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Executive Summary

Congress may soon be considering a hike in the national minimum wage under dramatically different circumstances then existed in prior debates. The primary changes result from the welfare reform law of 1996. That law, designed to "end welfare as we know it," imposed enormous burdens on state governors to increase the workforce participation rate for families receiving public assistance. Today each state confronts new and unique demographic and geographic challenges in moving welfare recipients into the workforce. But they do not have all of the tools they need to get the job done. In fact, they may have their efforts sabotaged by a simple extension of old thinking — a "one size fits all" federal minimum wage rate.

In the mid-1960s Congress expanded the minimum wage law (first passed in 1938) to cover industries which employ predominantly semi-skilled, low-skilled, and entry-level workers, e.g., agriculture and retailing. During the same period when the federal government was extending the minimum wage into new industries, Congress created and expanded social welfare programs such as food stamps and other basic welfare benefits. These programs insulated low-skilled workers who were being priced out of job opportunities because they did not qualify for positions that were newly covered by the minimum wage.

In 1996, Congress substantially reduced the size of these federal welfare programs. **Thus, in 2001, Congress will be debating a national minimum wage hike that will affect low-skilled people who have dramatically fewer options if they cannot find work.**

Welfare reform has altered the minimum wage debate in ways that were unanticipated. Research proves that higher mandated wages reduce employment opportunities for the least skilled. This effect is magnified for the welfare population, with studies showing higher minimum wages (1) lead to longer spells on welfare and (2) cause shifts in the profile of "who gets hired," leading employers to favor higher-skilled applicants at the expense of low-skilled adults.

The State Flexibility Approach

Under the State Flexibility approach to the national minimum wage, states would be given the authority to enact laws through which they waive some or all of a federally mandated increase, so long as the current federal minimum wage rate is maintained as a floor. Each state would have the opportunity to decide whether a new national wage standard is appropriate for area labor market conditions, particularly in light of the state's responsibilities to move low-skilled welfare recipients into the workforce.

When Members of Congress next vote on a minimum wage hike, they will be voting on a policy that is different from *any* wage mandate for entry-level jobs considered in the past. This distinct shift in the environment demands that Congress adopt an entirely new perspective on the minimum wage.

Having been given the responsibility to bring welfare "clients" into the work force, governors need the flexibility to adapt their minimum wage policies to the local, economic, demographic and development needs of their states. Most federal labor laws have recognized some state involvement and flexibility in setting area standards. Without a shift in federal policy, states will find their local welfare reform efforts stymied by federal law.

The new state focus on welfare reform suggests that the state flexibility approach be applied to the national minimum wage, with the federal government insuring against a rollback of the current wage floor. Congress should grant governors *authority* over their own labor markets to match their new *responsibility* for creating employment opportunities for those who have great difficulty getting hired.

Practical Implications

Under the State Flexibility approach to the national minimum wage, each state would have five options going forward:

- **Raise the state wage** at the same pace as the federal minimum wage rises above $5.15 per hour. This would happen automatically if states take no action.
- **Keep the state rate constant** at its current level, to reflect state and local labor market conditions.
- **Establish regional rates** to address local economic, demographic and development needs in the state.
- Raise the state rate, but more **slowly than the federal rate hike**, or to a rate lower than the federal minimum wage (but above $5.15 per hour).
- Raise the state rate **higher and/or more quickly** than the federal rate hike.

States today already have the authority to implement a minimum wage rate that is higher than the federal rate. This proposal simply gives states the flexibility to set their own schedule and rate structure at or above $5.15 per hour.

Public Perspective

Research also shows that the public strongly favors state, rather than federal control, of the minimum wage rate. In six national surveys of public opinion, respondents were asked who is better suited to setting the minimum wage in their states. The federal government received an average of only 35% support from the public. The states, through the governors and the legislatures, were consistently deemed most qualified to make this important decision. Support for the states ranged from a low of 57% to a high of 64%.

State Flexibility: The Minimum Wage and Welfare Reform

I. The Realities of Welfare Reform

Congress may soon be considering a hike in the national minimum wage under dramatically different circumstances then existed in prior debates. The primary differences result from the welfare reform law of 1996. That law, designed to "end welfare as we know it," imposed enormous burdens on state governors to increase the workforce participation rate for families receiving public assistance. Today each state confronts new and unique demographic and geographic challenges in moving welfare recipients into the workforce. But they do not have all of the tools they need to get the job done. In fact, they may have their efforts sabotaged by a simple extension of old thinking — a "one size fits all" federal minimum wage rate.

In the mid-1960s, Congress expanded the minimum wage law (first passed in 1938) to cover industries which employ predominantly semi-skilled, low-skilled, and entry-level workers, e.g., agriculture and retailing. During the same period when the federal government was extending the minimum wage into new industries, Congress created and expanded social welfare programs such as food stamps and other basic welfare benefits. These programs insulated low-skilled workers who were being priced out of job opportunities because they did not qualify for positions that were newly covered by the minimum wage.

In 1996, Congress substantially reduced the size of these federal welfare programs. **Thus, in 2001, Congress will be debating a national minimum wage hike that will affect low-skilled people who have dramatically fewer options if they cannot find work.**

"In the past, there was an alternative for those who could not find a job: They could go on welfare. Things have changed. The safety net of welfare is shrinking and may not be available to many who "fall through the cracks" when the states do not have all of the tools they need to find or promote work opportunities."

Rep. Jim DeMint (R-SC)[1]
March 13, 2000

A. Mandatory State Accountability

In the same week that President Clinton signed into law the latest minimum wage hike, he endorsed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.[2] In signing the welfare-to-work law, the President stated:

> This Act gives States the responsibility that they have sought to reform the welfare system. This is a profound responsibility, and States must face it squarely. *We will*

"We must consider how increasing the minimum wage can make jobs in rural states and counties even more scarce; and, about how a wage hike can even add more people to the welfare rolls."

Sen. Mike Enzi (R-WY)
November 9, 1999[6]

"We've been blessed with a tremendous caseload reduction, but our most serious work lies ahead."

Candace Shively
Kansas Commissioner of Economic and Employment Support
February 8, 1999[7]

hold them accountable, insisting that they fulfill their duty to move people from welfare to work and to do right by our most vulnerable citizens (emphasis added).[3]

Not only have federal welfare programs been dramatically reduced in scope, but the federal government is demanding accountability on the part of the states to employ those moved off the welfare rolls. Given this approach, it is only logical that state governments be given the tools to satisfy the requirements to which they are being held accountable. **This is the key difference between the past and the present when it comes to the minimum wage debate: any decision Congress makes today will affect states' ability to fulfill their obligations under welfare reform.**

The accountability of which the President spoke is the set of quotas imposed on the governors to increase the work participation rate for families receiving public assistance. The law imposed mandatory work participation rates, setting targets as specific percentages of each state's caseload of Temporary Assistance for Needy Families (TANF) recipients. For all families the rates are:

FY 1997	25%
FY 1998	30%
FY 1999	35%
FY 2000	40%
FY 2001	45%
FY 2002+	50%

The rates for two-parent families are even more strenuous:

FY 1997	75%
FY 1998	75%
FY 1999+	90%

The U.S. Department of Health & Human Services reported last year that 33% of adults on welfare are engaged in some sort of work activity.[4] It is uncertain whether states will be able to achieve the goal of 50% for the year 2002 and beyond of ensuring that half of adults on welfare are working. Many of these individuals have very low skills and poor job histories. The National Governors' Association has recognized that as caseloads decrease, the welfare population that remains faces "significant challenges to workplace success."[5] Among these challenges, the NGA lists poor communication, academic and employability skills, and little, if any, work experience.

B. Employability

Employability, in particular, is an ever-increasing standard that many of today's welfare recipients simply do not meet. According to the National Adult Literacy Survey, up to 44 percent of welfare recipients struggle to perform the most basic reading, writing and quantitative tasks, such as reading text or making change for a dollar.[8]

The Educational Testing Service gave a dimmer picture, concluding that fully two-thirds of welfare recipients have skills that qualify, *at best*, for entry-level employment, and many fall far below. It found that 31% of welfare recipients possess "minimal skills," meaning their marketable skills are similar to those of a high school dropout. This skills picture looks even worse for Hispanic welfare recipients — 55% are in the "minimal skills" category.[9] And 37% of black welfare recipients fall into this category. Even in industries that provide the bulk of entry-level jobs, such as retail trade, the average skill level of workers employed today is comparable to those of high school graduates or people with some post-secondary training.[10]

The impact of this deficiency of skills is most dramatically displayed in the nation's cities. The U.S. Department of Housing and Urban Development reports that the central city poverty rate of 18.5% in 1999 was more than double that of suburbs[11]. HUD has acknowledged that "the persistently high poverty rates tend to reflect structural barriers to participation in the changing economy." A principal cause: "barriers such as a large skills gap in the workforce" in the inner city.[12]

The employability standards are constantly rising in the modern economy. Individuals with minimal skills will qualify for only 10% of all new jobs generated between now and 2006.[13] A study of employers in Atlanta, Boston, Detroit, and Los Angeles found that 70% said a high school diploma was a general requirement for their most recently-filled job, and only 10% of the most recently-hired workers lacked a diploma.[14]

Earlier this year, *The New York Times* reported the following: "Presumably, the people who found work first were better equipped for the job market. But, state officials said, the people still getting welfare have fewer skills and less work experience." One state welfare commissioner said, "We've been blessed with a tremendous caseload reduction, but our most serious work lies ahead."[15]

"We all know that there are inner cities and poor rural areas and smaller- and medium-sized towns in between that still have not felt the warm sunlight of our prosperity."

President Bill Clinton
May 26, 1999[16]

C. Economic Downturns

A future downturn in the country's economic health will have a severe impact on welfare recipients and the governors seeking to move them into jobs. Prior to becoming chief economist for the U.S. Department of Labor, Michigan State University researcher

"The best anti-poverty program is still a job."

President Bill Clinton
August 22, 1996[24]

Harry Holzer estimated that employer demand for welfare recipients could fall 25%-40% during the next recession.[17] Further, research indicates that an increase of 2% in the unemployment rate would lead to an increase in welfare rolls by 11%.[18] Thus, any upward pressure on today's historically low unemployment rate will put significant upward pressure on welfare caseloads.

D. Local Unemployment Crisis in a Booming Economy

A key factor in moving people from welfare to work is the health of the economy. President Clinton's Council of Economic Advisers has concluded that about 20 percent of the decline in welfare rolls has been attributable to the expanding economy.[19] But despite a low national unemployment rate, many segments of the population and parts of the country are lagging behind. The Urban Institute reports that even in the current robust economy, high school dropouts face an unemployment rate that is about four times that of college graduates.[20] And while the unemployment rate for the nation in December 2000 was 4.0 percent, 7.6 percent of African-Americans and 13.1 percent of teens remain unemployed.[21] Although these statistics represent improvements over recent years, it must be noted that if the figures for blacks or teens were representative of the workforce as a whole, all economists would recognize that the economy was suffering a recession.

For many communities throughout the country, a future recession is of less concern than the current sluggish economy and high unemployment that they face today. The U.S. Department of Housing and Urban Development, in its report, "The State of the Cities 2000," found that one in eight cities is "doubly burdened" with high unemployment and either significant population loss or high poverty rates – or both. The 67 cities identified by HUD had an unemployment rate 50 percent higher than the U.S. rate and either had lost more than 5 percent of their population since 1980 or had a poverty rate 20 percent or higher. Forty-eight of these 67 doubly burdened cities, according to HUD, were "triply burdened," demonstrating all three characteristics. The cities were are distributed throughout the country in 19 states and the District of Columbia.[22]

A review of local labor markets — as defined by county boundaries — reveals an enormous number of areas with very soft economies. Several counties in California and Texas have unemployment rates well over 15 percent. Nationwide, there are almost 200 counties and cities with unemployment rates of 9% and above (more than double the national unemployment rate).[23] See Appendix A. Again, if these unemployment rates applied to the economy as a whole, there would be little support for a minimum wage hike.

It has long been known that there is a direct, statistically significant link between unemployment rates and length of time on welfare.[25] High unemployment rates lead to longer periods on welfare.[26] Likewise, local employment growth in the retail and services industries is associated with shorter periods on welfare. The vast majority of economic research proves that minimum wage hikes hinder entry-level employment growth in these industries. **But a national minimum wage hike today could seriously affect employment growth in selected labor markets, negatively affecting the success of welfare reform.**

A Sample of 20 Local Areas With Persistently High Unemployment Rates

County/City	State	Unemployment Rate (%)
Yuma County	AZ	29.9
Starr County	TX	24.4
Luna County	NM	24.0
Imperial County	CA	23.2
Maverick County	TX	21.6
Zavala County	TX	17.4
Santa Cruz County	AZ	17.1
Holmes County	MS	16.9
Willacy County	TX	16.6
Tulare County	CA	16.4
Jefferson Davis Cnty	MS	15.8
Colusa County	CA	15.7
Dimmit County	TX	15.7
Taylor County	KY	15.6
Mingo County	WV	15.2
Glacier County	MT	14.9
Duval County	TX	14.9
West Carroll Parish	LA	14.5
Hidalgo County	TX	14.5
Mcdowell County	WV	14.5

Note: Each locality has a population of at least 10,000 people; unemployment rates are annual average unemployment rates for 1999.

Source: *National Good Times, Local Bad Times: The Local Area Unemployment Crisis*, Washington, D.C.: Employment Policies Institute, July 2000.

Due to favorable local economics, areas with record low unemployment are absorbing higher entry-level wage rates without regard to mandated wage levels. Thus, those areas would feel much less harm from a higher minimum wage. Yet a federal minimum wage hike would apply disproportionate harm to the economically-ravaged counties and pockets of slow growth. In light of the realities of welfare reform, now more than ever, the one-size-fits-all approach of a federal minimum wage does not make sense.

"[A]ll the evidence that I've seen suggests that the people who are most needy of getting on the lower rungs of the ladder of our income scales, develop skills, getting the training, are unable to earn the minimum wage. As a consequence, [they] cannot get started."

Alan Greenspan
Federal Reserve Chairman
January 20, 1999[27]

"The search for enlightened public policy is often furthered when individual States and local governments are free to experiment with a variety of approaches to public issues. Uniform, national approaches to public policy problems can inhibit the creation of effective solutions to those problems."

President Bill Clinton
May 14, 1998[36]

Quite simply, the governors each face unique demographic and geographic challenges to moving welfare recipients to work, but they do not have all of the tools they need to get the job done. Given their new responsibilities, they should be given the opportunity to act as they see fit with regard to local labor markets, without the burden of a federal mandate that ignores all local labor market conditions.

II. The Impact of Minimum Wage Hikes on State Welfare Reform Efforts

Just as welfare reform is demanding millions of new entry-level jobs, higher employment costs caused by minimum wage increases are inhibiting their creation. Economist Peter Brandon of the University of Wisconsin has demonstrated, for instance, that minimum wage hikes actually increase duration on welfare by more than 40 percent.[28]

Due to the skills deficiencies discussed above, welfare recipients simply cannot compete with more "attractive" job applicants drawn into the work force by the higher mandated wages. Research from Boston University suggests that low-skilled adults are displaced after a minimum wage hike by teens and students who are perceived as having better skills.[29] This displacement would be most severe among adults with the lowest skills — welfare recipients — despite the fact that adults are more likely to need the income from paid employment.

Welfare recipients see the negative impact of a minimum wage hike in job searches that are stymied by mandated wage rates that do not match their skills. But they do not see the positive impact because the benefits of a higher minimum wage are not targeted to the poor. The average family income of those who would benefit from the proposed $6.15 federal minimum wage rate is $39,564.[30] Former Clinton Administration Labor Secretary Robert Reich made this point most succinctly in 1993, when he said, "After all, most minimum wage workers are not poor."[31]

Even for those who are poor, the evidence suggests that minimum wage hikes do not help. Research from Michigan State University shows that minimum wage hikes push more families into poverty (due to job loss, etc.) than they pull out of poverty.[32] Most economists agree that minimum wages do not reduce poverty and that the costs of minimum wages are borne disproportionately by the poor.[33] A conservative estimate of the job-loss impact would be that a 10 percent increase in the minimum wage would reduce the employment and/or hours of those affected by at least 5 percent.[34] Also, as acknowledged by advocates of high minimum or "living wages", higher minimum wages attract higher-skilled workers,[35] resulting in the displacement of those persons with less marketable skills.

In addition, a minimum wage hike would serve to drive some working poor out of the work force as the increased earnings cause a phase out of public assistance and impose an effective tax rate on the additional earnings as high as 90 percent in some states.[37]

Thus, at a time when governors are charged with reducing the welfare rolls and creating jobs, federal wage policy may work to frustrate their most aggressive and innovative efforts in the very communities reform was intended to serve. By contrast, if decisions over appropriate minimum wage levels are left to the states, governors and state legislatures will be able to weigh the risks of various policies, balance their plans against local labor market conditions, and implement the strategies they feel are most effective given their own unique circumstances.

III. The State Flexibility Solution

The most apparent solution is to give the states the tools and flexibility necessary to influence their economies, secure targeted job growth and complete the task of welfare reform. This can be accomplished by encouraging all states to adopt their own minimum wage system which ensures a consistent standard for all of their citizens, while maintaining sensitivity to state and local economic factors.

A. How It Would Work

Under the State Flexibility approach to the national minimum wage, states would be given the authority to enact laws through which they waive some or all of a federally mandated increase, so long as the current federal minimum wage rate is maintained as a floor. Each state would have the opportunity to decide whether a new national wage standard is appropriate for area labor market conditions, particularly in light of the state's responsibilities to move low-skilled welfare recipients into the workforce.

In practical terms, each state would have five options going forward:

- Raise the state wage at the same pace as the federal minimum wage rises above $5.15 per hour. This would happen automatically if states take no action.
- Keep the state rate constant at its current level, to reflect state and local labor market conditions.
- Establish regional rates to address local economic, demographic and development needs in the state.
- Raise the state rate, but more slowly than the federal rate hike, or to a rate lower than the federal minimum wage (but above $5.15 per hour).

"One of the things we have to make sure of is that the minimum wage doesn't price people out of a job...I would hope that [Congress] would consider giving states flexibility when it comes to the application of minimum wage."

Then-Governor George W. Bush
March 8, 2000[38]

"Some States may choose to have a lower minimum wage but offset this with State assistance to low-income families for health care, child care, job training, education or other programs. States may decide that it may be better to target assistance to low-income families in need through State programs instead of a minimum-wage increase."

Rep. Charles Stenholm (D-TX)
March 9, 2000[39]

► Raise the state rate higher and/or more quickly than the federal rate hike.

States today already have the authority to implement a minimum wage rate that is higher than the federal rate. This proposal simply gives states the flexibility to set their own schedule and rate structure at or above $5.15 per hour.

B. Historical and Policy Perspective

This is no new concept, but one based in the history and evolution both of welfare reform and of workplace law and policy. **Indeed, the primary population of concern in both the welfare and minimum wage laws is the same, i.e., lower skilled adults who struggle to get jobs and make ends meet.** States have the closest knowledge of the local issues and the greatest sense of urgency in resolving their problems.

1. Welfare Flexibility

Welfare policy and coping with the needs of the indigent have always been subjects of intense state concern. Even under the old "welfare law," Aid to Families with Dependent Children (AFDC), benefit levels were not uniform across the country, but were set by each state, based on federal guidelines. States were specifically permitted to vary benefits within their borders to reflect local costs rather than average costs within the state.

The 1996 welfare reform law ended the entitlement to cash assistance to families, and provided states with considerable flexibility in designing their welfare programs. More than ever before, federal policy recognizes the wide economic variations across the country, and leaves it up to the states to tailor their programs accordingly. Maximum benefits range from a low of $120 per month in Mississippi to a high of $923 per month in Alaska. Regionally, maximum benefits run from a **high** of all the Southeastern states of $303 per month in Florida, to the Mid-Atlantic **average** of $354 per month paid in Virginia, to a **low** among the New England states of $418 per month in Maine.[40]

Many states apply different benefits levels to separate classes of beneficiaries. For instance, Massachusetts and Hawaii reduce maximum benefits for recipients who are subject to their state's work requirements. Other states provide added monthly payments to promote certain kinds of desirable behavior, such as West Virginia's "marriage bonus."[41] The governors, in conjunction with their legislatures, are embracing reform and are setting *appropriate benefits levels* to encourage recipients to join the workforce.

2. Minimum Wage Flexibility

The idea of allowing states to set *appropriate wage levels* is also consistent with law and policy. In fact, states already have the authority to set rates that are higher than the federal standard, and ten states and the District of Columbia[43] have done so. But states today need the authority to avoid the damaging consequences of a federal minimum wage rate set too high and which is insensitive to their local communities.

The national minimum wage is not, and never was, a unifying minimum standard which applied universally to all Americans. From the outset the law was riddled with exceptions, exemptions and conditions which sought to address economic and political realities across the country.

Originally set at $.25 per hour, the minimum wage was to rise to $.40 "as rapidly as is economically feasible without substantially curtailing employment …."[44] The statute constructed an elaborate procedure involving specially convened industry committees (§5) which assisted the Wage & Hour Administrator in setting the wage rate by industry and even by job classification within industries (§8(b) and (c)). In addition, a wide variety of jobs and more than half of the workforce was expressly exempted from original coverage. As well as such current exemptions of executive, administrative and professional personnel, the 1938 law exempted most retailing jobs, seamen and airline workers, and all agricultural workers.

All of these exceptions and exemptions, past and present, represent an acknowledgment by the federal government of the difficulty in micromanaging a diverse economy which presents myriad market conditions in the various states. Even without full coverage, the federal government in 1939 noted the law's potential for mischief.[45] By slowly increasing control at the national level, however, Congress has stifled innovation, frustrated development and recovery in disadvantaged areas of the country, and imposed at times insurmountable hurdles on governors struggling to prosper despite federal mandates.

"By taking the "state-flexibility" approach to the national minimum wage, Congress can ensure that state welfare-reform efforts are not derailed by an across-the-board wage hike."

Rep. Jim DeMint (R-SC)
March, 13 2000[42]

C. The State Flexibility Trend in Workplace Laws

Since the Second World War, every major federal workplace law has incorporated a state flexibility or area standards provision. The policy has been that where the federal government chooses to be involved in workplace problems, governors, legislatures and state and local courts must have a hand in providing the solution. As this trend has evolved in practice, the states are given latitude in providing different levels of enforcement, protections and coverage.

1. Labor Law

The trend started in 1947 when federal labor law was amended through the Taft-Hartley Act to give states a say in permitting or prohibiting contracts which compel union membership as a condition of employment.[46] In the ensuing 52 years, 21 states have enacted right-to-work laws and the remaining states actively debate whether this level of intrusion in the marketplace is appropriate for workers within their borders.

The subsequent amendment to the National Labor Relations Act in 1959 once again defined the level of federal involvement in workplace policy in the states by limiting the jurisdictional threshold which must be surpassed before the National Labor Relations Board (NLRB) would be empowered to act. The statute specifically provided that any state or territory was free to assume and assert jurisdiction over labor disputes outside the NLRB's jurisdiction.[47]

Because the dollar value of the 1959 thresholds has eroded over time, Congress has recently considered legislation to adjust the figures for inflation. One such bill would remove from mandatory federal jurisdiction cases involving non-retail firms with gross receipts below $275,000 (up from $50,000), and cases involving retail establishments having gross receipts of $2,750,000 (up from $500,000). If enacted, labor disputes below the NLRB threshold would remain the province of the state administrative and judicial system, except in extraordinary circumstances.

2. Employment Discrimination

The Civil Rights Act of 1964 paved the way for ensuring a federal cause of action and federal remedies for victims of employment discrimination. While many states had enacted their own laws in the area, there was no clear standard for protecting all Americans. Further, a federal remedy was deemed appropriate because it was felt that state courts and juries could not be trusted in some parts of the country.

However, Congress did not intend to exclude the states from the solution. The federal Equal Employment Opportunity Commission is instructed in the statute to cooperate with parallel state agencies, and in fact has a longstanding policy of deferring action on cases in such states.[48] **Most significantly, the EEOC does not second-guess the enforcement decisions made by state officials.** The concept is to empower the states to be active participants in solving workplace problems, but not to mandate identical results.

3. Safety & Health

The Occupational Safety & Health Act of 1970 placed the federal government in the business of ensuring the day-to-day welfare of millions of workers throughout the country. But the law recognized from the start that the states would play a key role in enforcing the new regulatory scheme and in improving the workplace safety and health of their citizens.

Like the amendments to the National Labor Relations Act, the OSH Act specifically provided that the states retained jurisdiction over areas where federal OSHA had adopted no standard.[49] More importantly, the statute expressly authorized the states to develop their own agencies "to assume responsibility for development and enforcement therein of occupational safety and health standards …."[50] Today, there are 23 so-called "state-plan states" enforcing state standards which need not be identical to federal OSHA standards, but which are "at least as effective in providing safe and healthful employment and places of employment …."[51] Based on this flexibility, various states have experimented with safety and health programs and standards which are more closely tailored to the industries and employees within their jurisdiction.

4. Education and Job Training

Nowhere has the shift of federal control to the states been more aggressive than in the field of education and job training. The Employment, Training and Literacy Enhancement Act[52] consolidated 60 federal programs into three block grants for states and localities. In 1999, President Clinton signed into law the Education Flexibility Partnership Act,[53] which provides states with flexibility in spending federal education dollars and increases state accountability for educational achievement. Likewise, there is growing movement in Congress to remove federal strings and provide governors with more flexibility in combating homelessness, juvenile crime and delinquency.

The position Congress has taken on education/job training is directly relevant to the proposal that minimum wage authority be returned to the states. With welfare reform now in full force, state governments are dealing with large numbers of low-skilled and unskilled job seekers. Congress has already decided that the task of improving work-related skills is best handled at the state and local levels. The State Flexibility approach complements existing law on education and training for those same workers by encouraging full state authority over area and regional labor market conditions for workers who will receive on-the-job training.

In each of these principal statutes in the field of workplace law, Congress has not merely instructed the states to follow the national model, nor rigidly imposed its will. Rather, the states have both filled the gaps in federal coverage and exercised a degree of autonomy. Under federal workplace policy as it has evolved over the past 50 years, state executives, agencies and courts have refused to accept a federal standard as preordained, but have reached decisions on coverage, levels of protection and enforcement based on the perceived needs and practicalities of their states.

D. State-Wide Wage Policy

The idea behind the State Flexibility approach is to ensure a guaranteed federal floor from which the states can adapt state laws for area and regional needs. Due to the increased demands upon the states and the increases expertise and capabilities evidences by state governments, control of wage policy is best exercised on a state-wide basis.

The national minimum wage law was enacted in a different era when attention of states to workplace issues and their legislative machinery were less defined than today. In 1938, one could make an argument that a national minimum wage law was needed. Only a third of the states had their own minimum wage laws. Only three state legislatures met every year; the rest convened biennially. Federal action was deemed essential then because the short and infrequently convened legislative sessions made it unlikely that all states would adopt their own minimum wage laws. Today, 45 state legislatures meet annually. All but seven states have enacted such laws. (All seven of those states are, and will continue to be, covered by the federal minimum wage law.)

Unlike the scene facing Congress in 1938, the states now have the political motivation and legislative capability to respond quickly to economic and policy issues unique to their locales. State Flex merely gives state officials the opportunity to exercise the capability they have developed. And it does so with an approach that encourages state-level action only when elected officials feel they have a defensible reason for acting.

Though State Flex addresses the problems created by a singular “top-down” national wage policy, it does not necessarily follow that full flexibility on wage mandates should extend below the state level. In many cities across the country, localized “living wage” laws have been implemented. The “living wage” movement focuses not on markets and skills, but on local political opportunity. To date, not a single report has outlined any effort by living wage opportunists to isolate the communities of greatest need and focus their legislative firepower in those localities. Rather, living wage “targets” appear to be chosen largely through political expediency; thus, living wage proposals set wage mandates that have no connection with market reality.

Unlike state officials, local officials rarely have any experience with meaningful labor policies. Often, local officials do not even have access to the expertise needed to fully evaluate mandated wage policies. As often as not, living wage policies are introduced and passed at the local level in a very short time, with little notice to those individuals in the community who could offer alternative perspectives. At the state level, these shortcomings do not exist.

State Flex takes the position that wage policy is too important to leave to the whims of political activity or local expediencies. Many factors most come to bear in setting a rational statewide policy, including welfare reform obligations and liabilities, economic development, tax and other incentive programs, and the impact on the state's unemployment system. Local actions, such as arbitrary, high wage mandates, work counter to a reasoned approach that is in the best interest of all citizens of the state.

E. Public Perspective

The state flexibility approach stands up not only to historical and policy analyses. Research also shows that the public strongly favors state, rather than federal, control of the minimum wage rate.

In five recent national surveys of public opinion, respondents consistently said that state legislatures and governors should set state minimum wages. Support for the states ranged from a low of 57% to a high of 64%. On the other hand, just 35% of the public on average said the federal government should set the minimum wage. See Appendix B.

Taken in light of the historical evolution of welfare and workplace policy favoring active state involvement, this public opinion research demonstrates considerable confidence in states' ability to look out for the best interests of their citizens.

Conclusion

Application of the state flexibility approach is a positive evolution of smaller government and a complement to encouraging job growth for the least skilled in society. It is the necessary second half of the movement of welfare recipients to work begun in the 1996 welfare reform law.

This approach utilizes today's wage standard as a base and offers opportunity where it is currently lacking. It follows the important trend of allowing the states to participate and even localize these matters in the future in order to fit the overall goals of welfare-to-work and economic growth.

Endnotes

[1] Representative Jom DeMint, "Flexibility will keep welfare reform alive and help those most in need," *Insight Magazine*, March 13, 2000, p.42

[2] Public Law 104-193 (August 22, 1996).

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[10] *Carnevale and Desrochers (Appendix).*

[11] *The State of the Cities 2000 (Washington, D.C.: U.S. Department of Housing and Urban Development, June 30, 2000) Part 1, p.30.*

[12] *The State of the Cities 1999 (Washington, D.C.: U.S. Department of Housing and Urban Development, June 30, 1999) Part 1, p.8.*

[13] *Carnevale and Desrochers (Appendix).*

[14] *Sharon Ryan and Melinda Theilbar, "A Comparison of the Skill Level of Successful Welfare Exiters, Unsuccessful Exiters and Workers in Entry-Level Jobs," (Washington, D.C.: The Employment Policies Institute, Forthcoming) citing Harry J. Holzer, "What Employers Want: Job Prospects for Less-Educated Workers," (Washington, D.C.: Russell Sage Foundation, 1996).*

[15] *New York Times*, February 8, 1999.

[16] Mimi Hall, "Clinton goes full-bore in praise of Gore," *USA Today*, 26 May 1999, p. 8A.

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[20] *LaDonna Pavetti, "How Much More Can They Work? Setting Realistic Expectations for Welfare Mothers," (Washington, D.C.: The Urban Institute, July 1997)*

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[23] Bureau of Labor Statistics, Annual Average Unemployment Rates for 1999.

[24] Bill Clinton, "Statement on Signing the Personal Responsibility and Work Opportunity Reconciliation Act of 1996," (Washington, D.C.: Public Papers of the Presidents, August 22, 1996).

[25] *Hilary Williamson Hoynes, "Local Labor Markets and Welfare Spells: Do Demand Conditions Matter?" (Cambridge, MA: National Bureau of Economic Research, June 1996).*

[26] *ibid.*

[27] Alan Greenspan, "Hearing of the House Ways and Means Committee," (Washington, D.C.: Federal News Service, January 20, 1999).

[28] Peter D. Brandon, "Jobs Taken by Mothers Moving From Welfare to Work and the Effects of Minimum Wages on this Transition" (Washington, D.C.: The Employment Policies Institute, February 1995).

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Institute, January 1995).

[30] Data compiled from the January-December 1999 Outgoing Rotation Groups of the *Current Population Survey*. Calculations based on proposed increase in the federal minimum wage from $5.15 to $6.15 per hour.

[31] Robert B. Reich, *Memorandum to the President of the United States*, 20 July 1993.

[32] David Neumark and William Wascher, "Do Minimum Wages Fight Poverty?" Working Paper 6127, (Cambridge, MA: The National Bureau of Economic Research, Inc., August 1997).

[33] See Victor R. Fuchs, Alan B. Krueger and James M. Poterba, "Economists' Views about Parameters, Values, and Policies: Survey Results in Labor and Public Economics." 36 *Journal of Economic Literature* (September 1998) at 1387-1425.

[34] Wage hike proponents frequently cite research by academic economists David Card and Alan Krueger in favor of their argument that wage mandates do not cause loss of jobs, or displacement of the less-skilled. See, for example, Pollin and Luce, *The Living Wage: Building A Fair Economy* (New York: The New Press, 1998) note 1 at p. 41 (citing David Card and Alan Krueger, *Myth and Measurement: The New Economics of the Minimum Wage*). While Card and Krueger believe that relatively small changes in the national minimum wage do not cause job loss, they, nonetheless, join the consensus of labor economists that large increases in mandated wages are likely to cause job loss or displacement. See Myth and Measurement at 355 ("We ... suspect that at sufficiently high levels of the minimum wage, the predicted employment losses of the standard model will be borne out.")

[35] Robert Pollin, Mark Brenner and Stephanie Luce, "Economic Analysis of the New Orleans Minimum Wage Proposal," Political Economy Research Institute, University of Massachusetts, Amherst, July 1999.

[36] Bill Clinton, Executive Order. "Federalism." Executive Order 13083. *Federal Register*, 19 May 1998.

[37] Daniel Shaviro, "Effective Marginal Tax Rates on Low Income Households" (Washington, D.C.: The Employment Policies Institute, March 1999).

[38] Gov. George W. Bush appearing on CNN, March 8, 2000.

[39] Representative Charles Stenholm, Congressional debate, Congressional Record, 106th Congress, 2nd Session. 146 Cong. Rec. 880, March 9, 2000.

[40] *"Welfare Reform: Financial Eligibility Rules and Benefit Amounts under TANF (Temporary Assistance for Needy Families),"* (Washington, D.C.: Congressional Research Service, CRS 98-480 EPW, June 28, 1998).

[41] *ibid.*

[42] Representative Jim DeMint, *Insight Magazine*, p. 40.

[43] *Alaska, Delaware, California, Connecticut, Hawaii, Massachusetts, Oregon, Rhode Island, Vermont, Washington and the District of Columbia.*

[44] Public Law 52-718, §8 (1938).

[45] *"In a number of instances there have been reports that workers who had been receiving less than [the new minimum wage] had been laid off, and replaced by more efficient workers." Department of Labor, Interim Report of the Administrator of the Wage and Hour Division, for the Period August 15 to December 31, 1938, Washington, D.C., January 1939.*

[46] 29 U.S.C. §164(b).

[47] 29 U.S.C. §164(c)(2).

[48] 42 U.S.C. §2000e-8.

[49] 29 U.S.C. §667(a).

[50] 29 U.S.C. §667(b).

[51] *29 U.S.C. §667(c)(2).*

[52] Public Law 105-220 (August 7, 1998).

[53] Public Law 106-25 (April 29, 1999).

Appendix A

Counties and cities with populations greater than 10,000 and annual unemployment rates 9% or more

In the midst of the national economic boom, regional pockets of the economy are surprisingly weak. The following list comprises counties and cities (each with a population of at least 10,000 people) struggling with unemployment rates that are more than twice the national average. These localities are encountering great difficulty keeping their citizens productively employed. They face even greater challenges moving low-skilled people from welfare to work. Federal mandates on wages ignore these local labor market conditions and undermine governors' chances for success under welfare reform. A federally determined minimum wage cannot be sensitive to the varied economic conditions in these areas. On the contrary, these numbers support a powerful argument favoring State Flexibility on the minimum wage.

County/City	State	Unemployment Rate
Yuma County	AZ	29.9
Starr County	TX	24.4
Luna County	NM	24.0
Imperial County	CA	23.2
Maverick County	TX	21.6
Zavala County	TX	17.4
Santa Cruz County	AZ	17.1
Holmes County	MS	16.9
Willacy County	TX	16.6
Tulare County	CA	16.4
Jefferson Davis Cnty	MS	15.8
Colusa County	CA	15.7
Dimmit County	TX	15.7
Taylor County	KY	15.6
Mingo County	WV	15.2
Glacier County	MT	14.9
Duval County	TX	14.9
West Carroll Parish	LA	14.5
Hidalgo County	TX	14.5
Mcdowell County	WV	14.5
Wilcox County	AL	14.3
Butler County	AL	13.9
Lewis County	KY	13.9
Buchanan County	VA	13.9
Apache County	AZ	13.8
Green County	KY	13.7
Rolette County	ND	13.7
Morgan County	OH	13.7
Newton County	TX	13.7
Fresno County	CA	13.5
Navajo County	AZ	13.4
Concordia Parish	LA	13.4
Merced County	CA	13.3
Jefferson County	GA	13.3
Magoffin County	KY	13.3
Zapata County	TX	13.3
Mason County	WV	13.3
Gulf County	FL	13.2
Camden City	NJ	13.2
Kings County	CA	13.0
Sutter County	CA	13.0
Marion County	SC	13.0
Williamsburg County	SC	13.0
Port Arthur City	TX	12.9
Carter County	KY	12.8
Lowndes County	AL	12.7

County/City	State	Unemployment Rate
Shannon County	SD	12.6
Martin County	KY	12.5
Roane County	WV	12.4
Washington County	AL	12.2
Hendry County	FL	12.2
Monroe County	KY	12.2
Marlboro County	SC	12.2
Logan County	WV	12.2
Kemper County	MS	12.1
Lincoln County	MT	12.1
Monroe County	AL	12.0
Jasper County	TX	11.9
Ward County	TX	11.9
Dickenson County	VA	11.9
Lincoln County	WV	11.9
Russell County	KY	11.8
Montmorency County	MI	11.7
Taos County	NM	11.7
Vinton County	OH	11.7
Wayne County	TN	11.7
Compton City	CA	11.6
Madera County	CA	11.6
Noxubee County	MS	11.6
Orangeburg County	SC	11.6
Trinity County	CA	11.5
Swain County	NC	11.5
Reeves County	TX	11.5
Kern County	CA	11.4
Yuba County	CA	11.4
Meigs County	OH	11.4
Andrews County	TX	11.4
Telfair County	GA	11.3
Shoshone County	ID	11.3
St Mary Parish	LA	11.3
Crenshaw County	AL	11.2
Barbour County	WV	11.2
Boone County	WV	11.2
Dallas County	AL	11.1
Harlan County	KY	11.1

County/City	State	Unemployment Rate
Lawrence County	TN	11.1
Kenai Peninsula Brh.	AK	11.0
Jim Wells County	TX	11.0
Morris County	TX	11.0
Clay County	WV	11.0
Sumter County	AL	10.9
Glenn County	CA	10.9
Presque Isle County	MI	10.9
Wetzel County	WV	10.9
Mississippi County	AR	10.8
Idaho County	ID	10.8
Braxton County	WV	10.8
Lawrence County	KY	10.7
Morehouse Parish	LA	10.7
Morrow County	OR	10.7
Wyoming County	WV	10.7
Pickens County	AL	10.6
Stanislaus County	CA	10.6
Emanuel County	GA	10.5
Cheboygan County	MI	10.5
Claiborne County	MS	10.5
Fentress County	TN	10.5
Ector County	TX	10.4
Siskiyou County	CA	10.3
Stockton City	CA	10.3
Hardee County	FL	10.3
St James Parish	LA	10.3
Bullock County	AL	10.2
Terrell County	GA	10.2
Orange County	TX	10.2
Adams County	WA	10.2
Catahoula Parish	LA	10.1
Cape May County	NJ	10.1
Matagorda County	TX	10.1
Pend Oreille County	WA	10.1
Toombs County	GA	10.0
Panola County	TX	10.0
Sunflower County	MS	9.9
Fayette County	WV	9.9

County/City	State	Unemployment Rate
Fayette County	AL	9.8
Appling County	GA	9.8
Burke County	GA	9.8
Marshall County	MN	9.8
Humphreys County	MS	9.8
Tallahatchie County	MS	9.8
Youngstown City	OH	9.8
Dillon County	SC	9.8
Cameron County	TX	9.8
Martinsville City	VA	9.8
Yakima County	WA	9.8
Flint City	MI	9.7
Mackinac County	MI	9.7
Big Horn County	MT	9.7
Newark City	NJ	9.7
Paterson City	NJ	9.7
Niagara Falls City	NY	9.7
Sabine County	TX	9.7
Nicholas County	WV	9.7
Ritchie County	WV	9.7
Jackson County	AR	9.6
Bonner County	ID	9.6
Wabash County	IL	9.6
Passaic City	NJ	9.6
Johnson County	TN	9.6
Lewis County	TN	9.6
Webster County	WV	9.6
Lamar County	AL	9.5
Monterey County	CA	9.5
East St Louis City	IL	9.5
Washington County	MS	9.5
Adams County	OH	9.5
Conecuh County	AL	9.4
Perry County	AL	9.4

County/City	State	Unemployment Rate
Fairfield County	SC	9.4
El Paso County	TX	9.4
Duchesne County	UT	9.4
Franklin County	WA	9.4
Desha County	AR	9.3
Wilkinson County	GA	9.3
Lea County	NM	9.3
Jefferson County	NY	9.3
Monroe County	OH	9.3
Douglas County	OR	9.3
Carroll County	TN	9.3
Hardeman County	TN	9.3
Lancaster County	VA	9.3
Grant County	WA	9.3
Chicot County	AR	9.2
Roosevelt County	MT	9.2
Wise County	VA	9.2
Klickitat County	WA	9.2
Okanogan County	WA	9.2
Choctaw County	AL	9.1
Adair County	KY	9.1
Letcher County	KY	9.1
Sanders County	MT	9.1
Lewis County	NY	9.1
Chester County	SC	9.1
Summers County	WV	9.1
St Francis County	AR	9.0
Plumas County	CA	9.0
St Lucie County	FL	9.0
Coahoma County	MS	9.0
Jersey City City	NJ	9.0
Union City City	NJ	9.0
Crook County	OR	9.0

Source: National Good Times, Local Bad Times, The Local Area Unemployment Crisis, (Washington, D.C.: Employment Policies Institute, July 2000). Average annual unemployment rates for 1999 — Bureau of Labor Statistics

Appendix B
Public Support for State Flexibility

Six out of ten Americans think their state lawmakers — not the U.S. Congress — should set the appropriate minimum wage for their states, according to six national polls commissioned by the Employment Policies Institute. Listed below are the specific poll questions that were asked of more than 6,000 American adults, along with the results of each poll. Note the consistent, strong support for state authority over minimum wage rates.

Yankelovich Partners Omnibus Survey

Conducted February 1 through February 4, 2001 (Nationally representative sample of 1004 adults 18+; the margin of error is +/- 3.1%)

Do you believe the appropriate minimum wage for your state should be set by state legislators or by the U.S. Congress?

State Legislators 62%
U.S. Congress 27%
Don't Know 11%

Opinion Research Corporation Caravan Poll

Conducted January 11 through January 14, 2001 (Nationwide sample of 1031 adults 18+; the margin of error is +/- 3%)

Should the appropriate minimum wage for your state be set by state legislators or by the U.S. Congress?

State Legislators 60%
U.S. Congress 35%
Don't Know 5%

Opinion Research Corporation Caravan Poll

Conducted June 24 through June 27, 1999 (Nationwide sample of 1010 adults 18+; the margin of error is +/- 3%)

Do you believe the appropriate minimum wage for your state should be set by state legislators or by the U.S. Congress?

State Legislators 59%
U.S. Congress 36%
Don't Know 5%

Yankelovich Partners Omnibus Survey

Conducted June 3 through June 6, 1999 (Nationally representative sample of 1000 adults 18+; the margin of error is +/- 3%)

Should the appropriate minimum wage for your state be set by state legislators or by the U.S. Congress?

State Legislators 64%
U.S. Congress 31%
Don't Know 5%

Opinion Research Corporation Caravan Poll

Conducted May 27 through May 30, 1999 (Nationwide sample of 1010 adults 18+; the margin of error is +/- 3%)

Should the appropriate minimum wage for your own state be set by your Governor and state legislators or by the federal government?

Governor and State Legislators 62%
Federal Government 33%
Don't Know 5%

Opinion Research Corporation Caravan Poll

Conducted May 20 through May 23, 1999 (Nationwide sample of 1010 adults 18+; the margin of error is +/- 3%)

Do you believe the minimum wage for your own state should be set by your Governor and state legislators or by the federal government?

Governor and State Legislators 57%
Federal Government 39%
Don't Know 4%

Appendix C

State Flexibility Questions and Answers

Q: Why should the State Flexibility approach be considered now?

A: Welfare Reform has changed the relationship between the federal government and the states. The 1996 welfare reform law granted states considerable flexibility, but imposed a tough burden to move welfare recipients into jobs. The most qualified individuals have already found work, leaving the hardest-to-place persons still on the welfare rolls. Skills training, job banks and similar programs were not adequate in the past to place the least skilled into jobs, and they will not be up to the task confronting the states in this post-welfare reform world. The states need the flexibility to tailor their wage laws to complement and ease their welfare-to-work burdens.

Q: How is the State Flexibility approach the second half of welfare reform?

A: The 1996 welfare reform law is based on two fundamental assumptions. First, it recognizes that state officials are closer to the problems within their jurisdictions and are better qualified to tailor their welfare-to-work programs to the needs of their own communities. Second, it holds that state officials are just as concerned about their citizens as are federal officials. The welfare reform law entrusted the states with the decision of the appropriate **benefit** levels for welfare recipients who are not working. The State Flexibility proposal entrusts the states with the decision of the appropriate **wage** levels for the hardest to employ welfare recipients. Without control over starting wages in their states, the governors are subjected to the burden of moving welfare recipients into jobs, but not granted the tools necessary to accomplish the task.

Q: How does welfare reform put more responsibility on the states?

A: In the 1996 welfare reform law, Congress ended welfare as an entitlement and sent money in the form of block grants to aid the states in moving welfare recipients into jobs. The law specifically made the states accountable, in the form of quotas, to increase the work participation rate for families receiving public assistance. States will lose substantial funds if they fail to achieve the goal of securing jobs for persons from at least half the families on welfare. Raising the federal minimum wage in this post-welfare reform world would stifle the creation of jobs for unskilled workers — like the welfare recipients for whom governors need to find jobs.

Q: Won't the State Flexibility approach encourage states to set their rates lower than the federal rate?

A: To ensure that rates are not lowered, the State Flexibility approach would only apply to Congressionally adopted increases in the national minimum wage. In no event could the states set their basic minimum wage rate below the federal floor of $5.15 per hour.

Q: Can we trust states to "do the right thing" and set a livable wage when some states have minimum wage rates of $1.90 or $2.25 per hour and seven states have never even seen fit to enact this basic worker protection?

A: In the mid-1960s, Congress extended the national minimum wage to low-skilled and entry-level jobs for the first time. That major expansion of the coverage of the federal law rendered the laws of most states obsolete for all but a very limited number of workers. Many legislatures have decided not to take the largely symbolic action of changing their state minimum wage rate to match the national level that is nonetheless controlling. Where legislative action can have a meaningful impact on the lives of thir citizens — as in the case of authority newly granted the states under welfare reform, the governors and state legislatures have responded with extreme competence and compassion.

Q: How does the State Flexibility approach affect counties with high unemployment?

A: This approach ensures that state legislators have the opportunity to target specific communities with special wage rates. Some states will decide not to exercise this flexibility, while others could respond to local needs with creative solutions. Frequently the costs of locating in depressed areas are prohibitive without providing incentives to employers to hire and operate there. Also, where people cannot find work, it is reasonable to seek encouragement for employers to hire and train. The State Flexibility approach provides the states with these essential tools for welfare-to-work initiatives and economic redevelopment.

Q: Is it realistic to suggest that states will adopt different wage rates for different regions within their borders?

A: States have been treating different regions differently for years. Here are only two of many examples. Under the federal welfare laws, past and present, states have been permitted to apply separate welfare benefits rates based on local housing costs and similar differentials. Also, in the field of mandated wages, every prevailing wage law requires the government entity to take into consideration the location of the work to be performed, primarily to ensure that urban wage rates are not applied to rural areas, and vice versa.

Q: When Congress first passed the minimum wage, it was concerned that different rates throughout the country would lure jobs away from high wage states to states with a lower minimum wage. Why shouldn't Congress have the same concern today?

A: This is an old argument that has been rendered insignificant by the fact that barely a tenth of minimum wage workers are employed in the manufacturing industry today. The original minimum wage applied only to skilled jobs, primarily in the manufacturing sector. In the 1960s, the federal law was expanded to cover industries that employ predominantly semi-skilled, low-skilled, and entry-level workers, e.g. agriculture and retailing. Today almost all persons working at the minimum wage work in eating and drinking establishments, retail stores, colleges and universities, and hotels and motels. Businesses in these industries do not abandon their customers and communities to set up shop in other states. If high wage rates make these businesses unprofitable, they have one option—they close.

Q: Why have a federal rate at all?

A: The idea behind the State Flexibility approach is to ensure a guaranteed federal floor from which the states can adapt local laws for local needs. The federal minimum wage law was enacted in a different era when attention of states to workplace issues and their legislative machinery were less defined than today. When the law was first passed in 1938, only a third of the states had their own minimum wage laws. Now all but seven states have enacted such laws. Also in 1938, only three state legislatures met every year; the rest convened biennially. Federal action was deemed essential then because the short and infrequently convened legislative sessions made it unlikely that all states would adopt their own minimum wage laws. Today, 45 state legislatures meet annually. Through the State Flexibility approach, with the federal rate as a floor, the states have the political motivation and legislative capability to respond quickly to economic and policy issues unique to their locales.

Q: Does this open the door to state flexibility in other labor laws?

A: In varying degrees, state flexibility is already the trend in every major labor law since the minimum wage and the Fair Labor Standards Act were first enacted in 1938. Federal civil rights and workplace safety laws already make room for state enforcement and regulation. Labor law permits the states to ban compulsory union membership and the latest education and training reforms shift considerable power back to the states. Applying state flexibility to federal wage mandates would not open the door for the concept to be applied to other labor laws; that door is already open. More to the point, however, the realities and responsibilities of welfare reform in the states demand that flexibility be given to the governors and legislatures to set wage rates and move welfare recipients into jobs.

Q: Is there public support for state control over the minimum wage?

A: Public opinion strongly supports state, rather than federal, control of the minimum wage rate. In a national survey, Opinion Research Corporation asked the question: “Should the appropriate minimum wage for your state be set by state legislators or by the U.S. Congress?” Only 36 percent of respondents said Congress. A resounding 59 percent chose their state legislators.