeyman bricklayer before he injured his leg in 1992. Although he was declared permanently disabled and can't sit or stand well, his insurer forced him to take a telemarketing job. When he stopped working at the request of his doctor, his benefits were cut.

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bureaucracies and employer fraud—two key problems that still exist—the new laws have generated profits for insurers and savings for employers mainly at the expense of injured workers. Those laws clamped down on benefits, raised eligibility requirements, and put medical treatment mainly in the hands of insurance companies, which can delay or deny medical care or income payments. The tactic is called “starving them out,” according to former insurance claims adjuster Erik Grindal of Coral Gables, Fla., who is now a lawyer. While waiting for help, claimants spend down their savings and then, out of desperation, accept a settlement for only a fraction of what they should get.

Robert Hartwig, chief economist of the Insurance Information Institute, defends the reforms. “The laws are designed to encourage people to go back to work,” he says. And while qualifying for workers comp may be more difficult now, he adds, “If you disagree with the decision, you can appeal; you have recourse.”

Meanwhile, many people continue to believe the notion—propagated by the insurance industry—that workers who file for benefits are merely milking the system. CONSUMER REPORTS’ chief medical adviser reviewed available documents of people whose stories are profiled in these pages and found evidence of disabling injuries. But all of them say they were treated like cheats. Observes Ernie Delmazzo, 42, a truck driver who hurt his neck in 1996 and now heads the Oregon Injured Workers’ Alliance, one of dozens of citizen groups that have grown up around the country in the last decade: “It’s a psychological nightmare. Even your neighbors look at you like you’re a fraud.”

To be sure, some workers abuse the system, though nobody knows exactly to what extent. The National Insurance Crime Bureau, an industry group, says workers-comp claimant fraud costs carriers about \$2.4 billion a year. But the group concedes that’s just a guess. Conning & Co., an insurance research firm, put claimant fraud at about 1.9 percent of premiums paid—or \$477 million.

In Florida, claimant-fraud cases typically average \$10,000 in undeserved payouts, says Ron Poindexter, director of the state’s division of insurance fraud. By contrast, he says, employers who fail to buy workers-comp insurance or cheat on their premiums by reclassifying workers in less dangerous and less costly job categories are bilking insurers out of millions annually. Worse, the injured employees end up filing for Social Security or public assistance, which may pay less and be harder to get.

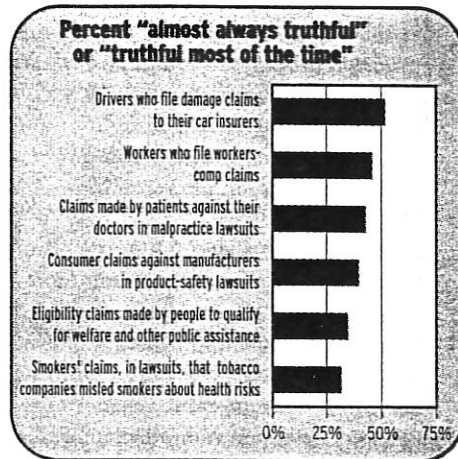
## How believable are those claims?

Employers and insurers, says Jeffrey Biddle, a Michigan State University economics professor, sometimes assert that workers-comp claimants are afflicted with an “Oprah syndrome”—the desire to ditch work and watch TV all day.

To find out whether the public agrees, CONSUMER REPORTS conducted a phone survey in November of 1,001 Americans representing a cross-section of the population. We asked respondents how truthful they found six different types of claims. Only 46 percent viewed workers-comp claims to be truthful most of the time, though they were thought to be more truthful than all others in the survey except the claims that drivers make to their auto-insurance companies.

Fear of being disbelieved, says Biddle, may discourage injured workers from applying for workers comp in the first place. A study he conducted of Michigan workers, whose illness reports to companies would have qualified

them for benefits, showed that depending on the industry, only 9 percent to 45 percent of the complaints ended up as claims. A Connecticut study of workers suffering from repetitive-stress injuries found that only 15 percent filed for workers-comp benefits.



### A VITAL SAFETY NET

Workers-compensation laws, adopted by all states between 1911 and 1940, were designed to accomplish two goals: to provide medical care and income to workers injured on the job and death benefits to families of those who died, and to protect employers from costly and unpredictable lawsuits by workers.

While each state has its own tangle of laws and regulations, most states require all businesses, except the very smallest, to provide workers-compensation coverage for their employees. To pay for the liability, employers buy insurance, usually from private carriers or state-run insurance funds, or they insure themselves.

If you’re injured on the job, you typically have no choice but to go through the workers-comp insurance system. Your regular health-care provider can and will turn you down for medical coverage—even if you have great benefits—if it discovers you were injured at work. As for lost income, many U.S. workers would have little help without workers comp if they were laid up from an on-the-job accident or an illness. Social Security Disability Income pays a stipend to anyone who is permanently and totally disabled, but it’s generally much smaller than workers comp.

Benefits available to injured workers were never princely, but by the 1970s their levels had sunk so far below the poverty line that President Nixon appointed the National

Commission on State Workmen’s Compensation Laws to study the problem. It recommended, among other things, that states pay totally disabled workers at least two-thirds of their salaries (workers comp is not taxable, so in theory workers don’t need all their wages), up to a cap of 100 percent of the state’s average weekly wage. Fearing federal takeover, states raised benefits. But as of last year, 17 states still didn’t meet that standard wage.

### REFORMS CUT BENEFITS AND COSTS

By the mid-1980s, however, insurance carriers found themselves deep in trouble. Medical expenses were increasing by about 11 percent a year, and returns had dropped on the investments that insurers maintain to pay future claims. Premiums were insufficient, and the workers-comp line of insurance lost money every year from 1984 to 1992.

Carriers beseeched state insurance regulators for steep premium increases, blaming their losses on runaway benefit costs and claimant fraud. However, John Burton, dean of the School of Management and Labor Relations at Rutgers University and chairman of the national workers-comp commission, says the losses came partly because insurers had previously made excessive cuts in premiums to attract customers. As rates spiked, employers complained to governors and state legislators that there was a crisis. High workers-comp rates, they argued—then

## Who gets injured and how

Workers in private industry reported 1.8 million injuries and illnesses that required time off work in 1997, the most recent year available. We list the most common injuries, and, based on 1998 data, some industries with relatively high rates per 100 full-time workers.

Injuries and illnesses	Injury and illness rates by industry
Sprains, strains..... 43.6%	Air transportation..... 8.4
Bruises ..... 9.0	Aluminum foundries ..... 6.4
Cuts ..... 7.3	Concrete block and brick ..... 6.1
Fractures ..... 6.5	Prepared flour mixes and doughs ..... 5.7
Multiple traumatic injuries ..... 3.3	Bottled and canned soft drinks ..... 5.4
Heat burns..... 1.6	Commercial laundry equipment ..... 5.3
Carpal tunnel syndrome ..... 1.6	Logging ..... 5.2
Tendinitis ..... 1.0	Truck and bus body work ..... 5.2
Chemical burns..... 0.7	Prefabricated wood buildings..... 4.8
Amputations ..... 0.6	Shipbuilding and repair..... 4.8
Other..... 24.8	

Source: Bureau of Labor Statistics

about \$2.20 for every \$100 of payroll —would sink businesses, throw state economies into a recession, and eliminate jobs.

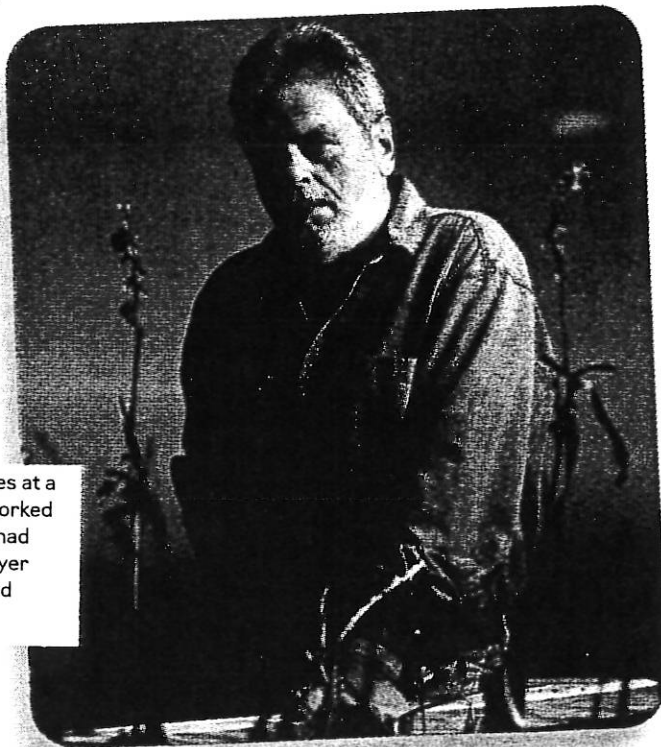
To whip up public support for reform, the insurance industry took its case to TV stations and newspapers across the nation. A powerful weapon was videotape culled from private investigators showing workers cheating small businesses. In a ten-day period in December 1991, no fewer than five reports appeared in the national media, including a “20/20” segment showing claimants committing outrageous abuses. Eric Oxfeld, president of UWC-Strategic Services on Unemployment and Workers’ Compensation, which lobbies for insurers on this issue, now concedes that claimant fraud was never a major driver of workers-comp costs. “People understand fraud,” he says. “So it got more attention perhaps than it deserved.”

**JIM STOTTS, 55**, breathed in toxic fumes at a Lafayette, La., power plant where he worked for 18 years. His doctors said that he had suffered brain damage, but his employer disallowed his workers-comp claim and terminated him.

The campaign succeeded. In the last decade, 29 states passed major workers-comp laws designed to cut costs. For the most part, legislatures chose from a menu of standard remedies. They allowed insurers to establish managed-care programs that would require claimants to get treatment from insurer- or employer-approved doctors. Several states reduced the number of weeks that workers could collect, stopped benefits when an employee could return to any work, and cut off payments when a claimant reached age 65, whether or not he qualified

for Social Security. And 12 states passed provisions cutting workers-comp benefits if claimants also collected money from Social Security or from their own pension.

Benefits and employer costs, as a percentage of payroll, dropped by more than 20 percent from 1992 to 1996, although many workplace-safety experts believe that some



of the decline comes from safety measures adopted by employers, a decreasing percentage of dangerous jobs in the economy, and greater employer willingness to hire the disabled. If the Occupational Safety and Health Administration goes ahead with new ergonomics regulations, repetitive-stress injuries such as carpal tunnel syndrome could decline further.

Insurers had another reason to cheer: The Social Security offset handed them a multimillion-dollar windfall. By 1995, workers-comp carriers had become the envy of the insurance industry, with annual operating profits of 20 percent. More companies entered the business, and soon insurers were battling each other to cut premiums. Rates dropped further, and state officials crowed with joy: “We have driven a stake through the heart of the No. 1 job killer in California,” said Pete Wilson, then the governor, upon passage of the state’s reform in 1993.

The new laws not only reduced benefits but made them harder to collect. In many states, the burden is now on workers to prove by a preponderance of the evidence that their injuries occurred as a result of their job and not poor health habits, aging, or a pre-existing medical condition. To win a claim, says Cleveland workers-comp attorney Harold Ticktin, a worker practically has to be “convicted of injury on the job.” The result is that ill and injured workers now must fight a series of battles: first, to get medical care; next, to withstand exams by insurance-company doctors who have an incentive to find excuses not to pay; then, to get a fair assessment of any permanent disability; and finally, to win a hearing if there’s a dispute.

### DELAYS IN MEDICAL CARE

These days medical care doesn’t come without a struggle. In 38 states injured workers have to choose a doctor from a company-approved list or managed-care program controlled by the insurer. The doctor may give them a palliative—even for a painful or serious injury—until the insurer agrees to pay for more-expensive care including tests, visits to specialists, surgery, or medication. If there’s a dispute, the worker must petition for a hearing

before one of the state workers-comp judges. That may add days or months to the wait for treatment.

For example, when Dr. Harvey Baumann, a Providence, R.I., plastic surgeon who treats hand injuries, recommends that a postsurgical workers-comp patient receive rehabilitation, the insurer will grant only nine sessions—“enough for three weeks,” he says, and often, not enough. “Even if I write

or call the claims adjuster asking for more sessions right away, the carrier will leave the patient waiting. By the time the insurer agrees to another nine sessions, the good of the first nine is lost." Withholding or delaying such care has cut insurers' medical cost increases to 3 percent per year this decade, from 11 percent per year in the 1980s. Those savings, however, can exacerbate the frustration and stress for some injured workers. "People become so desperate and depressed they can never return to a normal life," Baumann says.

Take the case of Paul Nessmith, a carpenter from Fort Lauderdale, Fla. In 1993 he injured his knee when he fell off a scaffold. A specialist recommended that the 24-year-old undergo arthroscopic surgery. Associated Industries of Florida, the insurer, insisted on a second opinion from its own independent medical examiner—but the claims adjuster took four months to set up the appointment. The new doctor approved the surgery, but it couldn't fix the problem, according to Nessmith's attorney, Andrea Wolfson. Nessmith's doctor told him they would try again, but the insurer wanted another independent assessment, which meant another four-month wait. He eventually got the surgery, but it did no good, his attorney says.

He tried to look for work as the insurer demanded, his wife says, but with only a tenth-grade education plus a leg brace and a cane, no one would hire him. The insurer contended, however, that he wasn't making a real effort and cut off his benefits. His wife, Susan, couldn't work because Paul couldn't take care of their baby, she says, adding that the family survived by borrowing from relatives and friends.

Four years later, after several hearings, a workers-comp judge ordered the insurer to pay Nessmith previously owed and ongoing benefits. The insurer made good on old payments, but paid no more. Wolfson was forced to go to court again, she says, "just to get him what the judge had already ordered." Nessmith took his own life in March 1998 by swallowing "all the prescription drugs he could lay his hands on," Wolfson says. Two days later, she received notification from the insurer that it was declaring Nessmith permanently and totally disabled and would pay

Susan a \$100,000 death benefit. The company declined comment on the case.

#### THE SECOND OPINION

Getting medical care depends on the opinion of an independent medical examiner (IME), a physician called in to assess a patient's condition. IMEs are paid by the insurer. On average, they earn \$507 per consultation, according to a 1997 survey of 266 IMEs conducted by SEAK, a medical-seminar company. Specialists like psychiatrists earn



**SUSAN NESSMITH'S** husband Paul, a Fort Lauderdale, Fla., carpenter, took his own life in 1998 after a five-year battle with his insurer to get medical benefits for his injured knee. "He was in constant pain and depressed because he couldn't take care of me and our daughter," she says. Two days after his death, she received word from the company that it had declared him permanently and totally disabled and awarded benefits.

as much as \$900 per consult.

The high fees are justified, says Dr. Chris Brigham, editor of The American Medical Association's The Guides Newsletter, which helps doctors and others evaluate workers-comp cases. A proper exam, he says, should include a complete review of the patient's medical records, a thorough interview, an appropriate physical examination (which typically takes about an hour and a half), and a written report—possibly a four- or five-hour job. Determining the severity and cause of an illness is a complicated task, and careful professionals can disagree.

But more than a dozen injured workers who spoke to CONSUMER REPORTS, whom we found through lawsuits, injured-worker groups, and the Internet, uniformly complained of doctors who clearly hadn't read their medical records and of examinations that lasted no more than 15 minutes. And

even though a negative report from an IME can play a big part in an insurance company's decision to cut off benefits immediately and unilaterally, workers in some states can't have anyone witness an exam except for their treating physician, who may not be available. Others can't even know what's in an IME's report until it becomes evidence at an official hearing.

IMEs also examine a worker's medical history to find other explanations for the illness or injury. In Oregon, for example, if 51 percent of the cause of the medical problem is attributable not to the job but to ordinary aging or a pre-existing medical condition, the worker gets nothing at all.

After Jim Stotts was diagnosed with toxic encephalopathy, for example, his employer called in an IME. In a letter to the IME, Lafayette's risk-management division suggested that his illness might be explained by alcohol abuse: "The application completed for physician's appointment ... shows that Mr. Stotts consumed approximately 40 drinks over ... one weekend," it read. A copy of the application shows that Stotts admitted to an alcohol problem—

12 years earlier. "The last time I had taken a drink was in 1978," he says.

Insurers sometimes shop patients around to a series of IMEs, flying them out of state and putting them up at motels. According to "Unjust Treatment," a 1998 New York AFL-CIO report, IME documents are often altered to please insurers.

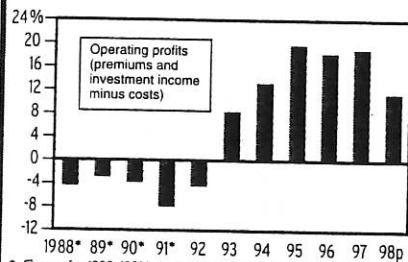
Mary Jeffords, 43, has two steel rods and four screws near the base of her spine and uses two canes to get around the apartment complex for the handicapped where she lives in Sanborn, N.Y. She was injured in 1987 in a brutal beating by a mentally retarded patient at the group home where she worked as a weekend supervisor. She spent a total of four months in the hospital and won benefits only last year—12 years after the attack—as a permanently and totally disabled person.

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Still asserting that she wasn't as injured as she claimed, Liberty Mutual, the insurer, asked for an assessment by an IME in 1996. After a hearing at which Liberty Mutual contended that Jeffords was only moderately disabled, she requested a copy of the report, and two surfaced. Both reports, dated the same day, were identical until the

### Reforms aided insurers ...

Since passage of reform laws in the early 1990s, workers-compensation insurers have enjoyed years of profits, but they're starting to slip.



\* Figures for 1988-1991 have been adjusted to reflect realized capital gains, to be consistent with other years.  
p Preliminary figures.

Source: National Council on Compensation Insurance

conclusion on page 7; one called her disability "total," while the second said it was "moderate." After Jeffords complained to the New York attorney general about the two reports, however, her IME said that he had merely altered his initial opinion after reviewing his notes. Liberty Mutual said it had nothing to do with his change of mind. Meanwhile, the judge refused to reduce Jeffords' benefits.

### WINNING LOST WAGES

An insurer makes temporary total disability payments, usually two-thirds of salary up to the state cap, until a worker reaches "maximum medical improvement." Then a doctor may release the claimant for work or assess any permanent impairment that prevents a return to the job. The conclusion, whatever it is, will determine how much an injured worker can collect in lost wages permanently. States should weigh many elements in determining a person's disability: education, age, capacity for retraining, pain, and so on, says Brigham of the American Medical Association newsletter.

Yet 38 states go solely by impairment scores set forth in the AMA Guides to the Evaluation of Impairment, even though Chapter 1 warns that financial awards should be not be based solely on scores. In many states, having severely damaged shoulders is a 15 percent whole-person impairment, so if two-thirds of a worker's average weekly wage is \$500, he would get \$75 a week no matter how important

shoulders are in doing his job.

About 1 to 3 percent of injured workers are declared totally and permanently disabled and receive the maximum state benefits. In a 1998 study of partially disabled workers who were injured in the early 1990s in California, Robert Reville, a RAND Institute analyst, found that generally claimants receive about 30 percent of their previous income instead of the two-thirds that the national commission had recommended. "They try to return to work," he says, "but their condition makes it hard for them to earn as much as before or to retain jobs."

### APPEALING AN INSURER'S DECISION

A claimant who has been denied a medical treatment or wage-loss benefit has to take his or her case to the state workers-compensation board. That's no simple task. In Florida, which supposedly has a streamlined system, claimants must first meet with an ombudsman who tries to work out the problem with the insurance company. If that fails, there's a settlement conference, and if that fails, a trial before an administrative judge. Except for ombudsman meetings, the procedures are legal affairs, generally requiring depositions, testimony, and filing fees. Pursuing a case may take years. When the International Association of Industrial Accident Boards and Commissions polled states about how long it took for claims to get from an application for a hearing to the judge's decision, only 13 states responded. The average lag time ranged from 30 days in Michigan to 1½ years in Iowa. According to the California Compensation Institute, 43 percent of that state's cases are still open after 3½ years.

Many states limit workers-comp lawyers to small fees. One aim, of course, is to keep workers from being gouged. But the caps also have had an unintended effect: further prolonging the process.

In 28 states, insurers or state funds are required to pay a worker's legal bills if the worker wins a dispute. The bills are so small, says former Louisiana workers-comp judge Aimee Johnson, "There's not much incentive for insurers to pay a claim without challenging it." And plenty of attorneys, says Ernie Delmazzo of the Oregon Injured

Workers Alliance, prod workers to accept small lump-sum settlements rather than fighting it out in court for doubtful rewards. By contrast, there are no limits on what insurance companies can pay their own lawyers to defend them from claims.

Even when workers win, their benefits may be cut off if they don't cooperate with their insurer. John McKay, 48, of Monaca, Pa., is a former journeyman bricklayer who injured his knee and sustained nerve damage in his legs when a scaffold collapsed in 1992. He was declared permanently impaired; he can't walk well, and sitting for any length of time is painful.

But in February 1997, Cigna, his insurer, forced him to take a job with a telemarketing company under a program the insurer subsidized. Hearings last year before the Pennsylvania Senate Labor and Industry

Committee revealed that the businesses involved failed to determine whether disabled workers could actually perform the work, rarely gave much training, and, after six months, either fired workers for incompetence or complained to insurers that they were uncooperative.

McKay received only one half-hour of training, he says, but persevered for six months by taking double his usual amount of pain medications. When he stopped working at his doctor's request, Cigna would not restore his benefits—though he got them restored six months later. The insurer declined to comment.

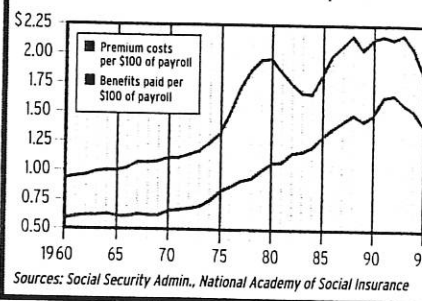
### ONE-SIDED ATTACK ON FRAUD

In their reform laws, 18 states set up special agencies to ferret out workers-comp fraud. It's important to crack down on cheaters; they boost premiums and the cost of goods and services for everyone. But most current enforcement efforts are one-sided: In almost all jurisdictions, the target is the claimant. Yet fraud by medical providers and employers is much more significant.

The Texas Research and Oversight Council on Workers' Compensation found that in 1996, fraudulent billing by doctors and other health-care providers cost about \$1.2 million—more than eight times the \$134,000 in phony worker claims that were uncovered. In Florida, a 1997 grand jury

### ... and businesses

As a percentage of payroll, workers-compensation costs for employers have fallen in recent years.



Sources: Social Security Admin., National Academy of Social Insurance

3-28

port found that about 13 percent of a sampling of the state's businesses carried no workers-comp coverage, even though most are legally required to do so. Florida, Minnesota, Arkansas, and California have started efforts to prosecute employer fraud, but in many states it's not a priority. Claimant fraud is a felony, but a company's failure to carry workers-comp insurance may be only a misdemeanor.

These days, medical costs, which held steady in the early 1990s, have started spiking again. And as in their lush years, workers-comp carriers have allowed claims-handling expenses to steadily increase while cutting rates too far to cover them, according to a 1999 report on the workers-comp industry by Conning & Co., the research firm. Employers are paying about 20 percent less than they should be, says Hartwig of the Insurance Information Institute.

Insurance companies are again saying that unless something gives, premiums will rise. "Reform," says lobbyist Oxfeld, "is by no means at an end."

#### RECOMMENDATIONS

Workers deserve more help from the workers-compensation system than they're getting.


The Occupational Safety and Health Administration should persist in its enforcement and regulatory efforts to make the workplace safer. The easiest way to keep workers-comp premiums and benefits low is to cut on-the-job accidents and illnesses.

Congress should revive standards set by the National Commission on State Workers' Compensation Laws, which, among other things, asked that benefit caps be raised to 100 percent of each state's average weekly wage.

States should audit their workers-comp systems to see whether they're too restrictive. States should also tighten deadlines for decisions and fine parties that delay, to discourage "starve out" tactics. Workers who receive good prompt treatment are less likely to be permanently impaired.

Workers should contact their state labor department to see if their employers have workers-compensation insurance, if there's any doubt. When considering a job, they should ask if the company offers group private long-term disability insurance. Consumers can also buy long-term disability insurance on their own.

If you become injured on the job, immediately report the circumstances and date in writing to your employer and get a receipt.

For more information on workers comp, visit [www.aflcio.org/safety/comp.htm](http://www.aflcio.org/safety/comp.htm). 

## RECALLS

### Vehicles and equipment

#### ► '91, '93-94 DaimlerChrysler minivans

Liftgate could drop suddenly and unexpectedly, possibly injuring anyone in its path.

Models: 1.8 million minivans made 8/90-6/94, including Chrysler Town & Country; Dodge Caravan and Grand Caravan; and Plymouth Voyager and Grand Voyager.

What to do: Have dealer inspect and, if necessary, install larger washers on bolts that attach liftgate supports.

### Household products

#### ► Gap and Old Navy children's pajamas

Garments may be neither flame-resistant nor self-extinguishing if fabric ignites, in violation of federal flammability standards.

Products: 231,000 garments sold 8/99-12/99 at GapKids, babyGap, Gap Outlet, and Old Navy stores for about \$20 to \$40. Six styles of pajamas are subject to recall, including the following:

Style 353558: 2-piece flannel pajama sets with long sleeves and pants, and buttons in front. Sets came in yellow with penguin print or navy with bear print. Labeled "Gap" and "100% polyester." Sold in sizes 2 through 14. Style 353554: Like 353558, but in fleece material. Came in white, blue, and pink with snowflake print.

Style 466291: 1-piece fleece footed pajama with zipper front and long sleeves. Came in navy with white star print. Labeled "babyGap" and "100% polyester." Sold in infant and toddler sizes XS through 3XL.

Style 674060: 2-piece button-front top with long sleeves and long pants. Came in lavender or blue with white piping around pant cuff; shirt has piping around collar, front placket, and cuff. Labeled "Old Navy" and "100% polyester." Sold in infant sizes 6 to 12 months through toddler sizes 2T to 3T.

Style 733002: 1-piece fleece footed pajama with zipper front and long sleeves. Came in blue with white snowflake print. Labeled "babyGap" and "100% polyester." Sold in infant and toddler sizes XS through 4XL. Style 733032: Like 733002, but in black-and-white pony print and cheetah print. Labeled "babyGap" and "100% polyester." Sold in infant and toddler sizes XS through 3XL.

What to do: Return garment to any Gap or Old Navy store for refund plus \$10 gift certificate. For information, call Gap at 800-427-7895 or 800-653-6289, or visit [www.gap.com](http://www.gap.com) or [www.oldnavy.com](http://www.oldnavy.com).

#### ► Sunbeam, Hanksraft, and SunMark "glow in the dark" humidifiers

Pose fire hazard.

Products: 560,000 humidifiers sold 3/95-12/97 at discount department stores and drugstores for \$8 to \$15. Sunbeam units came with 1-gallon, 1.5-gallon, or 2-gallon tank and have service numbers 644 through 646 written on back of motor housing. Hanksraft models came with 1.2-gallon, 1.7-gallon, or 2.5-gallon tank and have service numbers 1260 through 1262 on inside of plastic motor housing. SunMark humidifiers came with 1.2-gallon tank and have service number 1260 on inside of motor housing. Suspect units have date code 1001 through J226 stamped on electrical plug. Units are white with green, blue, or rust-colored covers. Brand name is written on plastic cover.

What to do: Call Sunbeam at 800-440-4668 to learn how to return humidifier to company for free replacement, or visit [www.sunbeam.com](http://www.sunbeam.com).

### FOR MORE Information

To report a dangerous vehicle or auto product, call the National Highway Traffic Safety Administration at 800-424-9393. To report a dangerous household product, call the Consumer Product Safety Commission at 800-638-2772, then press 1, followed by 777. Past recalls are available free in searchable form at Consumer Reports Online, at [www.ConsumerReports.org](http://www.ConsumerReports.org).

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3-29



# Kansas AFL-CIO

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February 4, 2004

Testimony Presented to the  
House Commerce & Labor Committee  
by the  
Kansas AFL-CIO  
in support of HB #2526  
by Wil Leiker, Executive Vice President

The Kansas AFL-CIO supports the provisions of HB 2526 which increases the Kansas Minimum Wage in January of 2005. Although HB 2526 has three (3) increments of raises, we would suggest this committee consider a more moderate approach of an increase. An increase to the current Federal level, which is \$5.15, we feel would be a more realistic goal. The Federal level was established in 1997, making it already outdated economically, but much better than the current Kansas level.

Eighty-six percent of the states have a minimum wage rate. Of these, only two have a minimum wage below the Federal minimum wage. Kansas is one of these two states. <sup>Twelve</sup> Eleven states have a minimum wage higher than the Federal level. All of the surrounding states (including Arkansas) have a rate equal to the Federal level.

The Kansas rate has not been adjusted for a number of years, and we believe it is time for action.

We would point out, Mr. Chairman, and members of the committee that there are exemptions for certain classes of employees already in the statute. Some of them are:

1. Individuals employed in agriculture.
2. Individuals employed in domestic service in or around the private home and other exemptions for administrative or executive positions.

40% of the Kansas Minimum Wage can be offset against tips and gratuities if they are part of the employees' wages and if the employees concerned actually received and retained such tips and gratuities.

The people of this state affected by the minimum wage are not members of the Kansas AFL-CIO. We stand before you because it is the right thing to do.

We ask that the committee consider recommending a modified HB 2526 favorable for passage.



Comm a Labor  
2-4-04  
Atch # 4

**TESTIMONY to  
HOUSE COMMERCE & LABOR COMMITTEE  
Representative Don Dahl, Chair  
In support of HB 2526**

**February 4, 2004**

Thank you for this opportunity to testify before you today. My name is Shannon Jones. I am the executive director for the Statewide Independent Living Council of Kansas (SILCK). As mandated by the federal Rehabilitation Act as amended, the SILCK is governor appointed, consumer controlled and comprised of statewide and cross-disability representation. Our Council continually seeks input from Kansans with disabilities on how the landscape of Kansas's public policy can change so that people with disabilities are less dependent on public assistance. This input is used as our roadmap to develop the State Plan for Independent Living. Our primary purpose is to facilitate and promote the independent living philosophy, freedom of choice and equal access to all facets of community life for people with disabilities through systems change activities.

The SILCK supports increasing the minimum wage as defined in HB 2526.

Employment is central to living independently and self esteem for all persons. The key to effectively moving people, both with and without disabilities from state and federal assistance is to help them find employment that provides wages necessary for self-sufficiency.

Because the unemployment rate for Kansans with disabilities runs as high as 70% and the Kansas minimum wage at \$2.65 ranks as one of the lowest in the nation, it is time to raise the minimum wage to that equal to the federal minimum wage.

Kansans with disabilities want to work and will work, but they need a fair and decent wage to make that transition attractive. Most will consider if it really is worth working if at only \$2.65 per hour or \$424 per month. Will I be able to pay for my heating bills let alone my prescription drug costs is another consideration. By raising the minimum wage to \$5.50 per hour or \$880 per month, this becomes much more attractive to folks entering the workforce for the first time.

The SILCK firmly believes that by raising the minimum wage we will steadily see more folks with disabilities moving off the system and contributing to the system, becoming taxpayers rather than tax takers. More Kansans seeking and finding employment at a decent wage will further strengthen the Kansas economy. New

Comm + Labor  
2-4-04  
Atch # 5

**taxpayers will add resources to the state. We will have the dignity of earning a fair and decent salary and become part of the community.**

**The SILCK urges your support to favorably pass HB 2526.**

House Commerce and Labor Committee  
Prepared by Greg Jones

As guardian and conservator for an individual with a developmental disability I am in full support of HB 2526. While the minimum wage for many people in the State of Kansas is at \$2.65 per hour, many people in the State of Kansas work for much less. Often these workers earn only pennies per day doing piece-rate work. The troubling idea is the fact that the State of Kansas actually subsidizes this oppressive practice.

Through the Home and Community Based Service (aka, HCBS) delivery system, providers are allowed, even encouraged financially, to segregate people with developmental disabilities into sheltered workshop settings or into on-site settings, referred to as enclaves. The community service provider bids certain projects of different varieties with private business. Private businesses utilizing this cheap labor force pay the community service provider and then the service provider then pays the individuals with disabilities on a piece -rate basis. At the same time, community service providers are selling the services of people with disabilities at a very substandard rate. These providers are billing the Medicaid Waivers of Kansas a daily rate, between \$32 and \$82.54, to keep these people out of their homes for five hours a day, as they perform demeaning tasks for little or no pay.

Troubling to me is the fact that the State of Kansas allows people to be exploited in such a manner. Troubling to me is that as a state and a nation, we would not tolerate this happening to our children or any other minority group. Yet, we allow this exploitation of people with developmental disabilities to take place on our very doorstep. Such workshops and enclaves are organized and sponsored by most Community Developmental Disability Organizations (CDDOs) and Community Service Providers (CSPs). Such workshops and enclaves are present in almost every community across the State. The operators of these workshops might try to convince you that "those" people are unable to work competitively. I believe otherwise. And should people with developmental disabilities not be able to work competitively, need we exploit them as cheap labor?

Attached to you will find an actual copies of payroll checks of an individual working in an enclave, or piece-rate setting. Please keep in mind that this is the total pay for several days of work. Also attached is a Plan Of Care (POC) for the same individual. The Community Service Provider will receive \$32 each day in Medicaid reimbursements, while the worker with a developmental disability receives pennies per day. The individual being paid these pennies previously worked in competitive employment (that's jargon for a "real job for real wages") for the four previous years earning \$80 -100 per week. Rather than spending time to find and train him for competitive employment, he was placed in an enclave working for substandard wages, while the CSP will profit by \$32 a day.

Beyond being demeaning, this practice is unjust, unfair, segregating, and discriminatory. It should be stopped. I urge you to support HB2526

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EMPLOYEE ID	EMPLOYEE NAME	DATE	VAC.	SICK	SOCIAL SEC. NO.	START PERIOD	END PERIOD		
9908 J	JUSTIN P. ROBERTS	10/8/2003			515-64-5473	9/16/2003	9/30/2003		
EARNINGS			TAXES			DEDUCTIONS		BENEFITS	
CODE	RATE	HOURS	AMOUNT	CODE	WITHHELD	YEAR-TO-DATE	CODE	AMOUNT	YEAR-TO-DATE
11PCW		9.00		FICA	\$0.32	\$4.87			
14PCW	\$22.60	1.00	\$22.60	MED.		\$26.84			
				S.S.	\$1.40	\$3.94			
				FEDERAL					
				STATE		\$0.37			
			\$0.00	KS					
				LOCAL					
TOTAL		10.00	\$22.60		\$1.72				
							GRAND YEAR-TO-DATE	\$336.07	NET PAY
							NET YEAR-TO-DATE	\$305.55	NET PAY
									\$20.88

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93460 095402

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10/23/2003

AMOUNT  
\$5.66

BY Five Dollars And 66 Cents

TO THE  
ORDER

F JUSTIN P. ROBERTS  
1900 BELMONT APT 102

PARSONS K& 67357

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PAYROLL CHECK

*M. E. Laid*



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EMPLOYEE ID		EMPLOYEE NAME			DATE	VAC.	SICK	SOCIAL SEC. NO.	START PERIOD	END PERIOD		
9R0B J		JUSTIN P. ROBERTS			11/7/2003			515-64-5473	10/16/2002	10/31/2003		
EARNINGS				TAXES			DEDUCTIONS			BENEFITS		
CODE	RATE	HOURS	AMOUNT	CODE	WITHHELD	YEAR-TO-DATE	CODE	AMOUNT	YEAR-TO-DATE	CODE	AMOUNT	YEAR-TO-DATE
11P0W		39.50		FICA								
14P0W	\$20.75	1.00	\$20.75	MED.	\$0.30	\$5.26						
				S.S.	\$1.28	\$21.50						
				FEDERAL		\$3.94						
				STATE								
				KS		\$0.87						
			\$0.00	LOCAL								
TOTAL		40.50	\$20.75			\$8.58						

GROSS YEAR-TO-DATE	NET YEAR-TO-DATE
\$361.95	\$130.58
	NET PAY
	\$19.17

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DATE: 11/7/2003      AMOUNT: \$19.17

PAY TO THE ORDER OF: JUSTIN P. ROBERTS  
1900 BELMONT APT 102  
PARSONS XS 67357

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*Y.M.P. Guide*

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EMPLOYEE ID		EMPLOYEE NAME		DATE	SSN	START PERIOD	END PERIOD					
9808 J		JUSTIN P. ROBERTS		11/21/2003		11/1/2003	11/15/2003					
EARNINGS				TAXES			DEDUCTIONS			BENEFITS		
CODE	RATE	HOURS	AMOUNT	CODE	WITHHELD	YEAR-TO-DATE	CODE	AMOUNT	YEAR-TO-DATE	CODE	AMOUNT	YEAR-TO-DATE
11POT		16.00		FIGA								
14POT	\$9.39	1.00	\$9.39	MED.	\$0.14	\$5.40						
				S.S.	\$8.59	\$3.09						
				FEDERAL		\$3.94						
				STATE								
				LS		\$0.87						
			\$0.00	LOCAL								
TOTAL		17.00	\$9.39		\$0.73							

GROSS YEAR-TO-DATE	NET YEAR-TO-DATE
\$177.74	\$119.04
	NET PAY
	\$8.66

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P- 96246 096246

DATE 11/21/2003 AMOUNT \$8.66

PAY TO THE ORDER OF Justin P. Roberts 1900 BELMONT APT 102 PARSONS LS 67357

VOID IF NOT CASHED IN 90 DAYS PAYROLL CHECK

*M. E. Swide*

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## FUNDING REQUEST

Type of Funding:  CFSS  HCBS/MR

RECIPIENT NAME:		_____ INITIAL POC x _____ ANNUAL REVISION _____ REVISED POC. WHAT IS REVISED?	
AGE: 46	DOB: 8/29/57		
SOCIAL SECURITY NUMBER:		MEDICAID NUMBER: 001 001 671 14	

Check what applies:  Standard Rate  CIP  Negotiated Rate  Special Care Rate

SERVICES	FREQUENCY DAYS/TIME	PROVIDER	DATE STARTED	DATE REVISED	WHY IS THIS SERVICE NEEDED? List needs/problems, rationale for hours, etc
Residential Services	31 days/mo		2/3/99	8/22/03	Monitor medication, assist with generalized doctor appointments, assist with cooking skills, laundry skills, and safety skills, assist with leisure planning, help moderate smoking due to enlarged heart and lungs.
Case Management	As needed		7/5/98	8/22/03	Quality assurance, essential lifestyle planning, BASIS, advocate for services.
Day services	23 days month		Waiting List		Finding a maintaining job in the community, social skill training skills.

**COST:**

PROVIDER NUMBER	SERVICES	PROCEDURE CODE	COST PER UNIT	MONTHLY COST
	Residential Services	W1-380	37.74 x 31	\$ 1169.94
	Day Services		32.00 X 23	\$ 736.00
				\$
				\$
				\$
				\$
<b>TOTAL COST PER MONTH</b>				<b>\$ 1905.94</b>

TIER: 5 (Put N/A if not HCBS)

RECIPIENT:	DATE:
GUARDIAN:	DATE:
CAREMANAGER:	DATE: 8/22/03
DATE OF SERVICES FUNDING APPROVAL	DATE: 9/16/03
DATE IF MHDD APPROVAL	DATE: 9-1-03
DATE OF COSTING APPROVAL (for CLASS LTD's services only)	DATE:

All sections must be completed. There must be one signature for the request to be reviewed.

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 1169.94

5-8

Testimony Supporting HB 2526  
Prepared for the House Committee on Commerce and Labor

To the Honorable Chairperson Donald Dahl and the Committee Members:

My name is Carla James of 2231 SW Roy Road, Topeka.. I am providing this written testimony on behalf of the Kansas Action Network, a grassroots coalition of twenty civic, church, labor, disability, and peace and justice organizations concerned with economic fairness, workers' rights, and social justice.

The Kansas minimum wage is incredibly low: \$2.65 an hour. A Kansan who works 40 hours a week at this level makes the unbelievably low salary of about \$5,000 a year. And year after year, the purchasing power of this token wage erodes. It's true that the cost of goods, as indicated by the Consumer Price Index grows slowly, but other costs such as rent, child care, and particularly health care, have skyrocketed. How low in buying power will we let this cruel and embarrassing minimum wage sink? How long – in the name of the free market – will we let this extreme situation continue?

Approximately 20,000 workers in Kansas earn less than the federal minimum wage. Who are they? They may be the worker who:

- Packaged your sandwich from the vending machine
- Cleaned your bathroom
- Served your preschooler's lunch
- Parked your car
- Cared for your elderly mother at home
- Changed your tire
- Mopped your floor
- Washed the dishes you and your friends used at dinner

There is an ongoing myth that these low wage workers hold their jobs only temporarily, but the evidence is that most never move up the ladder into the middle class. Economists found that families with income that ranked in the bottom 20% in 1968 were still in the bottom group in 1991, twenty-three years later. But our society could not function without these workers and their services. Someone has to do these jobs, and Kansas workers deserve better than the bottom of the national barrel.

The current Kansas minimum wage is the same as the federal minimum wage ---- **26 years ago -**  
--- **in 1978!**

It is INEVITABLE that the Kansas minimum wage will be changed. Why? Here are 4 reasons:

- 1) Because the Kansas minimum is the lowest minimum wage in the entire nation.
- 2) Because claims that raising the minimum wage would make an unfriendly business climate cannot be supported.
- 3) Because the state benefits from a more reasonable minimum wage.
- 4) Because simple justice requires that a fair week's work be paid a fair week's wage.

Comm + Labor  
2-4-04  
Atch #6

Let's look at those reasons --- WHY it is inevitable that there will be action on our miserably low minimum wage beginning with:

Reason #1 - Kansas has the lowest minimum wage in the United States

No state can find it a point of pride to be at the bottom of the entire country in its basic economic contract...or to reveal such contempt for its workers. Having the lowest minimum wage suggests that among all the states, Kansas believes that it has the poorest and most unhealthy economy...a market that cannot support a decent wage. Or, conversely, it suggests that Kansas is more exploitative of its citizens than the rest of the country, and shows less respect for its workers than other states exhibit. If some state has to be at the bottom of the wage fairness pile, let it not be Kansas!

Reason #2 – Claims that an increase in the minimum wage would make Kansas an unfriendly business climate

If a low minimum wage assures a friendly business climate, Kansas should be the friendliest in the country and Kansas communities should be overrun by new businesses wanting to locate within its boundaries. However, other states with much higher minimum wages have a greater number of new business startups than Kansas.

Reason #3 – The state will benefit from a more reasonable minimum wage

**The fiscal note for an improved minimum wage is zero. No tax funds will need to be expended if this bill passes.**

A higher minimum wage is not unreasonable regulation of private business. Employers are free to offer the salary they choose, so long as it does not fall below a fair floor. Families who can afford to provide more necessities for themselves are less often forced to depend on public services that ARE funded by tax dollars. Workers who don't have to hunt at charity centers for shoes for their children can buy them in local stores. Low wage employees are reported to be more likely to spend their income locally than any other group of workers, so a considerable part of a higher minimum wage will return to Kansas businesses through higher consumer spending...which will stimulate business sales...and increase sales tax payments.

And the 4<sup>th</sup> reason it is inevitable that the Kansas minimum wage will improve is SIMPLE JUSTICE!

Simple justice - and respect for family values – require that an honest day's work receive an honest day's pay. Kansans who work full time ought to be able to put food on the table for their families.

As a society, we've agreed on criteria to keep the elderly from being impoverished, to eliminate child labor, and to achieve equal employment opportunity regardless of race, religion, national origin, sex, or age. Now, we need to apply a standard of fairness for workers – right here in Kansas.

## MYTHS

Myths abound on the topic of higher minimum wages. Opponents of an improved minimum wage sometimes still repeat myths that economists have long since discredited...myths like these:

- A higher minimum wage causes inflation and inhibits economic growth...
- A higher minimum wage results in job loss for the very workers you are trying to help..
- A better minimum wage harms existing business and deters new investment...
- Jobs performed by low wage workers are not worth higher pay...
- Most low wage workers are teenagers who don't need more pay...
- The free market best determines wage levels...

All of these myths have been shown to be JUST THAT – MYTHS! Kansas is not breaking new ground here, so the experience of other states in successfully raising their wage minimums can reassure us that the sky does not fall when the lowest wage rates are raised!

Opponents of a fair minimum wage say that pay should depend on a worker's skills and on world competition, not on dictates of the state. KAN says, "Fine!" Employers are free to use all those criteria in any way they wish, so long as the wages they pay don't dip below the floor of a fair minimum wage.

(It is NOT a myth, by the way, that businesses in other states have found higher wages decrease employee turnover and increase worker productivity, helping to offset new wage minimums).

Is HB 2526 proposing riches for the poor?

No. A full-time worker earning a minimum wage of \$6.50 per hour would earn \$13,520 a year, still well below the official poverty threshold for a family of four. However, that minimum wage of \$6.50 an hour would allow a single parent with one child to reach the poverty threshold.

Without legislative action, the buying power of the Kansas minimum wage will continue to deteriorate. Raising the wage is even more urgent now that the 2004 Congressional Budget will reduce funds for immunizations, mental health and other healthcare services in Kansas by \$21 million, reduce funds for food and nutrition programs and agriculture in Kansas by \$13 million, with other major reductions in such areas as veteran benefits and services, and more.

Ninety-one thousand of our Kansas children are poor. We want them to grow up with Kansas principles of self-reliance. But self-reliance works only when there is a sense of mutual responsibility among employers, workers, and government. Our current minimum wage floor isn't allowing workers any bootstraps by which to pull themselves up! The market can be free but it must be fair. Kansans working at \$2.65 an hour aren't able to achieve upward mobility. They aren't being greedy when they expect to be able to turn 40 hours of work into food for their families.

A moral response---raising the state minimum wage---by those of us who are NOT hungry should make it easier for workers actually to earn their bread by the sweat of their brows.

Thank you for your consideration of this testimony.

**The Kansas Chamber of Commerce  
835 S.W. Topeka Blvd.  
Topeka, Kansas  
785 357 6321**

**February 4, 2004  
Kansas House Commerce & Labor Committee  
HB 2526**

**By Terry Leatherman, Vice President of Public Affairs  
The Kansas Chamber**

**Chairman Dahl and members of the committee:**

**My name is Terry Leatherman. I am Vice President of Public Affairs for The Kansas Chamber of Commerce. Thank you for the opportunity to explain that the Kansas Chamber opposes a mandatory increase in the Kansas minimum wage, as called for in HB 2526.**

**The Chamber respectfully suggests that this committee consider another possibility regarding the state's minimum wage. Kansas could improve the business climate in this state by becoming the eighth and next state in our country to have no minimum wage requirement.**

**When the marketplace established the value of a work position, then the skills needed to perform the job and the availability of workers drive the determination of wages. A state government imposed sweeping higher wage requirement simply complicates and burdens the successful pursuit of commerce.**

**A long line of research indicates that increasing the minimum wage actually reduces employment. Economic forces unleashed by mandatory minimum wage increases tend to negatively impact the very people in our society that the proposals are intended to help – the lower skilled and minimum wage workers.**

**Thank you for considering The Chamber's comments regarding HB 2526, and considering our suggestion to eliminate the state's minimum wage entirely. I would be happy to answer any questions.**

*The Kansas Chamber is the statewide business advocacy group, with headquarters in Topeka. It is working to make Kansas more attractive to employers by reducing the costs of doing business in Kansas. The Kansas Chamber and its affiliate organization, The Kansas Chamber Federation, have nearly 7,500 member businesses, including local and regional chambers of commerce and trade organizations. The Chamber represents small, large and medium sized employers all across Kansas.*

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*Attorney-at-Law*  
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**Testimony re: HB 2526**  
**House Commerce and Labor**  
**Presented by Ronald R. Hein**  
**on behalf of**  
**Kansas Restaurant and Hospitality Association**  
**February 4, 2004**

Mister Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association. The KRHA is the Kansas trade association for restaurant, hotel, lodging and hospitality businesses in Kansas.

The KRHA opposes HB 2526. Minimum wage legislation, on the surface, sounds good in concept. It would appear to help insure a certain, arbitrarily picked wage to all workers. But, in practice, minimum wage legislation oftentimes works adversely to the very people that minimum wage legislation is intended to help. Most workers whose worth is higher than the minimum wage, including professionals, technically skilled workers, skilled laborers, and others, are not even impacted by minimum wage legislation. So, generally, the intent is to raise the wages of those people who are untrained, unskilled, probably but not always young, inexperienced, just entering the workforce, or, in many instances, are attempting to get work experience while going to school or otherwise.

The result of such minimum wage legislation is oftentimes to force the employer to reconsider his or her willingness to employ the least educated, least trained, least experienced worker for employment. If the employer is forced to pay more than what the employee is worth at that point in time, the employer might decide to employ an individual who is more skilled, experienced, or trained. The government can increase the minimum wage, but cannot force employers to pay a higher wage to those least employable and highest at risk workers.

The impact of the minimum wage, both federal and state, is slightly different for the restaurant, lodging, and hospitality industry due to the fact that many employees of our industry also receive tips. Under federal law, the minimum wage is \$5.15 per hour. But, pursuant to federal law, only \$2.13 of that minimum wage is required to be paid by the employer in direct pay if the employee receives tips in a sufficient amount to exceed the \$5.15 minimum wage. If tips do not bring the total wage to the minimum wage level, the employer must make up the difference in cash payment to meet that minimum wage.

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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 the federal minimum wage, the employer must pay a cash wage of \$3.09 per hour, since only 40% of the \$5.15 (\$2.06) could be counted in tips.

To clarify this distinction, take an employee who is covered by state minimum wage vs. an employee who is covered by federal minimum wage. Assume both employees receive tips of \$5.00 per hour. Under federal law, the payment of \$2.13 plus the \$5.00 in tips per hour would result in total employee pay of \$7.13 per hour. Under state law, the employee would have to be paid \$3.09 by the employer, and would add their \$5.00 in tips to that, resulting in \$8.09 total wages per hour. Thus, for tip heavy businesses, HB 2526 would require a higher payment than the federal minimum wage.

When government raises the minimum wage, at the state or federal level, it has a "bumping" effect on the entire staff. If the federal minimum wage is raised from \$5.15 to \$6.15 per hour, the person making \$6.15 per hour, who has some skills or experience which warrant the higher level of pay, then wants to know why the starting, unskilled employee is making the same amount as him/her. They then want to move up to \$7.15 per hour, which then causes the \$7.15 per hour employee to feel the same way. And so on up the ladder. In short, when the government gets in the business of statutorily setting minimum wages or prices, it has the effect of altering the free market system.

However, despite these arguments why the state minimum wage should not be raised, the minimum wage in Kansas certainly appears to be extremely low. Therefore, although the KRHA opposes HB 2526, we would have no objection to the repeal of the state minimum wage.

The vast, vast majority of food and beverage employees in Kansas, which constitutes approximately 13.5% of the workforce, already pay in excess of the federal minimum wage.

The federal Fair Labor Standards Act of 1938, as amended, provides that the act "applies to enterprises that have employees who are engaged in interstate commerce, producing goods for interstate commerce, or handling, selling or working on good or materials that have been moved in or produced for interstate commerce."

There is also the so-called "enterprise" test, which requires, I believe, \$500,000 annual volume to be engaged in interstate commerce. But even if the income is below that, any businesses are covered, or specific employees are covered, to the extent that they are otherwise meeting the definition of the act. The act has also been interpreted to cover those businesses which have credit card sales because of the interstate nature of credit cards.



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Although the KRHA would support the repeal of the state minimum wage and opposes HB 2526, if the committee is inclined to support HB 2526, we would propose that the bill be amended so that tips would be treated the same way as they are pursuant to the federal wage and hour law so as to eliminate the wage disparity which I described above..

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

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The Historic Lackman-Thompson Estate

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TO: Representative Don Dahl, Chairman  
Members, House Commerce & Labor Committee

FROM: Ashley Sherard, Vice-President  
Lenexa Chamber of Commerce

DATE: February 4, 2004

RE: **HB 2526—Increases in the State Minimum Wage**

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The Lenexa Chamber of Commerce would like to express its serious concerns regarding House Bill (HB) 2526 in its current form, which would increase the state minimum wage in Kansas from the current \$2.65/hour to \$5.50/hour in 2005, \$6.50/hour in 2006, and \$7.50/hour in 2007 and thereafter.

It is first important to note that while the state minimum wage in Kansas is currently \$2.65/hour -- one of only two states with a state minimum wage that is less than the federal minimum wage of \$5.15/hour -- where an employee is subject to both state and federal minimum wage laws, the employee is entitled to the higher of the two rates. As a result, most minimum wage workers in Kansas do not actually earn \$2.65/hour.

The Lenexa Chamber of Commerce's primary concern with HB 2526 is that it simply goes too far. In the great majority of states that have a state minimum wage, state rates are currently set no higher than the federal minimum wage of \$5.15/hour. **HB 2526, however, goes far beyond the federal minimum wage and would result in Kansas having the highest state minimum wage in the country by 2007. Such significant mandated wage increases would add yet another heavy burden on employers at a time when the economy has only recently begun to recover, would make many businesses and farmers less nationally competitive, and would substantially harm the state's long-term ability to attract and retain businesses.**

In addition, the actual results of HB 2526 may not match the good intentions presented by its proponents. **Although the intent of minimum wage increases is to help low-income workers, studies show that it can instead have an opposite effect by causing the loss of critical entry-level jobs.** Research by the Employment Policies Institute regarding the 1996 increase in the federal minimum wage (from \$4.25 to \$4.75 per hour) discovered that, even in the midst of a strong economy, the federal wage increase eliminated nearly 215,000 entry-level jobs nationwide. **Under HB 2526, where the proposed**

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increases are significantly larger (in fact, larger than *any* increase throughout the history of the federal minimum wage) and the economy is much less robust, the potential for eliminating many entry-level jobs in Kansas – either directly, by moving them out-of-state, or by cutting hours – would be even greater.

Even without the elimination of jobs, some entry-level workers would still be negatively impacted by increases in the state minimum wage. Studies have found that minimum wage increases draw more highly skilled workers to traditionally entry-level jobs, out-competing less skilled workers for positions and undermining important “welfare to work” programs. The significant minimum wage increases proposed in HB 2526 would only magnify this effect, harming many of the workers the bill is most intended to assist.

Because we believe the significant mandated wage increases proposed in HB 2526 would be detrimental to the state’s economic recovery and its ability to attract and retain businesses in the future, the Lenexa Chamber of Commerce urges the committee not to recommend HB 2526 for passage in its current form. Thank you for your time and attention to this issue.