

## SENATE BILL No. 471

By Senator Holscher

2-3

1 AN ACT concerning labor and employment; increasing the Kansas  
2 minimum wage to \$16 an hour; providing that such minimum wage  
3 shall apply to employers and employees covered under the provisions  
4 of the federal fair labor standards act; amending K.S.A. 44-1202 and  
5 44-1203 and repealing the existing sections.

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

8 Section 1. K.S.A. 44-1202 is hereby amended to read as follows: 44-  
9 1202. As used in K.S.A. 44-1201 to 44-1213, inclusive, and amendments  
10 thereto, unless the context otherwise requires:

11 (a) "Secretary" means the secretary of labor.

12 (b) "Wage" means compensation due to an employee by reason of the  
13 employee's employment, payable in legal tender of the United States or  
14 checks on banks convertible into cash on demand at full face value, subject  
15 to such allowances as may be permitted by regulations of the secretary  
16 under K.S.A. 44-1207, and amendments thereto.

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

18 (d) "Employer" means any individual, partnership, association,  
19 corporation, business trust or any person or group of persons acting  
20 directly or indirectly in the interest of an employer in relation to an  
21 employee, ~~but shall~~. *Except as otherwise provided in K.S.A. 44-1203, and*  
22 *amendments thereto, "employer" does not include any employer who is*  
23 *subject to the provisions of the fair labor standards act of 1938-(, 29*  
24 *U.S.C.A. § 201 et seq.), and any other acts amendatory thereof or*  
25 *supplemental thereto.*

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

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

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

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

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

12 Sec. 2. K.S.A. 44-1203 is hereby amended to read as follows: 44-  
13 1203. (a) Except as otherwise provided in the minimum wage and  
14 maximum hours law *for the payment of overtime compensation*, every  
15 employer shall pay to each employee wages at a rate as follows:

16 ~~(1) Prior to January 1, 2010, employee wages shall be paid at a rate of~~  
17 ~~not less than \$2.65 an hour; and~~

18 ~~(2) On and after January 1, 2010, employee wages shall be paid at a~~  
19 ~~rate of not less than \$7.25 an hour of not less than \$16 an hour.~~

20 (b) In calculating such minimum wage rate, an employer may include  
21 tips and gratuities received by an employee if such tips and gratuities have  
22 customarily constituted part of the remuneration of the employee and if the  
23 employee concerned actually received and retained such tips and  
24 gratuities. For employees receiving tips and gratuities, the employer shall  
25 pay a minimum wage of at least \$2.13 an hour. If when combined with the  
26 minimum wage rate prescribed in this subsection the amount of the  
27 employee's tips and gratuities are:

28 (1) At least equal to \$7.25 an hour, no further payment is required by  
29 the employer; or

30 (2) less than \$7.25 an hour, the employer must pay the employee the  
31 difference between \$7.25 an hour and the actual hourly amount received  
32 by the employee determined by combining the amount of tips and  
33 gratuities received by the employee with the minimum wage prescribed by  
34 this subsection paid by the employer.

35 (c) The provisions of this section shall ~~not~~ apply to any employers  
36 and employees who are covered under the provisions of the federal fair  
37 labor standards act ~~(, 29 U.S.C.A. § 201 et seq.)~~, and any other acts  
38 amendatory thereof or supplemental thereto.

39 Sec. 3. K.S.A. 44-1202 and 44-1203 are hereby repealed.

40 Sec. 4. This act shall take effect and be in force from and after its  
41 publication in the statute book.